

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 127

Printer's No.: 82

Sponsor: Senator Greenleaf

Prepared by: Gregg Warner

Synopsis: This bill amends sections 5122, 5123 and 6105 of the Crimes Code, Title 18 of the Pennsylvania Consolidated Statutes, expanding and clarifying the provisions prohibiting contraband, including weapons, implements for escape, and other dangerous material, in correctional institutions, youth development centers, and forensic units of State mental hospitals.

Summary:

Section 5122 Definitions

Section 5122, relating to weapons, implements for escape or dangerous material, is amended to add definitions for the terms "confined person," "dangerous material," "delivers," "facility," "implement of escape," and "weapon."

"Confined person" is defined as an individual committed to a facility regardless of whether the individual is temporarily absent from the facility due to medical treatment, transportation, a court appearance or another reason.

"Dangerous material" is defined as any incendiary material or device, highly flammable or caustic liquid, explosive, bullet or other material readily capable of causing death or serious bodily injury.

"Delivers" is defined as the transfer of a weapon, implement for escape or dangerous material to a confined person in a facility.

"Facility" is defined as a correctional institution, forensic unit of a State mental hospital, youth development center, youth forestry camp or other facility for the detention or incarceration of individuals pursuant to a court order.

"Implement for escape" is defined as a tool, implement, device, equipment or other item that can facilitate, aid or conceal an escape or attempted escape by a confined person.

"Weapon" is defined as an implement readily capable of lethal use and includes any firearm, knife, dagger, razor, other cutting or stabbing implement, or club. The term includes any item that has been modified or adapted for use as a weapon.

Grading

As amended section 5122 will make it a felony of the second degree to deliver to a confined person a weapon, implement for escape, dangerous material or other item which may be used for escape. In addition, it will be a felony of the second degree for a confined person to possess a weapon, implement for escape, dangerous material or other item which may be used for escape. Currently, these offenses are misdemeanors of the first degree.

Section 5123 Definitions

Three definitions are added to section 5123, relating to contraband. The definitions of “confined person” and “facility” are the same as in section 5122. The definition of “delivers” is different. For the purposes of section 5123, “delivers” is defined as sells, gives, transmits, furnishes or otherwise transfers anything prohibited under this section to a confined person in a facility.

Grading

An individual commits a misdemeanor of the first degree if he delivers money to an inmate committed to a correctional institution. Currently, this offense is a misdemeanor of the third degree. This offense does not apply to depositing money in an inmate account through proper means. This provision is not amended to use the defined terms of “confined person” and “facility” because the provision specifically relates to correctional institutions.

The more general provision prohibiting the delivery of contraband to confined persons is also a first degree misdemeanor. The provision applies to an unauthorized item that is readily capable of concealing an item prohibited under section 5122.

A confined person commits a misdemeanor of the first degree if he possesses money or other contraband, the delivery of which is prohibited.

Section 6105

The amendment to section 6105 is technical in nature, revising a reference because of the change to the title of section 5122.

Effective date

This act takes effect in 60 days.

Background: Recognizing the need to update the terminology and penalties in these sections of the Crimes Code, the Department of Corrections assisted in drafting and has supported this legislation in the past.

Legislative history

During the 2009-2010 session this legislation was introduced as Senate Bill 73. The Senate passed Senate Bill 73 by a vote of 48 to 1. The House Judiciary Committee reported Senate Bill 73 to the floor but the House of Representatives re-referred the bill to the House Appropriations Committee and no further action was taken.

During the 2011-2012 session, this legislation was introduced as Senate Bill 29. The Senate Judiciary Committee reported Senate Bill 29 from committee. The Senate re-referred Senate Bill 29 to the Senate Appropriations Committee where it remained for the rest of the session.

The Senate also passed this legislation during the 2005-2006 and 2007-2008 sessions.