



## MEMORANDUM

**TO:** The Pennsylvania Senate Judiciary Committee

**FROM:** Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

**DATE:** June 24, 2020

**RE: OPPOSITION TO HB 256 PN 2919 (METZGAR)**

**Bill summary:** [HB 256](#) (PN 2919) expands the definition of the crime “assault by prisoner” ([Title 18 § 2703](#)) against a prison staff member by lowering the threshold from *aggravated assault* (serious bodily injury) to *simple assault* (bodily injury). This offense would be graded as a felony of the second degree.

**On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose HB 256.**

Aggravated assault statutes were designed to impose tougher penalties for actions that cause greater harm, injury, or risk of death. HB 256 ignores that distinction in order to punish a [simple assault](#) against corrections staff as an [aggravated assault](#). For anyone else convicted of hitting or shoving someone, waving a fist in a threatening way, or even just attempting or threatening to strike someone, they would be charged with a second-degree misdemeanor, punishable by up to two years in prison. But if you happen to be incarcerated, those same actions against a corrections officer would now be charged as a second-degree felony under HB 256, punishable by up to ten years in prison.

HB 256 also largely duplicates the enhancement under [§ 2702 \(c\)](#), which grades a simple assault against corrections staff as aggravated. But it introduces a new “element” (i.e., the accused is incarcerated), and therefore creates **two different offenses**, and arms prosecutors with the ability to charge both crimes for the same action — assault against corrections staff AND assault by prisoner against corrections staff.

HB 256 contributes to the legislature’s [ceaseless expansion of Pennsylvania’s crimes code](#),<sup>1</sup> resulting in overly punitive sentences that are disproportionately imposed on people of color and poor people, broader charging powers for prosecutors, and longer terms of incarceration.

**For these reasons, we urge you to oppose House Bill 256.**

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<sup>1</sup> ACLU of Pennsylvania, *More Law, Less Justice*, October 2019, <https://www.aclupa.org/en/publications/more-law-less-justice>.