

# STATEMENTS OF POLICY

## Title 37—LAW

### PART III. AGENCIES AND OFFICERS

#### [ 37 PA. CODE CH. 96a ]

#### Guidelines for Temporary Transfers for County Courts

The Department of Corrections (Department) issues guidelines for the implementation of section 1(b) of the act of July 11, 1923 (P. L. 1044, No. 425), known as the Prisoner Transfer Law (61 P. S. § 72(b)) (act) regarding temporary transfers for court as established under the act of September 25, 2008 (P. L. 1057, No. 82).

#### A. *Effective Date*

The chapter will become effective upon publication in the *Pennsylvania Bulletin*.

#### B. *Contact Person*

Further information concerning this chapter may be obtained from Mardiann Vincent, Director, Office of Population Management, Department of Corrections, 50 Utley Drive, Camp Hill, PA 17001. The guidelines are published on the Department's web site at [www.cor.state.pa.us](http://www.cor.state.pa.us).

#### C. *Statutory Authority*

This chapter is published under section 1(b) of the act which permits the Secretary of Corrections (Secretary) to promulgate interim guidelines for implementation of the act.

#### D. *Purpose and Background*

The act requires the Secretary to temporarily transfer an inmate whose presence is required for a judicial proceeding. The inmate shall be transferred to the State correctional institution of an appropriate security level nearest the judicial proceeding. The Department is permitted to select an alternative location if bed space limitations prevent the transfer to the nearest State correctional institution. The act permits the Department to promulgate interim guidelines requiring a court order directing the transfer upon a finding that either the United States or Pennsylvania Constitutions prohibit the inmate's participation in the proceeding by means of videoconferencing and permitting the Department to charge for the costs of transportation. The guidelines implement these provisions.

#### E. *Paperwork*

The guidelines will require a court order directing the transportation, but will not otherwise appreciably increase the paperwork requirements for the courts of common pleas. The Department will issue an invoice for the costs of transportation and the counties will be required to process payment for those costs.

#### F. *Fiscal Impact*

The guidelines are not expected to appreciably increase costs for the counties or the Department.

JEFFREY A. BEARD, Ph.D.,  
Secretary

*(Editor's Note: Title 37 of the Pa. Code is amended by adding a Statement of Policy in §§ 9.6a.1—9.6a.3 to read as set forth in Annex A.)*

**Fiscal Note:** 19-SOP-11. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 37. LAW

### PART III. AGENCIES AND OFFICERS

#### Subpart B. DEPARTMENT OF CORRECTIONS

#### CHAPTER 96a. TEMPORARY TRANSFERS FOR COUNTY COURTS—STATEMENT OF POLICY

Sec.

96a.1. Authority and purpose.

96a.2. Procedure for requesting temporary transfer.

96a.3. Multiple requests for transfer.

#### § 96a.1. Authority and purpose.

On September 25, 2008, Governor Rendell signed into law Act 82 of 2008 that amended section 1 of the act of July 11, 1923 (P. L. 1044, No. 425), known as the Prisoner Transfer Law (61 P. S. § 72) (act). The legislation requires the Secretary of Corrections to temporarily transfer a State inmate to facilitate his transportation to a judicial proceeding. This chapter is published under the authority conferred under section 1(b)(4) of that act.

#### § 96a.2. Procedure for requesting temporary transfer.

(a) A court may request that the Department of Corrections (Department) temporarily transfer a State inmate for purposes of attending a judicial proceeding by forwarding to the Department's Office of Population Management at least 14 days prior to the date of the judicial proceeding, an order that does the following:

(1) Determines that the Constitution of the United States or the Constitution of Pennsylvania does not permit the inmate's testimony or participation in the judicial proceeding to be conducted by videoconferencing technology and that the inmate's presence is required for the judicial proceeding.

(2) Directs that the inmate be returned to the institution from which he was temporarily transferred at the completion of the judicial proceeding.

(b) Upon receipt of an order under subsection (a), the Department will transfer the inmate to the State correctional institution nearest to the location of the judicial proceeding that the Department determines to be of an appropriate security level to house the inmate. The Department will select an alternate, reasonably accessible State correctional institution to which to transfer the inmate if bed space limitations at the nearest State correctional institution prevent the inmate's transfer to that institution.

(c) Annually, the Department will publish in the *Pennsylvania Bulletin* a notice setting forth the costs that will be charged to a county for transferring an inmate under section 1(b)(6) of the act of July 11, 1923 (P. L. 1044, No. 425) known as the Prisoner Transfer Law (61 P. S. § 72(b)(6)). Effective with the adoption of this chapter (June 20, 2009) until publication of the next annual

notice, the cost for transferring an inmate on one of the Department's regularly scheduled transports shall be \$.16 per mile. Transports that require special arrangements for medical, security or other reasons shall be the actual cost of transportation including, mileage, security and staffing. Upon request, the Department will provide a court with an estimate of the costs of a special transport.

(d) An inmate may not request a transfer under the provisions of this chapter.

*(Editor's Note: Publication by the Department will be codified in this section.)*

**§ 96a.3. Multiple requests for transfer.**

An inmate who has been removed from a State correctional institution by a government official authorized by the court directing the presence of the inmate for a judicial proceeding shall be detained in the county prison if the inmate has been temporarily transferred more than twice in the preceding 6 months or the judicial proceeding is scheduled to last more than 1 week.

[Pa.B. Doc. No. 09-1104. Filed for public inspection June 19, 2009, 9:00 a.m.]

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