



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](#),¹ 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.

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