
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 4

Session of
2007

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THOMAS, TRUE, WANSACZ, WATSON, YUDICHAK, JAMES, WALKO AND
CALTAGIRONE, AUGUST 21, 2007

SENATE AMENDMENTS TO HOUSE AMENDMENTS, SEPTEMBER 16, 2008

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 44
2 (Law and Justice) of the Pennsylvania Consolidated Statutes,
3 imposing a central or regional booking fee on criminal
4 convictions to fund the start-up, operation or maintenance of
5 a central or regional booking center; providing for a
6 countywide booking center plan; providing for definitions of
7 "board" and "department"; further providing for composition
8 of the Pennsylvania Commission on Sentencing, for powers and
9 duties and for adoption of guidelines for sentencing;
10 providing for adoption of guidelines for resentencing,
11 adoption of guidelines for parole and adoption of
12 recommitment ranges following revocation of parole by the
13 Pennsylvania Board of Probation and Parole; further providing
14 for publication of guidelines, for sentencing generally, for
15 sentence of total confinement, for sentencing proceeding and
16 place of confinement and for information required upon
17 commitment and subsequent disposition and for referral to
18 State intermediate punishment program; providing for work
19 release or other court order and for recidivism risk
20 reduction incentive; and making a related repeal.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. Title 42 of the Pennsylvania Consolidated

1 Statutes is amended by adding sections to read:

2 § 1725.5. Booking center fee.

3 (a) Imposition.--Following the adoption of a countywide
4 booking center plan, a person may, in addition to any other
5 finer, penalties or costs imposed by law, be required by the
6 court to pay a booking center fund fee of no more than \$200 \$300 ←
7 if the person:

8 (1) Is placed on probation without verdict pursuant to
9 section 17 of the act of April 14, 1972 (P.L.233, No.64),
10 known as The Controlled Substance, Drug, Device and Cosmetic
11 Act.

12 (2) Receives Accelerated Rehabilitative Disposition for,
13 pleads guilty to or nolo contendere to or is convicted of a
14 crime under the following:

15 (i) 18 Pa.C.S. § 106(a) (relating to classes of
16 offenses).

17 (ii) 75 Pa.C.S. § 3735 (relating to homicide by
18 vehicle while driving under influence).

19 (iii) 75 Pa.C.S. § 3802 (relating to driving under
20 influence of alcohol or controlled substance).

21 (iv) A violation of The Controlled Substance, Drug,
22 Device and Cosmetic Act.

23 (b) Disposition.--The fee under subsection (a) shall be paid
24 to the county and deposited into a special central or regional
25 booking center fund established in the county. Moneys in the
26 special fund shall be used solely for the implementation of a
27 countywide booking center plan under section 1725.6 (relating to
28 countywide booking center plan) and the start-up, operation or
29 maintenance of a booking center.

30 (c) Other laws.--The booking center fee shall be imposed

1 notwithstanding any other provision of law to the contrary.

2 § 1725.6. Countywide booking center plan.

3 (a) Development.--

4 (1) A court in a county that has developed and adopted a
5 countywide booking center plan may impose the fee established
6 under section 1725.5 (relating to booking center fee).

7 (2) A county with a criminal justice advisory board
8 shall develop the plan in conjunction with the criminal
9 justice advisory board.

10 (3) A county that does not have a criminal justice
11 advisory board shall develop the plan in conjunction with the
12 district attorney, local police departments and
13 municipalities within the county.

14 (b) Requirements.--The plan adopted under subsection (a)
15 shall do all of the following:

16 (1) Ensure coordination and collaboration of all
17 criminal justice agencies within the county.

18 (2) Comply with all applicable Federal and State
19 technology standards for the collection and transmission of
20 offender identification information.

21 (3) Make recommendations regarding the number, funding
22 and operations of booking centers within the county. The plan
23 shall prioritize the recommendations.

24 ~~(c) Submission. The plan shall be submitted to the~~ <—

25 (C) SUBMISSION.-- <—

26 (1) THE PLAN SHALL BE SUBMITTED TO THE Pennsylvania
27 Commission on Crime and Delinquency for review and
28 certification that the plan complies with the requirements of
29 subsection (b)(2).

30 (2) THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY <—

1 SHALL PROVIDE A LIST OF ALL CERTIFIED COUNTY PLANS TO THE
2 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS UPON EACH
3 COUNTY'S CERTIFICATION. THE PENNSYLVANIA COMMISSION ON CRIME
4 AND DELINQUENCY SHALL UPDATE THIS LIST AND PROVIDE IT TO THE
5 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS WHENEVER A
6 COUNTY IS ADDED OR SUBTRACTED FROM THE LIST.

7 (d) Duties of commission.--The Pennsylvania Commission on
8 Crime and Delinquency shall do all of the following:

9 (1) Determine and certify if a countywide booking center
10 plan submitted by a county criminal justice advisory board or
11 the county commissioners complies with subsection (b)(2).

12 (2) Adopt guidelines within 90 days of the effective
13 date of this section relating to technology standards for the
14 collection and transmission of offenders' identification. The
15 guidelines shall be published in the Pennsylvania Bulletin.

16 (e) Implementation.--Following certification by the
17 Pennsylvania Commission on Crime and Delinquency under
18 subsection (d), the county may appropriate moneys in the special
19 central or regional booking center fund to implement the plan to
20 the greatest extent possible.

21 (f) Limitation.--No more than 5% of moneys in the special
22 central or regional booking center fund may be appropriated by
23 the county for the county's administrative costs related to the
24 collection of the fee under section 1725.5.

25 (g) Definitions.--As used in this section, the following
26 words and phrases shall have the meanings given to them in this
27 subsection:

28 "Booking center." A facility utilized for the processing and
29 identification of individuals arrested, charged or accused of a
30 crime.

1 "County criminal justice advisory board." A county criminal
2 justice planning board which meets the minimum standard for
3 those boards established by the Pennsylvania Commission on Crime
4 and Delinquency.

5 "Countywide booking center plan." A written plan that
6 includes a comprehensive strategy to improve the collection,
7 transfer and maintenance of electronic offender identification
8 information.

9 Section 1.1. Section 2151.1 of Title 42 is amended by adding
10 definitions to read:

11 § 2151.1. Definitions.

12 The following words and phrases when used in this subchapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Board." The Pennsylvania Board of Probation and Parole.

16 * * *

17 "Department." The Department of Corrections of the
18 Commonwealth.

19 Section 2. Section 2152 of Title 42 is amended by adding a
20 subsection to read:

21 § 2152. Composition of commission.

22 * * *

23 (a.1) Ex officio members.--The Secretary of Corrections, the
24 victim advocate appointed under section 301 of the act of
25 November 24, 1998 (P.L.882, No.111), known as the Crime Victims
26 Act, and the chairman of the board, during their tenure in their
27 respective positions, shall serve as ex officio nonvoting
28 members of the commission.

29 * * *

30 Section 3. Section 2153(a)(7), (9), (10), (11), (12), (13)

1 and (14) of Title 42 are amended and the subsection is amended
2 by adding a paragraph to read:

3 § 2153. Powers and duties.

4 (a) General rule.--The commission, pursuant to rules and
5 regulations, shall have the power to:

6 * * *

7 (7) Establish a research and development program within
8 the commission for the purpose of:

9 (i) Serving as a clearinghouse and information
10 center for the collection, preparation and dissemination
11 of information on Commonwealth sentencing, resentencing
12 and parole practices.

13 (ii) Assisting and serving in a consulting capacity
14 to the board, State courts, departments and agencies in
15 the development, maintenance and coordination of sound
16 sentencing [practices], resentencing and parole
17 practices.

18 * * *

19 (9) Publish data concerning the sentencing and parole
20 processes.

21 (10) Collect systematically and disseminate information
22 concerning parole dispositions and sentences actually
23 imposed[.], including initial sentences and any subsequent
24 modification of sentences or resentences following revocation
25 or remand, and parole and reparole decisions by the board and
26 any other paroling authority.

27 (11) Collect systematically and disseminate information
28 regarding effectiveness of parole dispositions and sentences
29 imposed.

30 (12) Make recommendations to the General Assembly

1 concerning modification or enactment of sentencing, parole
2 and correctional statutes which the commission finds to be
3 necessary and advisable to carry out an effective, humane and
4 rational sentencing, resentencing and parole policy.

5 (13) Establish a plan and timetable to collect and
6 disseminate information relating to incapacitation,
7 recidivism, deterrence and overall effectiveness of sentences
8 and parole dispositions imposed.

9 (14) Establish a program to systematically monitor
10 compliance with the guidelines, recommitment ranges and with
11 mandatory sentencing laws to document eligibility for and
12 releases pursuant to a county reentry plan, to document
13 eligibility for and imposition of recidivism risk reduction
14 incentive minimum sentences and to document all parole and
15 reparole decisions by the board and any other paroling
16 authority by:

17 (i) Promulgating forms which document the
18 application of [the] sentencing, resentencing and parole
19 guidelines, mandatory sentencing laws, [or both.]
20 releases pursuant to a county reentry plan, recommitment
21 ranges and recidivism risk reduction incentive minimum
22 sentences, and collecting information on all parole and
23 reparole decisions by the board and any other paroling
24 authority.

25 (ii) Requiring the timely completion and electronic
26 submission of such forms to the commission.

27 (15) Prior to adoption of changes to guidelines for
28 sentencing, resentencing and parole, and recommitment ranges
29 following revocation, use a correctional population
30 simulation model to determine:

1 (i) Resources that are required under current
2 guidelines and ranges.

3 (ii) Resources that would be required to carry out
4 any proposed changes to the guidelines and ranges.

5 * * *

6 Section 3.1. Section 2154(a) of Title 42 is amended by
7 adding a paragraph to read:

8 § 2154. Adoption of guidelines for sentencing.

9 (a) General rule.--The commission shall adopt guidelines for
10 sentencing within the limits established by law which shall be
11 considered by the sentencing court in determining the
12 appropriate sentence for defendants who plead guilty or nolo
13 contendere to, or who were found guilty of, felonies and
14 misdemeanors. The guidelines shall:

15 * * *

16 (5) Consider the impact of any amendments to section
17 9756 (relating to sentence of total confinement).

18 * * *

19 Section 4. Title 42 is amended by adding sections to read:
20 § 2154.4. Adoption of guidelines for resentencing.

21 The commission shall adopt guidelines that shall be
22 considered by the court when resentencing an offender following
23 revocation of probation, county intermediate punishment or State
24 intermediate punishment. The guidelines shall take into account
25 factors considered in adopting the sentencing guidelines, the
26 seriousness of the violation and the rehabilitative needs of the
27 defendant.

28 § 2154.5. Adoption of guidelines for parole.

29 (a) Adoption.--The commission shall adopt guidelines that
30 shall be considered by the board and any other paroling entity

1 when exercising its power to parole and reparole all persons
2 sentenced by any court in this Commonwealth to imprisonment in
3 any State or county penitentiary, prison or penal institution.

4 The guidelines shall do all of the following:

5 (1) Give primary consideration to the protection of the
6 public and to victim safety.

7 (2) Provide for due consideration of victim input.

8 (3) Be designed to encourage inmates and parolees to
9 conduct themselves in accordance with conditions and rules of
10 conduct set forth by the department or other prison
11 facilities and the board.

12 (4) Be designed to encourage inmates and parolees to
13 participate in programs that have been demonstrated to be
14 effective in reducing recidivism, including appropriate drug
15 and alcohol treatment programs.

16 (5) Provide for prioritization of incarceration,
17 rehabilitation and other criminal justice resources for
18 offenders posing the greatest risk to public safety.

19 (6) Use validated risk assessment tools, be evidence
20 based and take into account available research relating to
21 the risk of recidivism, minimizing the threat posed to public
22 safety and factors maximizing the success of reentry.

23 (b) Discretionary authority.--Notwithstanding any other
24 provision of law, this section shall not remove the
25 discretionary parole authority of the board and any other
26 paroling entity when exercising its power to parole and
27 reparole.

28 § 2154.6. Adoption of recommitment ranges following revocation
29 of parole by board.

30 (a) Recommitment ranges.--The commission shall adopt

1 recommitment ranges that shall be considered by the board when
2 exercising its power to reparole, commit and recommit for
3 violations of parole any person sentenced by a court in this
4 Commonwealth to imprisonment in any prison or penal institution
5 of this Commonwealth, including State or county penitentiaries,
6 prisons or penal institutions. The recommitment ranges shall
7 take into account the seriousness of the initial conviction
8 offense, the level of seriousness of the violation and the
9 rehabilitative needs of the defendant. At the end of the
10 recommittal period, the parole violator shall be reviewed for
11 parole or, without further review, shall be reparoled.

12 (b) Deviation.--In every case in which the board deviates
13 from the recommitment ranges, the board shall provide a
14 contemporaneous written statement of the reasons for the
15 deviation from the recommitment ranges to the commission as
16 established under section 2153(a)(14) (relating to powers and
17 duties).

18 (c) Definitions.--As used in this section, the following
19 words and phrases shall have the meanings given to them in this
20 subsection:

21 "Recommitment range." A range of time within which a parole
22 violator may be recommitted to serve an additional part of the
23 term the parole violator would have been compelled to serve had
24 the parole violator not been paroled.

25 Section 5. Sections 2155, 9718.3(a)(2)(i) and 9721(b) of
26 Title 42 are amended to read:

27 § 2155. Publication of guidelines for sentencing[.],
28 resentencing and parole and recommitment ranges
29 following revocation.

30 (a) General rule.--The commission shall:

1 (1) Prior to adoption, publish in the Pennsylvania
2 Bulletin all proposed sentencing guidelines, resentencing
3 guidelines following revocation of probation, county
4 intermediate punishment and State intermediate punishment,
5 parole guidelines and recommitment ranges following
6 revocation by the board of paroles granted, and hold public
7 hearings not earlier than 30 days and not later than 60 days
8 thereafter to afford an opportunity for the following persons
9 and organizations to testify:

10 (i) Pennsylvania District Attorneys Association.

11 (ii) Chiefs of Police Associations.

12 (iii) Fraternal Order of Police.

13 (iv) Public Defenders Organization.

14 (v) Law school faculty members.

15 (vi) State Board of Probation and Parole.

16 (vii) [Bureau of Correction] Department of
17 Corrections.

18 (viii) Pennsylvania Bar Association.

19 (ix) Pennsylvania Wardens Association.

20 (x) Pennsylvania Association on Probation, Parole
21 and Corrections.

22 (xi) Pennsylvania Conference of State Trial Judges.

23 (xii) Any other interested person or organization.

24 (2) Publish in the Pennsylvania Bulletin sentencing
25 guidelines as adopted by the commission.

26 (b) Rejection by General Assembly.--Subject to gubernatorial
27 review pursuant to section 9 of Article III of the Constitution
28 of Pennsylvania, the General Assembly may by concurrent
29 resolution reject in their entirety any guidelines or
30 recommitment ranges adopted by the commission within 90 days of

1 their publication in the Pennsylvania Bulletin pursuant to
2 subsection (a)(2).

3 (c) Effective date.--Sentencing guidelines, resentencing
4 guidelines following revocation of probation, county
5 intermediate punishment and State intermediate punishment,
6 parole guidelines and recommitment ranges following revocation
7 by the board of paroles granted, adopted by the commission shall
8 become effective 90 days after publication in the Pennsylvania
9 Bulletin pursuant to subsection (a)(2) unless disapproved
10 pursuant to subsection (b) and shall apply to sentences and
11 resentences and parole decisions made after the effective date
12 of the guidelines. If not disapproved, the commissioners shall
13 conduct training and orientation for trial court judges and
14 board members prior to the effective date of the guidelines and
15 recommitment ranges.

16 § 9718.3. Sentence for failure to comply with registration of
17 sexual offenders.

18 (a) Mandatory sentence.--Mandatory sentencing shall be as
19 follows:

20 * * *

21 (2) Sentencing upon conviction for a second or
22 subsequent offense shall be as follows:

23 (i) Not less than five years for an individual who:

24 (A) was subject to section [9795.1(a)] 9795.1 or
25 a similar provision from another jurisdiction; and

26 (B) violated 18 Pa.C.S. § 4915(a)(1) or (2).

27 * * *

28 § 9721. Sentencing generally.

29 * * *

30 (b) General standards.--In selecting from the alternatives

1 set forth in subsection (a) the court shall follow the general
2 principle that the sentence imposed should call for confinement
3 that is consistent with the protection of the public, the
4 gravity of the offense as it relates to the impact on the life
5 of the victim and on the community, and the rehabilitative needs
6 of the defendant. The court shall also consider any guidelines
7 for sentencing and resentencing adopted by the Pennsylvania
8 Commission on Sentencing and taking effect [pursuant to] under
9 section 2155 (relating to publication of guidelines for
10 sentencing, resentencing and parole and recommitment ranges
11 following revocation). In every case in which the court imposes
12 a sentence for a felony or misdemeanor, modifies a sentence,
13 resentences an offender following revocation of probation,
14 county intermediate punishment or State intermediate punishment
15 or resentences following remand, the court shall make as a part
16 of the record, and disclose in open court at the time of
17 sentencing, a statement of the reason or reasons for the
18 sentence imposed. In every case where the court imposes a
19 sentence or resentence outside the [sentencing] guidelines
20 adopted by the Pennsylvania Commission on Sentencing [pursuant
21 to section] under sections 2154 (relating to adoption of
22 guidelines for sentencing), 2154.1 (relating to adoption of
23 guidelines for county intermediate punishment), 2154.2 (relating
24 to adoption of guidelines for State intermediate punishment),
25 2154.3 (relating to adoption of guidelines for fines), 2154.4
26 (relating to adoption of guidelines for resentencing) and 2154.5
27 (relating to adoption of guidelines for parole) and made
28 effective [pursuant to] under section 2155, the court shall
29 provide a contemporaneous written statement of the reason or
30 reasons for the deviation from the guidelines to the commission,

1 as established under section 2153(a)(14) (relating to powers and
2 duties). Failure to comply shall be grounds for vacating the
3 sentence or resentence and resentencing the defendant.

4 * * *

5 Section 6. Section 9756(b) of Title 42 is amended and the
6 section is amended by adding subsections to read:

7 § 9756. Sentence of total confinement.

8 * * *

9 (b) Minimum sentence.--

10 (1) The court shall impose a minimum sentence of
11 confinement which shall not exceed one-half of the maximum
12 sentence imposed.

13 (2) The minimum sentence imposed under this section may
14 not be reduced through parole prior to the expiration of the
15 minimum sentence unless otherwise authorized by this section
16 or other law.

17 (3) Except where the maximum sentence imposed is two
18 years or more, and except where a mandatory minimum sentence
19 of imprisonment or total confinement is required by law, the
20 court shall, at the time of sentencing, state whether or not
21 the defendant is eligible to participate in a reentry plan at
22 any time prior to the expiration of the minimum sentence or
23 at the expiration of a specified portion of the minimum
24 sentence. For maximum sentences of less than two years as
25 defined under section 9762(f) (relating to sentencing
26 proceeding; place of confinement), a court may parole a
27 defendant prior to the expiration of the minimum sentence
28 only if the defendant was made eligible to participate in a
29 reentry plan at the time of sentencing. The court shall
30 provide at least ten days' written notice and an opportunity

1 to be heard, pursuant to the act of June 19, 1911 (P.L.1059,
2 No.813), referred to as the County Jail and Workhouse Parole
3 Law, to the prosecuting attorney before granting parole
4 pursuant to this subsection. The reentry plan eligibility
5 shall be considered a part of the sentence and subject to the
6 requirements relating to the entry, recording and reporting
7 of sentences.

8 (b.1) Recidivism risk reduction incentive minimum
9 sentence.--The court shall determine if the defendant is
10 eligible for a recidivism risk reduction incentive minimum
11 sentence under 44 Pa.C.S. Ch. 53 (relating to recidivism risk
12 reduction incentive). If the defendant is eligible, the court
13 shall impose a recidivism risk reduction incentive minimum
14 sentence in addition to a minimum sentence and maximum sentence
15 except, if the defendant was previously sentenced to two or more
16 recidivism risk reduction incentive minimum sentences, the court
17 shall have the discretion to impose a sentence with no
18 recidivism risk reduction incentive minimum.

19 * * *

20 (e) Definitions.--As used in this section, the term "reentry
21 plan" is a release plan that may include drug and alcohol
22 treatment, behavioral health treatment, job training, skills
23 training, education, life skills or any other conditions deemed
24 relevant by the court.

25 Section 7. Section 9762 of Title 42 is amended to read:

26 § 9762. Sentencing proceeding; place of confinement.

27 [All persons sentenced to total or partial confinement for:

28 (1) maximum terms of five or more years shall be

29 committed to the Bureau of Correction for confinement;

30 (2) maximum terms of two years or more but less than

1 five years may be committed to the Bureau of Correction for
2 confinement or may be committed to a county prison within the
3 jurisdiction of the court;

4 (3) maximum terms of less than two years shall be
5 committed to a county prison within the jurisdiction of the
6 court except that as facilities become available on dates and
7 in areas designated by the Governor in proclamations
8 declaring the availability of State correctional facilities,
9 such persons may be committed to the Bureau of Correction for

10 confinement.] (a) Sentences or terms of incarceration
11 imposed before a certain date.--For the three-year period
12 beginning on the effective date of this subsection, all
13 persons sentenced to total or partial confinement for the
14 following terms shall be committed as follows:

15 (1) Maximum terms of five or more years shall be
16 committed to the Department of Corrections for confinement.

17 (2) Maximum terms of two years or more but less than
18 five years may be committed to the Department of Corrections
19 for confinement or may be committed to a county prison within
20 the jurisdiction of the court.

21 (3) Maximum terms of less than two years shall be
22 committed to a county prison within the jurisdiction of the
23 court.

24 (b) Sentences or terms of incarceration imposed after a
25 certain date.--All persons sentenced three or more years after
26 the effective date of this subsection to total or partial
27 confinement shall be committed as follows:

28 (1) Maximum terms of five or more years shall be
29 committed to the Department of Corrections for confinement.

30 (2) Maximum terms of two years or more but less than

1 five years shall be committed to the Department of
2 Corrections for confinement, except upon a finding of all of
3 the following:

4 (i) The chief administrator of the county prison, or
5 the administrator's designee, has certified that the
6 county prison is available for the commitment of persons
7 sentenced to maximum terms of two or more years but less
8 than five years.

9 (ii) The attorney for the Commonwealth has consented
10 to the confinement of the person in the county prison.

11 (iii) The sentencing court has approved the
12 confinement of the person in the county prison within the
13 jurisdiction of the court.

14 (3) Maximum terms of less than two years shall be
15 committed to a county prison within the jurisdiction of the
16 court.

17 (c) Certification.--The chief administrator of the county
18 prison, or the administrator's designee, may issue a
19 certification under subsection (b)(2)(i) if the county prison
20 population is less than 110% of the rated capacity of the county
21 prison. The chief administrator shall revoke any previously
22 issued certification if the prison population exceed 110% of the
23 rated capacity. The president judge of the court, the district
24 attorney and the chief public defender of the county shall be
25 served with a written copy of any certification or revocation.

26 (d) County intermediate punishment.--Nothing in this section
27 shall prevent a judge from sentencing an offender to county
28 intermediate punishment which does not require confinement
29 within county prison if otherwise authorized by law.

30 (e) Reimbursement.--Beginning three years after the

1 effective date of this subsection:

2 (1) The Department of Corrections shall reimburse to the
3 counties the reasonable cost of confinement of every Level 4
4 or 5 offender as identified in the Basic Sentencing Matrix
5 promulgated by the Pennsylvania Commission on Sentencing who
6 is participating in an approved work release program. The
7 reimbursement per prisoner shall not exceed the average per-
8 prisoner cost of confinement paid by the Commonwealth for the
9 confinement of prisoners in the Department of Corrections. No
10 more than \$2,500,000 shall be expended annually for this
11 purpose. Reimbursement shall be made on a pro rata basis if
12 the total dollar amount of eligible confinement costs exceeds
13 \$2,500,000. Nothing in this paragraph shall prevent more than
14 \$2,500,000 being appropriated for this purpose. Reimbursement
15 shall be made on a pro rata basis if the total dollar amount
16 of eligible confinement costs exceeds any additional
17 appropriation. A county shall not be reimbursed under this
18 section for any offender participating in an approved work
19 release program for whom the county is being or has been
20 reimbursed from any other State funds regardless of their
21 source.

22 (2) County prisons may require reimbursements from other
23 county prisons or the Department of Corrections for inmates
24 voluntarily accepted for incarceration at mutually agreeable
25 rates. The Department of Corrections shall maintain a list of
26 those counties willing to accept voluntary placement of out-
27 of-county inmates.

28 (f) Aggregation.--For purposes of this section, the
29 sentences or terms of incarceration shall mean the entire
30 continuous term of incarceration to which a person is subject,

1 notwithstanding whether the sentence is the result of any of the
2 following:

3 (1) One or more sentences.

4 (2) Sentences imposed for violations of probation or
5 intermediate punishment.

6 (3) Sentences to be served upon recommitment for
7 violations of parole.

8 (4) Any other manner of sentence.

9 (g) Date of imposition.--For purposes of this section, if a
10 person is subject to multiple sentences or terms of
11 incarceration or any combination of sentences or terms, the date
12 of the last sentence imposed or the date of recommitment,
13 whichever is later, shall determine the place of incarceration
14 and whether reimbursement is required.

15 (h) Transfer of prisoners.--Nothing in this section shall
16 prohibit the transfer of prisoners otherwise authorized by law
17 or prevent a judge from changing the place of confinement
18 between State and county facilities to the extent that the judge
19 would have such discretion at the time of imposition of sentence
20 or recommitment.

21 Section 8. Section 9764 of Title 42 is amended to read:

22 § 9764. Information required upon commitment and subsequent
23 disposition.

24 (a) General rule.--Upon commitment of an [offender] inmate
25 to the custody of the Department of Corrections, the sheriff or
26 transporting official shall provide to the institution's records
27 officer or duty officer, in addition to [the court commitment
28 order] a copy of the court commitment form DC-300B generated
29 from the Common Pleas Criminal Court Case Management System of
30 the Unified Judicial System, the following information:

1 (1) Record of adjustment in the county correctional
2 facility, including, but not limited to, misconducts and
3 escape history.

4 (2) Any current medical or psychological condition
5 requiring treatment, including, but not limited to, suicide
6 attempts.

7 (3) [Any medical admission testing performed by the
8 county and the results of those tests, including, but not
9 limited to, hepatitis, HIV/AIDS, tuberculosis or other
10 infectious disease testing. Any release of medical
11 information relating to HIV/AIDS shall be in accordance with
12 the act of November 29, 1990 (P.L.585, No.148), known as the
13 Confidentiality of HIV-Related Information Act.] All medical
14 records of the county correctional institution relating to
15 the inmate to the extent that those records may be disclosed
16 under Federal and State law. The records shall include
17 admission testing performed by the county and the results of
18 those tests and any testing related to hepatitis, HIV/AIDS,
19 tuberculosis or other infectious disease testing.

20 (4) Notice of current or previously administered
21 medications.

22 (5) A 48-hour supply of current medications.

23 (6) A written statement by the county correctional
24 institution relating to any sentencing credit to which the
25 inmate may be entitled.

26 (7) A written statement by the county correctional
27 institution setting forth all of the following:

28 (i) The dates on which the inmate was incarcerated.

29 (ii) The charges pending against the inmate with the
30 offense tracking number.

1 (iii) The date on which the inmate was released on
2 bail, if any, and a copy of the bail order.

3 (8) A copy of the sentencing order and any detainers
4 filed against the inmate which the county has notice.

5 ~~(b) Additional information. Within ten days from the date~~ <—
6 ~~sentence is imposed, the court shall provide to the county~~
7 ~~correctional facility the following information pertaining to~~
8 ~~the inmate:~~

9 (B) ADDITIONAL INFORMATION.--WITHIN TEN DAYS FROM THE DATE <—
10 SENTENCE IS IMPOSED, THE COURT SHALL PROVIDE TO THE COUNTY
11 CORRECTIONAL FACILITY THE FOLLOWING INFORMATION PERTAINING TO
12 THE [OFFENDER] INMATE:

13 (1) A copy of the presentence investigation report.
14 Where a presentence investigation report was not ordered by
15 the court, the official version of the crime for which the
16 [offender] inmate was convicted or a copy of the guilty plea
17 transcript or preliminary hearing transcript.

18 (2) The criminal complaint or affidavit of probable
19 cause accompanying the arrest warrant.

20 [(3) Where available, the police report summarizing the
21 facts of the crime.]

22 (4) A copy of the completed guideline sentence form
23 [issued by the Pennsylvania Commission on Sentencing].

24 (5) All of the following:

25 (i) A written, sealed sentencing order from the
26 county.

27 (ii) The sentencing colloquy sealed by the court.

28 (iii) Court commitment orders.

29 (iv) The Court Commitment Form DC-300B generated
30 from the Common Pleas Criminal Court Case Management

1 System of the Unified Judicial System.

2 (v) Any detainers filed against the inmate of which
3 the county has notice.

4 (c) [Transfer of offender.--Where an offender is transferred
5 from a county correctional facility to a State correctional
6 facility for any reason, the information specified in subsection
7 (b) shall be transmitted to the State correctional facility
8 within 20 calendar days from the date on which the offender is
9 transferred.] Transmittal of additional inmate documentation.--
10 If a document provided by the court under subsection (b) is
11 received by the county correctional institution after the inmate
12 is transferred to the custody of the Department of Corrections,
13 the document shall be transmitted to the Department of
14 Corrections within 20 calendar days of its receipt.

15 (c.1) Implementation.--

16 (1) The Department of Corrections may refuse to accept
17 custody of an inmate for whom the sheriff or transporting
18 official does not provide the information under subsection
19 (a) under the following circumstances:

20 (i) The county correctional facility has a pattern
21 or practice of not providing the information mandated
22 under this section.

23 (ii) The Department of Corrections has previously
24 notified the chief administrator of the county
25 correctional facility, the county commissioners, the
26 county sheriff and the president judge of the county of
27 the specific deficiencies that constitute a pattern or
28 practice.

29 (iii) The Department of Corrections has provided the
30 county with a reasonable period of time to provide the

1 documentation.

2 (iv) The Department of Corrections has notified the
3 officials designated under subparagraph (ii) of the
4 intent to refuse to accept inmates without documentation
5 as of a specified date that shall be no sooner than 30
6 days after the service of the notification.

7 (2) In cases of a refusal to accept custody of an inmate
8 under this subsection, the sheriff or transporting official
9 shall return the inmate to the sending county correctional
10 institution, which shall accept custody of the inmate. The
11 inmate may be recommitted to the custody of the Department of
12 Corrections upon provision of the documentation required
13 under subsection (a).

14 (3) The Department of Corrections, board and a county
15 correctional facility shall not be liable for compensatory,
16 punitive or other damages for relying in good faith on any
17 sentencing order or court commitment form DC-300B generated
18 from the Common Pleas Criminal Court Case Management System
19 of the Unified Judicial System or otherwise transmitted to
20 them.

21 (c.2) Effect of electronic transfer of information.--
22 Notwithstanding any electronic transfer of information which may
23 occur, the Department of Corrections, in its discretion, may
24 require actual sealed court orders to the extent that they
25 relate to the commitment, term of sentence, or other matter that
26 may affect the fact or duration of confinement.

27 (d) Transfer to county facility.--Upon transfer of an inmate
28 from a State correctional institution to a county correctional
29 facility, the Department of Corrections shall provide to the
30 county facility, unless the facility prior to the time of

1 transfer agrees to accept the inmate without the information,
2 the record of the inmate's institutional adjustment, including,
3 but not limited to, misconducts and/or escape history, and
4 written notice of any current medical or psychological condition
5 requiring treatment, including, but not limited to, suicide
6 attempts, notice of current or previously ordered medication and
7 a 48-hour supply of current medication.

8 (e) Release by Department of Corrections.--Prior to the
9 release of an inmate from the Department of Corrections to State
10 parole supervision, the Department of Corrections shall provide
11 to the Board of Probation and Parole the information contained
12 in subsections (a)(1) and (2) and (b).

13 (f) Release from county correctional facility to State
14 probation or parole.--

15 (1) Prior to the release of an inmate from a county
16 correctional facility to State probation or parole
17 supervision, the facility shall provide to the Board of
18 Probation and Parole the information contained in subsections
19 (a)(1) through (4) and (b).

20 (2) Prior to the release of an inmate from a county
21 correctional facility to State probation or parole
22 supervision, the facility shall provide to the inmate his
23 current medications as prescribed and any customary and
24 necessary medical supplies as determined by the prescribing
25 physician.

26 (g) Release from county correctional facility to county
27 probation or parole.--

28 (1) Prior to the release of an inmate from a county
29 correctional facility to county probation or parole
30 supervision, the facility shall provide to the county

1 probation department the information contained in subsections
2 (a)(1) through (4) and (b).

3 (2) Prior to the release of an inmate from a county
4 correctional facility to county probation or parole
5 supervision, the facility shall provide to the inmate his
6 current medications as prescribed and any customary and
7 necessary medical supplies as determined by the prescribing
8 physician.

9 (h) Record of inmate moneys.--Prior to the release of an
10 inmate from the Department of Corrections to State parole
11 supervision, the department shall provide to the Board of
12 Probation and Parole a record of any moneys paid by the inmate
13 and any balance remaining towards satisfaction of restitution or
14 any other court-ordered financial obligations. Prior to the
15 release of an inmate from a county correctional facility to
16 State parole supervision, the county correctional facility shall
17 provide to the Board of Probation and Parole a record of any
18 moneys paid by the inmate and any balance remaining towards the
19 satisfaction of restitution or any other court-ordered financial
20 obligations. Prior to the release of an inmate from a county
21 correctional facility to county parole supervision, the facility
22 shall provide to the county probation department or other agent
23 designated by the county commissioners of the county with the
24 approval of the president judge of the county a record of any
25 moneys paid by the inmate and any remaining balance towards the
26 satisfaction of restitution and any other court-ordered
27 financial obligations.

28 (i) Continuing payments.--The Board of Probation and Parole
29 shall require as a condition of parole that any inmate released
30 to their supervision shall make continuing payments on

1 restitution or any other court-ordered financial obligations.
2 The sentencing court shall require as a condition of county
3 parole that any inmate released to the supervision of the county
4 probation department shall make continuing payments of
5 restitution or any other court-ordered financial obligations.

6 (j) Release after maximum sentence.--Upon release of an
7 inmate from the Department of Corrections at the expiration of
8 his maximum sentence, the Department of Corrections shall
9 transmit to the county probation department or other agent
10 designated by the county commissioners of the county with the
11 approval of the president judge of the county in which the
12 inmate was convicted a record of any moneys paid by the inmate
13 and any outstanding amounts owed by the inmate towards
14 satisfaction of restitution or any other court-ordered financial
15 obligations.

16 (k) Procedures.--The Department of Corrections and the
17 Pennsylvania Board of Probation and Parole shall develop
18 procedures to implement the provisions of this section.

19 (l) Application.--This section shall apply to offenders
20 transferred to or released from a State or county correctional
21 facility after the effective date of this section.

22 Section 8.1. Title 42 is amended by adding a section to
23 read:

24 § 9813. Work release or other court order and purposes.

25 (a) Generally.--Notwithstanding any provision of law, if any
26 offender has been sentenced to undergo imprisonment in a county
27 jail for a term of less than five years, the court, at the time
28 of sentence or at any time thereafter upon application made in
29 accordance with this section, may enter an order making the
30 offender eligible to leave the jail during necessary and

1 reasonable hours for the purpose of working at his employment,
2 conducting his own business or other self-employed occupation,
3 including housekeeping and attending to the needs of family,
4 seeking employment, attending an educational institution,
5 securing medical treatment or for other lawful purposes as the
6 court shall consider necessary and appropriate.

7 (b) Procedure.--At the time of imposition of a county jail
8 sentence, a crime victim receiving notice of the sentence
9 imposed shall be informed that the offender may be eligible for
10 an order under this section. An application for an order under
11 this section shall be served on the attorney for the
12 Commonwealth. Prior to granting any order under this section,
13 the court shall ensure that the attorney for the Commonwealth
14 and a registered crime victim have received notice of the
15 application and had a reasonable opportunity to be heard on the
16 application.

17 (c) Revocation or modification of previously entered
18 order.--The county jail officials may detain and recommit the
19 offender or preclude the offender from leaving the county jail
20 if the offender violates the conditions set by the jail
21 officials or the court, or if allowing the offender to leave the
22 county jail poses a risk to community safety or the orderly and
23 safe management of the jail. The jail officials shall notify the
24 court of such action. In addition, the order of court may be
25 revoked or modified at any time with notice to the prisoner.

26 Section 8.2. Section 9904 of Title 42 is amended by adding a
27 subsection to read:

28 § 9904. Referral to State intermediate punishment program.

29 * * *

30 (d.1) Resentencing.--The department may make a written

1 request to the sentencing court that an offender who is
2 otherwise eligible but has not been referred for evaluation or
3 originally sentenced to State intermediate punishment be
4 sentenced to State intermediate punishment. The court may
5 resentence the offender to State intermediate punishment if all
6 of the following apply:

7 (1) The department has recommended placement in a drug
8 offender treatment program.

9 (2) The attorney for the Commonwealth and the offender
10 have agreed to the placement and modification of sentence.

11 (3) The court makes the findings set forth under
12 subsection (d).

13 (4) The resentencing has occurred within 365 days of the
14 date of the defendant's admission to the custody of the
15 department.

16 (5) The court has otherwise complied with all other
17 requirements for the imposition of sentence including victim
18 notification under the act of November 24, 1998 (P.L.882,
19 No.111), known as the Crime Victims Act.

20 * * *

21 Section 9. Title 44 is amended by adding a part to read:

22 PART III

23 INCARCERATION

24 Chapter

25 51. Preliminary Provisions (Reserved)

26 53. Recidivism Risk Reduction Incentive

27 CHAPTER 51

28 PRELIMINARY PROVISIONS

29 (Reserved)

30 CHAPTER 53

1 RECIDIVISM RISK REDUCTION INCENTIVE

2 Sec.

3 5301. Scope of chapter.

4 5302. Purpose.

5 5303. Definitions.

6 5304. Recidivism risk reduction incentive programs.

7 5305. Sentencing.

8 5306. Recidivism risk reduction incentive minimum.

9 5307. Authority of board.

10 5308. Written guidelines and regulations.

11 5309. Evaluation.

12 5310. Reports.

13 5311. Construction.

14 5312. Applicability.

15 § 5301. Scope of chapter.

16 This chapter relates to recidivism risk reduction incentive.

17 § 5302. Purpose.

18 This chapter seeks to create a program that ensures
19 appropriate punishment for persons who commit crimes, encourages
20 prisoner participation in evidence-based programs that reduce
21 the risks of future crime and ensures the openness and
22 accountability of the criminal justice process while ensuring
23 fairness to crime victims.

24 § 5303. Definitions.

25 The following words and phrases when used in this chapter
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Board." The Pennsylvania Board of Probation and Parole.

29 "Commission." The Pennsylvania Commission on Sentencing.

30 "Court." The trial judge exercising sentencing jurisdiction

1 over an eligible offender under this chapter or the president
2 judge or the president judge's designee if the original trial
3 judge is no longer serving as a judge of the sentencing court.

4 "Defendant." An individual charged with a criminal offense.

5 "Department." The Department of Corrections of the
6 Commonwealth.

7 "Eligible offender." A defendant or prisoner convicted of a
8 criminal offense who will be committed to the custody of the
9 department and who meets all of the following eligibility
10 requirements:

11 (1) Does not demonstrate a history of present or past
12 violent behavior.

13 (2) Has not been subject to a sentence the calculation
14 of which includes an enhancement for the use of a deadly
15 weapon as defined under law or the sentencing guidelines
16 promulgated by the Pennsylvania Commission on Sentencing or
17 the attorney for the Commonwealth has not demonstrated that
18 the defendant has been found guilty of or was convicted of an
19 offense involving a deadly weapon or offense under 18 Pa.C.S.
20 Ch. 61 (relating to firearms and other dangerous articles) or
21 the equivalent offense under the laws of the United States or
22 one of its territories or possessions, another state, the
23 District of Columbia, the Commonwealth of Puerto Rico or a
24 foreign nation.

25 (3) Has not been found guilty or previously convicted or
26 adjudicated delinquent for or an attempt or conspiracy to
27 commit a personal injury crime as defined under section 103
28 of the act of November 24, 1998 (P.L.882, No.111), known as
29 the Crime Victims Act, or an equivalent offense under the
30 laws of the United States or one of its territories or

1 possessions, another state, the District of Columbia, the
2 Commonwealth of Puerto Rico or a foreign nation.

3 (4) Has not been found guilty or previously convicted or
4 adjudicated delinquent for violating any of the following
5 provisions or an equivalent offense under the laws of the
6 United States or one of its territories or possessions,
7 another state, the District of Columbia, the Commonwealth of
8 Puerto Rico or a foreign nation:

9 (i) 18 Pa.C.S. § 4302 (relating to incest).

10 (ii) 18 Pa.C.S. § 5901 (relating to open lewdness).

11 (iii) 18 Pa.C.S. § 6312 (relating to sexual abuse of
12 children).

13 (iv) 18 Pa.C.S. § 6318 (relating to unlawful contact
14 with minor).

15 (v) 18 Pa.C.S. § 6320 (relating to sexual
16 exploitation of children).

17 (vi) 18 Pa.C.S. Ch. 76 Subch. C (relating to
18 Internet child pornography).

19 (vii) Received a criminal sentence pursuant to 42
20 Pa.C.S. § 9712.1 (relating to sentences for certain drug
21 offenses committed with firearms).

22 (viii) Any offense listed under 42 Pa.C.S. § 9795.1
23 (relating to registration).

24 (5) Is not awaiting trial or sentencing for additional
25 criminal charges, if a conviction or sentence on the
26 additional charges would cause the defendant to become
27 ineligible under this definition.

28 (6) Has not been found guilty or previously convicted of
29 violating section 13(a)(14), (30) or (37) of the act of April
30 14, 1972 (P.L.233, No.64), known as The Controlled Substance,

1 Drug, Device and Cosmetic Act, where the sentence was imposed
2 pursuant to 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii),
3 (4)(iii), (7)(iii) or (8)(iii) (relating to drug trafficking
4 sentencing and penalties).

5 "Program plan." An individualized plan recommended by the
6 department that contains approved treatment and other approved
7 programs designed to reduce recidivism risk of a specific
8 prisoner.

9 § 5304. Recidivism risk reduction incentive programs.

10 (a) Authorization.--Subject to the provisions of this
11 chapter, the department is authorized to create or otherwise
12 designate treatment or other programs as recidivism risk
13 reduction incentive programs.

14 (b) Intent.--This chapter is intended to encourage eligible
15 offenders committed to the custody of the department to
16 participate in and successfully complete evidence-based programs
17 under this chapter that reduce the likelihood of recidivism and
18 improve public safety.

19 (c) Program requirements.--In accordance with the provisions
20 of this chapter, the department may designate a treatment
21 program or other program as a recidivism risk reduction
22 incentive program if there is appropriate scientific research
23 that demonstrates that the proposed program would likely reduce
24 overall recidivism rates or serious crime rates of program
25 participants. A recidivism risk reduction incentive program
26 designed to provide treatment in the form of a therapeutic
27 community for drug abuse or addiction shall meet the
28 requirements of an institutional therapeutic community as
29 defined under 42 Pa.C.S. § 9903 (relating to definitions).

30 (d) Consultation.--The department shall consult with

1 appropriate research and technical assistance organizations,
2 such as the National Institute of Justice, the National
3 Institute of Corrections and the American Correctional
4 Association concerning evidence-based programs that reduce
5 recidivism risks of prisoners and the scientific research
6 relating to those programs.

7 (e) Program approval process.--

8 (1) The department shall publish, in a manner reasonably
9 calculated to inform, a detailed description of the program,
10 the types of offenders who will be eligible to participate in
11 the program, the name and citation of research reports that
12 demonstrate the effectiveness of the proposed program and the
13 name and address of a department contact person responsible
14 for receiving public comments. On the same date as
15 publication, the department shall also deliver a copy of the
16 list to the Judiciary Committee of the Senate, the Judiciary
17 Committee of the House of Representatives, the board, the
18 commission and the Victim Advocate.

19 (2) Upon consideration of the public comments and the
20 expiration of at least 60 days from the date of publication
21 required under paragraph (1), the department may designate
22 any program published as approved for inclusion in the
23 recidivism risk reduction incentive program.

24 § 5305. Sentencing.

25 (a) Generally.--At the time of sentencing, the court shall
26 make a determination whether the defendant is an eligible
27 offender.

28 (b) Waiver of eligibility requirements.--The prosecuting
29 attorney, in the prosecuting attorney's sole discretion, may
30 advise the court that the Commonwealth has elected to waive the

1 eligibility requirements of this chapter if the victim has been
2 given notice of the prosecuting attorney's intent to waive the
3 eligibility requirements and an opportunity to be heard on the
4 issue. The court, after considering victim input, may refuse to
5 accept the prosecuting attorney's waiver of the eligibility
6 requirements.

7 (c) Recidivism risk reduction incentive minimum sentence.--
8 If the court determines that the defendant is an eligible
9 offender or the prosecuting attorney has waived the eligibility
10 requirements under subsection (b), the court shall enter a
11 sentencing order that does all of the following:

12 (1) Imposes the minimum and maximum sentences as
13 required under 42 Pa.C.S. § 9752 (relating to sentencing
14 proceeding generally).

15 (2) Imposes the recidivism risk reduction incentive
16 minimum sentence. The recidivism risk reduction incentive
17 minimum shall be equal to three-fourths of the minimum
18 sentence imposed when the minimum sentence is three years or
19 less. The recidivism risk reduction incentive minimum shall
20 be equal to five-sixths of the minimum sentence if the
21 minimum sentence is greater than three years. For purposes of
22 these calculations, partial days shall be rounded to the
23 nearest whole day. In determining the recidivism risk
24 reduction incentive minimum sentence, the aggregation
25 provisions of 42 Pa.C.S. §§ 9757 (relating to consecutive
26 sentences of total confinement for multiple offenses) and
27 9762(d) (relating to sentencing proceeding; place of
28 confinement) shall apply.

29 (3) Notwithstanding paragraph (2), if the defendant was
30 previously sentenced to two or more recidivism risk reduction

1 incentive minimum sentences, the court shall have the
2 discretion, with the approval of the prosecuting attorney, to
3 impose the recidivism risk reduction incentive minimum
4 sentence as provided for in paragraph (2).

5 (4) Complies with all other applicable sentencing
6 provisions, including provisions relating to victim
7 notification and the opportunity to be heard.

8 § 5306. Recidivism risk reduction incentive minimum.

9 (a) Generally.--The board or its designee shall issue a
10 decision to parole, without further review by the board, a
11 prisoner who has been sentenced to a recidivism risk reduction
12 incentive minimum sentence at the expiration of that recidivism
13 risk reduction incentive minimum sentence upon a determination
14 that all of the following apply:

15 (1) The department certified that it has conducted an
16 appropriate assessment of the treatment needs and risks of
17 the prisoner using nationally recognized assessment tools
18 that have been normed and validated.

19 (2) The department has certified that it developed a
20 program plan based on the assessment conducted under
21 paragraph (1) that is designed to reduce the risk of
22 recidivism through the use of recidivism risk reduction
23 incentive programs authorized and approved under this chapter
24 that are appropriate for that particular prisoner.

25 (3) The department advised the prisoner that the
26 prisoner is required to successfully complete the program
27 plan.

28 (4) The prisoner has successfully completed all required
29 recidivism risk reduction incentive programs or other
30 programs designated in the program plan.

1 (5) The prisoner has maintained a good conduct record
2 following the imposition of the recidivism risk reduction
3 incentive minimum sentence.

4 (6) The reentry plan for the prisoner is adequate.

5 (7) Individual conditions and requirements for parole
6 have been established.

7 (8) Notice and opportunity to be heard was provided by
8 the board to the sentencing court and the prosecuting
9 attorney in a manner consistent with section 21(b.2) of the
10 act of August 6, 1941 (P.L.861, No.323), referred to as the
11 Pennsylvania Board of Probation and Parole Law.

12 (9) The department has certified that the prisoner
13 continues to be an eligible offender. In the event that a
14 recidivism risk reduction minimum sentence was imposed under
15 section 5305(b) (relating to sentencing), the department
16 certifies that it has not received additional information
17 demonstrating a history of past or present violent behavior
18 which was not available at the time of sentencing and the
19 prosecuting attorney was unaware of that information at the
20 time of sentencing.

21 (10) There is no reasonable indication that the prisoner
22 poses a risk to public safety.

23 (b) Funding.--The department shall make all reasonable
24 efforts to seek appropriate funding and resources in order to
25 implement the recidivism risk reduction program.

26 (c) Program content.--Nothing in this section shall do any
27 of the following:

28 (1) Require the department to include recidivism risk
29 reduction programs in an individual program plan where the
30 risk assessment indicates that such a program is unlikely to

1 reduce recidivism for that particular prisoner.

2 (2) Prohibit the department from including appropriate
3 community works or public service projects as part of the
4 program plan.

5 (3) Prohibit the department from making modifications to
6 the program plan at any time in order to ensure appropriate
7 treatment and recidivism risk reduction incentive program
8 placement.

9 (d) Adjudication.--Nothing in this section shall be
10 interpreted as granting a right to be paroled to any person, and
11 any decision by the board and its designees or the department,
12 under this section, shall not be considered an adjudication
13 under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
14 procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating
15 to judicial review of Commonwealth agency action).

16 § 5307. Authority of board.

17 If a prisoner has been sentenced by a court to a recidivism
18 risk reduction incentive minimum sentence and the prisoner is
19 not paroled under this chapter, the board shall have exclusive
20 authority to grant parole. Except as otherwise provided under
21 this chapter, the board shall retain its power and authority to
22 parole, commit and reparole prisoners committed to the
23 department.

24 § 5308. Written guidelines and regulations.

25 The department, upon consultation with the board, shall
26 develop written interim guidelines to assist in the
27 implementation of the provisions of this chapter. The interim
28 guidelines shall not be subject to the requirements of the act
29 of June 25, 1982 (P.L.633, No.181), known as the Regulatory
30 Review Act, and shall be effective for a period of two years

1 after publication in the Pennsylvania Bulletin. The interim
2 guidelines shall be replaced by regulations promulgated by the
3 department consistent with the Regulatory Review Act on or
4 before the date of expiration of the interim guidelines.

5 § 5309. Evaluation.

6 The department, the board and the commission shall monitor
7 and evaluate the recidivism risk reduction incentive programs.
8 Evaluations under this section should be scientifically rigorous
9 and seek to determine the effectiveness of the programs,
10 including whether specific recidivism risk reduction incentive
11 programs have reduced the recidivism rates of the program
12 participants as compared to previously incarcerated and
13 similarly situated prisoners. The department, the board and the
14 commission shall make evaluations conducted under this section
15 and underlying data available to the public. The publicly
16 available data and evaluations shall comply with generally
17 accepted practices of the research community, including
18 expectations relating to subject privacy and identifying
19 information.

20 § 5310. Reports.

21 (a) Recidivism risk reduction.--The department, the board
22 and the commission shall monitor and evaluate the recidivism
23 risk reduction incentive programs to ensure that the goals and
24 objectives of this chapter are met. Reports to the General
25 Assembly shall be as follows:

26 (1) In odd-numbered years, the department shall present
27 a report of its evaluation to the Judiciary Committee of the
28 Senate and the Judiciary Committee of the House of
29 Representatives no later than February 1. The report shall
30 include all of the following:

1 (i) The number of offenders determined by the
2 department to be eligible offenders under this chapter
3 and the offenses for which the offenders were committed
4 to the custody of the department.

5 (ii) The number of prisoners committed to the
6 custody of the department who were subject to a
7 recidivism risk reduction incentive minimum sentence.

8 (iii) The number of prisoners paroled at the
9 recidivism risk reduction incentive minimum date.

10 (iv) Any potential changes that would make the
11 program more effective.

12 (v) The six-month, one-year, three-year and five-
13 year recidivism rates for prisoners released at the
14 recidivism risk reduction incentive minimum sentence.

15 (vi) Any other information the department deems
16 relevant.

17 (2) In even-numbered years, the commission shall present
18 a report of its evaluation to the Judiciary Committee of the
19 Senate and the Judiciary Committee of the House of
20 Representatives no later than February 1. The report shall
21 include all of the following:

22 (i) Whether the goals of this chapter could be
23 achieved through amendments to parole or sentencing
24 guidelines.

25 (ii) The various options for parole or sentencing
26 guidelines under subparagraph (i).

27 (iii) The status of any proposed or implemented
28 guidelines designed to implement the provisions of this
29 chapter.

30 (iv) Any potential changes to the program that would

1 be likely to reduce the risk of recidivism of prisoners
2 and improve public safety.

3 (v) Any other information the commission deems
4 relevant.

5 (b) Educational plan.--The Pennsylvania Commission on Crime
6 and Delinquency shall publish a report of a proposed educational
7 program plan within one year of the effective date of this
8 section. The proposed educational program plan shall be
9 developed in consultation with the department, commission,
10 board, the Pennsylvania District Attorneys Association, the
11 Victim Advocate and representatives of the judiciary and the
12 criminal defense bar and other criminal justice stakeholders.
13 The plan shall seek to provide cost-effective training or
14 information through electronic means, publications or continuing
15 educational programs that address the following topics:

16 (1) The treatment programs available through the board
17 and the department.

18 (2) The availability of programs and eligibility
19 requirements that can reduce recidivism risk including State
20 intermediate punishment, the motivational boot camp and
21 recidivism risk reduction incentives programs.

22 (3) The calculation of sentencing credit and practices
23 that could inadvertently prevent an inmate from receiving
24 sentence credit.

25 (4) Recent statutory changes relating to sentencing,
26 place of confinement, medical releases, transfer of inmates
27 and parole.

28 § 5311. Construction.

29 Notwithstanding any other provision of law, this chapter
30 shall not be construed to do any of the following:

1 (1) Confer any legal right upon any individual,
2 including an individual participating in or seeking to
3 participate in a recidivism risk reduction incentive program,
4 to do any of the following:

5 (i) Participate in a recidivism risk reduction
6 incentive program.

7 (ii) Continue participation in a recidivism risk
8 reduction incentive program.

9 (iii) Modify the contents of the recidivism risk
10 reduction incentive program.

11 (iv) File any cause of action in any Federal or
12 State court challenging the department's determination
13 that a participant be suspended or expelled from or that
14 a participant has successfully completed or failed to
15 successfully complete any recidivism risk reduction
16 incentive program.

17 (2) Confer any legal right on any individual to be
18 released on parole under this act.

19 (3) Enlarge or limit the right of a participant to
20 appeal the participant's sentence.

21 § 5312. Applicability.

22 This chapter shall apply to persons incarcerated under the
23 supervision of the department.

24 Section 10. Repeals are as follows:

25 (1) The General Assembly declares that the repeal under
26 paragraph (2) is necessary to effectuate the addition of 42
27 Pa.C.S. § 9813.

28 (2) Section 1 of the act of August 13, 1963 (P.L.774,
29 No.390), referred to as the County Jail Prisoner Temporary
30 Release Law, is repealed.

1 Section 11. This act shall take effect ~~in 60 days~~. AS ←
2 FOLLOWS:
3 (1) THE ADDITION OF 42 PA.C.S. §§ 1725.5 AND 1725.6
4 SHALL TAKE EFFECT IN 180 DAYS.
5 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.
6 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
7 DAYS.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 217 Session of 2003

INTRODUCED BY GREENLEAF, HELFRICK, KUKOVICH, EARLL, COSTA, ORIE, LEMMOND, WAGNER, LAVALLE, KITCHEN AND M. WHITE, FEBRUARY 6, 2003

AS AMENDED ON THIRD CONSIDERATION, JUNE 28, 2004

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, PROVIDING FOR THE
3 PENNSYLVANIA COMMISSION ON SENTENCING; further providing for
4 intermediate punishment guidelines; providing for State
5 intermediate punishment guidelines; further providing for
6 sentencing generally, for partial confinement, for total
7 confinement, for intermediate punishment and for modification
8 of intermediate punishment; providing for revocation of State
9 intermediate punishment; further providing for county
10 intermediate punishment; providing for State intermediate
11 punishment; codifying provisions relating to reporting
12 functions of the Department of Corrections; making a repeal
13 related to the codification; and making editorial changes.

←

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 2151 of Title 42 of the Pennsylvania
17 Consolidated Statutes is repealed.

18 Section 2. Title 42 is amended by adding sections to read:

19 § 2151.1 Definitions.

20 The following words and phrases when used in this subchapter
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

1 "Commission." The Pennsylvania Commission on Sentencing
2 established in section 2151.1 (relating to commission).
3 § 2151.2. Commission.

4 (a) General rule.--The commission shall be established as an
5 agency of the General Assembly and shall consist of 11 persons
6 selected as provided in this subchapter.

7 (b) Seal.--The commission shall have a seal engraved with
8 its name and such other inscription as may be specified by
9 regulation of the commission.

10 Section 3. Section 2154.1 of Title 42 is amended to read:

11 § 2154.1. Adoption of guidelines for county intermediate
12 punishment.

13 The commission shall adopt guidelines to identify offenders
14 who would be eligible and appropriate for participation in
15 county intermediate punishment programs. These guidelines shall
16 be considered by the sentencing court in determining whether to
17 sentence an offender pursuant to section 9763 (relating to
18 sentence of county intermediate punishment). The guidelines
19 shall:

20 (1) Use the description of "eligible offender" provided
21 in [section 9729 (relating to intermediate punishment).]
22 Chapter 98 (relating to county intermediate punishment).

23 (2) Give primary consideration to protection of the
24 public safety.

25 Section 4. Title 42 is amended by adding a section to read:

26 § 2154.2. Adoption of guidelines for State intermediate
27 punishment.

28 The commission shall adopt guidelines to identify offenders
29 who would be appropriate for participation in State intermediate
30 punishment programs. These guidelines shall be considered by the

1 attorney for the Commonwealth and the sentencing court in
2 determining whether to commit a defendant for evaluation and
3 whether to sentence an eligible offender pursuant to Chapter 99
4 (relating to State intermediate punishment). The guidelines
5 shall:

6 (1) Use the description of "eligible offender" provided
7 in Chapter 99.

8 (2) Give primary consideration to protection of the
9 public safety.

10 Section 5. Sections 9721(a) and (a.1), 9755(h), 9756(c.1),
11 9763(a) and (c) and 9773 of Title 42 are amended to read:

12 § 9721. Sentencing generally.

13 (a) General rule.--In determining the sentence to be imposed
14 the court shall, except as provided in subsection (a.1),
15 consider and select one or more of the following alternatives,
16 and may impose them consecutively or concurrently:

17 (1) An order of probation.

18 (2) A determination of guilt without further penalty.

19 (3) Partial confinement.

20 (4) Total confinement.

21 (5) A fine.

22 (6) [Intermediate] County intermediate punishment.

23 (7) State intermediate punishment.

24 (a.1) Exception.--[Unless specifically authorized under
25 section 9763 (relating to sentence of intermediate punishment),]

26 (1) Unless specifically authorized under section 9763
27 (relating to a sentence of county intermediate punishment) or
28 Chapter 99 (relating to State intermediate punishment),
29 subsection (a) shall not apply where a mandatory minimum
30 sentence is otherwise provided by law.

1 (2) An eligible offender may be sentenced to State
2 intermediate punishment pursuant to subsection (a)(7) and as
3 described in Chapter 99, even if a mandatory minimum sentence
4 would otherwise be provided by law.

5 * * *

6 § 9755. Sentence of partial confinement.

7 * * *

8 (h) Sentence of partial confinement combined with sentence
9 of county intermediate punishment.--The court may impose a
10 sentence of partial confinement without parole under this
11 subsection only when:

12 (1) the period of partial confinement is followed
13 immediately by a sentence imposed pursuant to section 9763
14 (relating to sentence of county intermediate punishment) in
15 which case the sentence of partial confinement shall specify
16 the number of days of partial confinement to be served; and

17 (2) the maximum sentence of partial confinement imposed
18 on one or more indictments to run consecutively or
19 concurrently total 90 days or less.

20 § 9756. Sentence of total confinement.

21 * * *

22 (c.1) Sentence of total confinement combined with sentence
23 of county intermediate punishment.--The court may impose a
24 sentence of imprisonment without parole under this subsection
25 only when:

26 (1) the period of total confinement is followed
27 immediately by a sentence imposed pursuant to section 9763
28 (relating to sentence of county intermediate punishment) in
29 which case the sentence of total confinement shall specify
30 the number of days of total confinement also to be served;

1 and

2 (2) the maximum sentence of total confinement imposed on
3 one or more indictments to run consecutively or concurrently
4 total 90 days or less.

5 * * *

6 § 9763. Sentence of county intermediate punishment.

7 (a) General rule.--In imposing a sentence of county
8 intermediate punishment, the court shall specify at the time of
9 sentencing the length of the term for which the defendant is to
10 be in [an] a county intermediate punishment program established
11 under Chapter 98 (relating to county intermediate punishment) or
12 a combination of county intermediate punishment programs. The
13 term may not exceed the maximum term for which the defendant
14 could be confined and the program to which the defendant is
15 sentenced. The court may order a defendant to serve a portion of
16 the sentence under section 9755 (relating to sentence of partial
17 confinement) or 9756 (relating to sentence of total confinement)
18 and to serve a portion in [an] a county intermediate punishment
19 program or a combination of county intermediate punishment
20 programs.

21 * * *

22 (c) Restriction.--

23 (1) [A defendant subject to] Any person receiving a
24 penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to
25 driving while operating privilege is suspended or revoked),
26 former 75 Pa.C.S. § 3731 (relating to driving under influence
27 of alcohol or controlled substance) or 75 Pa.C.S. § 3804
28 (relating to penalties) for a first, second or third offense
29 under 75 Pa.C.S. Ch. 38 (relating to driving after imbibing
30 alcohol or utilizing drugs) may only be sentenced to county

1 intermediate punishment[:

2 (i) for a first, second or third offense under 75
3 Pa.C.S. Ch. 38 (relating to driving after imbibing
4 alcohol or utilizing drugs); and

5 (ii) after undergoing an assessment under 75 Pa.C.S.
6 § 3814 (relating to drug and alcohol assessments).]
7 after undergoing an assessment under 75 Pa.C.S. § 3814
8 (relating to drug and alcohol assessments).

9 (2) If the defendant is determined to be in need of drug
10 and alcohol treatment, the defendant may only be sentenced to
11 county intermediate punishment which includes participation
12 in drug and alcohol treatment under 75 Pa.C.S. § 3815(c)
13 (relating to mandatory sentencing). [Such treatment may be
14 combined with house arrest with electronic surveillance or a
15 partial confinement program such as work release, a work camp
16 or a halfway facility.] The defendant may only be sentenced
17 to county intermediate punishment in:

18 (i) a residential inpatient program or a residential
19 rehabilitative center;

20 (ii) house arrest with electronic surveillance;

21 (iii) a partial confinement program, such as work
22 release, work camp and halfway facility; or

23 (iv) any combination of the programs set forth in
24 this paragraph.

25 (3) If the defendant is determined not to be in need of
26 drug and alcohol treatment, the defendant may only be
27 sentenced to county intermediate punishment [by] in:

28 (i) house arrest [or] with electronic surveillance;

29 (ii) partial confinement programs such as work
30 release, work camps and halfway facilities; or

1 (iii) any combination of the programs set forth in
2 this [subsection] paragraph.

3 * * *

4 § 9773. Modification or revocation of county intermediate
5 punishment sentence.

6 (a) General rule.--The court may at any time terminate a
7 sentence of county intermediate punishment or increase or
8 decrease the conditions of a sentence pursuant to section 9763
9 (relating to sentence of county intermediate punishment).

10 (b) Revocation.--The court may revoke a sentence of county
11 intermediate punishment upon proof of a violation of specific
12 conditions of the sentence. Upon revocation and subject to
13 section 9763(d) [(relating to sentence of intermediate
14 punishment)], the sentencing alternatives available to the court
15 shall be the same as the alternatives available at the time of
16 initial sentencing. Upon a revocation of county intermediate
17 punishment for any reason specified by law, the attorney for the
18 Commonwealth may file notice, at any time prior to resentencing,
19 of the Commonwealth's intention to proceed under an applicable
20 provision of law requiring a mandatory minimum sentence.

21 Consideration shall be given to the time served in the county
22 intermediate punishment program.

23 (c) Hearing required.--A court shall not revoke or increase
24 the conditions of a sentence of county intermediate punishment
25 without a hearing at which the court shall consider the record
26 of the initial sentencing proceeding as well as the conduct of
27 the defendant while serving a sentence of county intermediate
28 punishment. A hearing is not required to decrease the conditions
29 of the sentence.

30 Section 6. Title 42 is amended by adding a section to read:

1 § 9774. Revocation of State intermediate punishment sentence.

2 (a) General rule.--The court may at any time terminate a
3 sentence of State intermediate punishment pursuant to Chapter 99
4 (relating to State intermediate punishment).

5 (b) Revocation.--The court shall revoke a sentence of State
6 intermediate punishment if after a hearing it determines that
7 the participant was expelled from or failed to complete the
8 program.

9 (c) Proceedings upon revocation.--Upon revocation of a State
10 intermediate punishment sentence, the sentencing alternatives
11 available to the court shall be the same as the alternatives
12 available at the time of initial sentencing. The attorney for
13 the Commonwealth must file notice, at any time prior to
14 resentencing, of the Commonwealth's intention to proceed under
15 an applicable provision of law requiring a mandatory minimum
16 sentence.

17 Section 7. Section 9804(b) of Title 42 is amended to read:

18 § 9804. County intermediate punishment programs.

19 * * *

20 (b) Eligibility.--

21 (1) No person other than the eligible offender shall be
22 sentenced to a county intermediate punishment program.

23 (2) The Pennsylvania Commission on Sentencing shall
24 employ the term "eligible offender" to further identify
25 offenders who would be appropriate for participation in
26 county intermediate punishment programs. In developing the
27 guidelines, the commission shall give primary consideration
28 to protection of the public safety.

29 (4) (i) Any person receiving a penalty imposed pursuant
30 to 75 Pa.C.S. § 1543(b) (relating to driving while

1 operating privilege is suspended or revoked), 3804
2 (relating to penalties) or 3808(a)(2) (relating to
3 illegally operating a motor vehicle not equipped with
4 ignition interlock) shall undergo an assessment under 75
5 Pa.C.S. § 3814 (relating to drug and alcohol
6 assessments).

7 (ii) If the defendant is determined to be in need of
8 drug and alcohol treatment, a sentence to county
9 intermediate punishment shall include participation in
10 drug and alcohol treatment under 75 Pa.C.S. § 3815(c)
11 (relating to mandatory sentencing). [Such treatment may
12 be combined with house arrest with electronic
13 surveillance or a partial confinement program such as
14 work release, a work camp or a halfway facility.] The
15 defendant may only be sentenced to county intermediate
16 punishment in:

17 (A) a residential inpatient program or a
18 residential rehabilitative center;

19 (B) house arrest with electronic surveillance;

20 (C) a partial confinement program, such as work
21 release, work camp and halfway facility; or

22 (D) any combination of the programs set forth in
23 this subparagraph.

24 (iii) If the defendant is determined not to be in
25 need of drug and alcohol treatment, the defendant may
26 only be sentenced to a county intermediate punishment
27 program in:

28 (A) house arrest [and] with electronic
29 surveillance;

30 (B) partial confinement programs such as work

1 release, work camps and halfway facilities; or
2 (C) any combination of the programs set forth in
3 this paragraph.

4 (5) A defendant subject to 75 Pa.C.S. § 3804 (relating
5 to penalties) may only be sentenced to county intermediate
6 punishment for a first, second or third offense under 75
7 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or
8 utilizing drugs).

9 Section 8. Title 42 is amended by adding a chapter to read:

10 CHAPTER 99
11 STATE INTERMEDIATE PUNISHMENT

12 Sec.

13 9901. Scope of chapter.

14 9902. Findings and purpose.

15 9903. Definitions.

16 9904. Referral to State intermediate punishment program.

17 9905. Drug offender treatment program.

18 9906. Written guidelines and regulations.

19 9907. Reports.

20 9908. Construction.

21 9909. Evaluation.

22 § 9901. Scope of chapter.

23 This chapter relates to State intermediate punishment.

24 § 9902. Findings and purpose.

25 The General Assembly finds as follows:

26 (1) Many crimes are committed by persons who, because of
27 their addiction to drugs or alcohol, are unable to maintain
28 gainful employment.

29 (2) These persons often commit crimes as a means of
30 obtaining the funds necessary to purchase drugs or alcohol.

1 (3) Many persons commit crimes while under the influence
2 of drugs or alcohol even though they are not addicted to such
3 substances in a clinical sense.

4 (4) Punishing persons who commit crimes is an important
5 aspect of recognizing the harm that criminals visit upon
6 their victims.

7 (5) Many people who commit crimes will be able to become
8 law-abiding, contributing members of society if they are able
9 to obtain treatment for their drug or alcohol addiction or
10 abuse.

11 (6) The purpose of this chapter is to create a program
12 that punishes person who commit crimes, but also provides
13 treatment that offers the opportunity for those persons to
14 address their drug or alcohol addiction or abuse and thereby
15 reduce the incidents of recidivism and enhance public safety.

16 § 9903. Definitions.

17 The following words and phrases when used in this chapter
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Commission." The Pennsylvania Commission on Sentencing.

21 "Community-based therapeutic community." A long-term
22 residential addiction treatment program licensed by the
23 Department of Health to provide addiction treatment services
24 using a therapeutic community model and determined by the
25 Department of Corrections to be qualified to provide addiction
26 treatment to eligible offenders.

27 "Community corrections center." A residential program that
28 is supervised and operated by the Department of Corrections for
29 inmates with prerelease status or who are on parole.

30 "Court." The trial judge exercising sentencing jurisdiction

1 over an eligible offender under this chapter or the president
2 judge if the original trial judge is no longer serving as a
3 judge of the sentencing court.

4 "Defendant." An individual charged with a drug-related
5 offense.

6 "Department." The Department of Corrections of the
7 Commonwealth.

8 "Drug offender treatment program." An individualized
9 treatment program established by the Department of Corrections
10 consisting primarily of drug and alcohol addiction treatment
11 that satisfies the terms and conditions listed in section 9905
12 (relating to drug offender treatment program).

13 "Drug-related offense." A criminal offense for which a
14 defendant is convicted and that the court determines was
15 motivated by the defendant's consumption of or addiction to
16 alcohol or a controlled substance, counterfeit, designer drug,
17 drug, immediate precursor or marihuana, as those terms are
18 defined in the act of April 14, 1972 (P.L.233, No.64), known as
19 The Controlled Substance, Drug, Device and Cosmetic Act.

20 "Eligible offender." Subject to section 9721(a.1) (relating
21 to sentencing generally), a defendant designated by the
22 sentencing court as a person convicted of a drug-related offense
23 who:

24 (1) Has undergone an assessment performed by the
25 Department of Corrections which assessment has concluded that
26 the defendant is in need of drug and alcohol addiction
27 treatment and would benefit from commitment to a drug
28 offender treatment program and that placement in a drug
29 offender treatment program would be appropriate.

30 (2) Does not demonstrate a history of present or past

1 violent behavior.

2 (3) Would be placed in the custody of the department if
3 not sentenced to State intermediate punishment.

4 (4) Provides written consent permitting release of
5 information pertaining to the defendant's participation in a
6 drug offender treatment program.

7 The term shall not include a defendant who is subject to a
8 sentence the calculation of which includes an enhancement for
9 the use of a deadly weapon, as defined pursuant to law or the
10 sentencing guidelines promulgated by the Pennsylvania Commission
11 on Sentencing, or a defendant who has been convicted of a
12 personal injury crime as defined in section 103 of the act of
13 November 24, 1998 (P.L.882, No.111), known as the Crime Victims
14 Act, or an attempt or conspiracy to commit such a crime or who
15 has been convicted of violating 18 Pa.C.S. § 4302 (relating to
16 incest), 5901 (relating to open lewdness), 6312 (relating to
17 abuse of children), 6318 (relating to unlawful contact with
18 minor), 6320 (relating to sexual exploitation of children) or
19 Ch. 76 Subch. C (relating to Internet child pornography).

20 "Expulsion." The permanent removal of a participant from a
21 drug offender treatment program.

22 "Group home." A residential program that is contracted out
23 by the Department of Corrections to a private service provider
24 for inmates with prerelease status or who are on parole.

25 "Individualized drug offender treatment plan." An
26 individualized addiction treatment plan within the framework of
27 the drug offender treatment program.

28 "Institutional therapeutic community." A residential drug
29 treatment program in a State correctional institution,
30 accredited as a therapeutic community for treatment of drug and

1 alcohol abuse and addiction by the American Correctional
2 Association or other nationally recognized accreditation
3 organization for therapeutic community drug and alcohol
4 addiction treatment.

5 "Outpatient addiction treatment facility." An addiction
6 treatment facility licensed by the Department of Health and
7 designated by the Department of Corrections as qualified to
8 provide addiction treatment to criminal justice offenders.

9 "Participant." An eligible offender actually sentenced to
10 State intermediate punishment pursuant to section 9721(a)(7)
11 (relating to sentencing generally).

12 "Transitional residence." A residence investigated and
13 approved by the Department of Corrections as appropriate for
14 housing a participant in a drug offender treatment program.

15 § 9904. Referral to State intermediate punishment program.

16 (a) Referral for evaluation.--

17 (1) Prior to imposing a sentence, the court may, upon
18 motion of the Commonwealth and agreement of the defendant,
19 commit a defendant to the custody of the department for the
20 purpose of evaluating whether the defendant would benefit
21 from a drug offender treatment program and whether placement
22 in the drug offender treatment program is appropriate.

23 (2) Upon committing a defendant to the department, the
24 court shall forward to the department:

25 (i) A summary of the offense for which the defendant
26 has been convicted.

27 (ii) Information relating to the defendant's history
28 of delinquency or criminality, including the information
29 maintained by the court pursuant to Chapter 63 (relating
30 to juvenile matters), when available.

1 (iii) Information relating to the defendant's
2 history of drug or alcohol abuse or addiction, when
3 available.

4 (iv) A presentence investigation report, when
5 available.

6 (v) Any other information the court deems relevant
7 to assist the department with its assessment of the
8 defendant.

9 (b) Assessment of addiction.--

10 (1) The department shall conduct an assessment of the
11 addiction and other treatment needs of a defendant and
12 determine whether the defendant would benefit from a drug
13 offender treatment program. The assessment shall be conducted
14 using a nationally recognized assessment instrument or an
15 instrument that has been normed and validated on the
16 department's inmate population by a recognized expert in such
17 matters. The assessment instrument shall be administered by
18 persons skilled in the treatment of drug and alcohol
19 addiction and trained to conduct assessments. The assessments
20 shall be reviewed and approved by a supervisor with at least
21 three years of experience providing drug and alcohol
22 counseling services.

23 (2) The department shall conduct risk and other
24 assessments it deems appropriate and shall provide a report
25 of its assessment to the court, the defendant, the attorney
26 for the Commonwealth and the commission within 60 days of the
27 court's commitment of the defendant to the custody of the
28 department.

29 (c) Proposed drug offender treatment program.--If the
30 department, in its discretion, believes a defendant would

1 benefit from a drug offender treatment program and placement in
2 the drug offender treatment program is appropriate, the
3 department shall provide the court, the defendant, the attorney
4 for the Commonwealth and the commission with a proposed drug
5 offender treatment program detailing the type of treatment
6 proposed.

7 (d) Prerequisites for commitment.--Upon receipt of a
8 recommendation for placement in a drug offender treatment
9 program from the department, and agreement of the attorney for
10 the Commonwealth and the defendant, the court may sentence an
11 eligible offender to a period of 24 months of State intermediate
12 punishment if the court finds that:

13 (1) The eligible offender is likely to benefit from
14 State intermediate punishment.

15 (2) Public safety would be enhanced by the eligible
16 offender's participation in State intermediate punishment.

17 (3) Sentencing the eligible offender to State
18 intermediate punishment would not depreciate the seriousness
19 of the offense.

20 (e) Consecutive probation.--Nothing in this chapter shall
21 prohibit the court from sentencing an eligible offender to a
22 consecutive period of probation. The total duration of the
23 sentence may not exceed the maximum term for which the eligible
24 offender could otherwise be sentenced.

25 (f) Applicability and program limitations.--The court may
26 not modify or alter the terms of the department's proposed
27 individualized drug offender treatment plan without the
28 agreement of the department and the attorney for the
29 Commonwealth.

30 (g) Videoconferencing.--The department shall make

1 videoconferencing facilities available to allow the court to
2 conduct proceedings necessary under this section when the
3 eligible offender has been committed to the custody of the
4 department pursuant to subsection (b).

5 § 9905. Drug offender treatment program.

6 (a) Establishment.--The department shall establish and
7 administer a drug offender treatment program as a State
8 intermediate punishment. The program shall be designed to
9 address the individually assessed drug and alcohol abuse and
10 addiction needs of a participant and shall address other issues
11 essential to the participant's successful reintegration into the
12 community, including, but not limited to, educational and
13 employment issues.

14 (b) Duration and components.--Notwithstanding any credit to
15 which the defendant may be entitled under section 9760 (relating
16 to credit for time served), the duration of the drug offender
17 treatment program shall be 24 months and shall include the
18 following:

19 (1) A period in a State correctional institution of not
20 less than seven months. This period shall include:

21 (i) The time during which the defendants are being
22 evaluated by the department under section 9904(b)
23 (relating to referral to State intermediate punishment
24 program).

25 (ii) Following evaluation under subparagraph (i),
26 not less than four months shall be in an institutional
27 therapeutic community.

28 (2) A period of treatment in a community-based
29 therapeutic community of at least two months.

30 (3) A period of at least six months' treatment through

1 an outpatient addiction treatment facility. During the
2 outpatient addiction treatment period of the drug offender
3 treatment program, the participant may be housed in a
4 community corrections center or group home or placed in an
5 approved transitional residence. The participant must comply
6 with any conditions established by the department regardless
7 of where the participant resides during the outpatient
8 addiction treatment portion of the drug offender treatment
9 program.

10 (4) A period of supervised reintegration into the
11 community for the balance of the drug offender treatment
12 program, during which the participant shall continue to be
13 supervised by the department and comply with any conditions
14 imposed by the department.

15 (c) Program management.--

16 (1) Consistent with the minimum time requirements set
17 forth in subsection (b), the department may transfer, at its
18 discretion, a participant between a State correctional
19 institution, an institutional therapeutic community, a
20 community-based therapeutic community, an outpatient
21 addiction treatment program and an approved transitional
22 residence. The department may also transfer a participant
23 back and forth between less restrictive and more restrictive
24 settings based upon the participant's progress or regression
25 in treatment or for medical, disciplinary or other
26 administrative reasons.

27 (2) This subsection shall be construed to provide the
28 department with the maximum flexibility to administer the
29 drug offender treatment program both as a whole and for
30 individual participants.

1 (d) Right of refusal to admit.--The administrator of a
2 community-based therapeutic community or outpatient addiction
3 treatment facility may refuse to accept a participant whom the
4 administrator deems to be inappropriate for admission and may
5 immediately discharge to the custody of the department any
6 participant who fails to comply with facility rules and
7 treatment expectations or refuses to constructively engage in
8 the treatment process.

9 (e) Notice to court of completion of program.--When the
10 department determines that a participant has successfully
11 completed the drug offender treatment program, it shall notify
12 the sentencing court, the attorney for the Commonwealth and the
13 commission.

14 (f) Expulsion from program.--

15 (1) A participant may be expelled from the drug offender
16 treatment program at any time in accordance with guidelines
17 established by the department, including failure to comply
18 with administrative or disciplinary procedures or
19 requirements set forth by the department.

20 (2) The department shall promptly notify the court, the
21 defendant, the attorney for the Commonwealth and the
22 commission of the expulsion of a participant from the drug
23 offender treatment program and the reason for such expulsion.
24 The participant shall be housed in a State correctional
25 institution or county jail pending action by the court.

26 (3) The court shall schedule a prompt State intermediate
27 punishment revocation hearing pursuant to section 9774
28 (relating to revocation of State intermediate punishment
29 sentence).

30 § 9906. Written guidelines and regulations.

1 The department shall develop written guidelines for
2 participant selection criteria, the establishment of drug
3 offender treatment program selection committees within each
4 diagnostic and classification center of the department, and
5 shall address suspensions and expulsions from the drug offender
6 treatment program. The guidelines shall not be subject to the
7 act of June 25, 1982 (P.L.633, No.181), known as the Regulatory
8 Review Act, and shall be effective for a period of two years
9 upon publication in the Pennsylvania Bulletin. The guidelines
10 shall be replaced by regulations promulgated by the department
11 consistent with the Regulatory Review Act within the two-year
12 period during which the guidelines are effective. The
13 regulations shall include a requirement that community-based
14 therapeutic communities utilized in the drug offender treatment
15 program be accredited as a therapeutic community for treatment
16 of drug and alcohol abuse and addiction by the Commission on
17 Accreditation of Rehabilitation Facilities or other nationally
18 recognized accreditation organization for community-based
19 therapeutic communities for drug and alcohol addiction
20 treatment.

21 § 9907. Reports.

22 (a) Final report.--The department shall provide a final
23 report to the court, the defendant, the attorney for the
24 Commonwealth and the commission on a participant's progress in
25 the drug offender treatment program.

26 (b) Evaluation and report to General Assembly.--The
27 department and the commission shall monitor and evaluate the
28 drug offender treatment program to ensure that the programmatic
29 objectives are met. In odd-numbered years, the department shall
30 present a report of its evaluation to the Judiciary Committee of

1 the Senate and the Judiciary Committee of the House of
2 Representatives no later than February 1. In even-numbered
3 years, the commission shall present a report of its evaluation
4 to the Judiciary Committee of the Senate and the Judiciary
5 Committee of the House of Representatives no later than February

6 1. The report shall include:

7 (1) The number of offenders evaluated for the drug
8 offender treatment program.

9 (2) The number of offenders sentenced to the drug
10 offender treatment program.

11 (3) The number of offenders sentenced to a State
12 correctional institution who may have been eligible for the
13 drug offender treatment program.

14 (4) The number of offenders successfully completing the
15 drug offender treatment program.

16 (5) The six-month, one-year, three-year and five-year
17 recidivism rates for offenders who have completed the drug
18 offender treatment program and for a comparison group of
19 offenders who were not placed in the drug offender treatment
20 program.

21 (6) Any changes the department or the commission
22 believes will make the drug offender treatment program more
23 effective.

24 § 9908. Construction.

25 Notwithstanding any other provision of law to the contrary,
26 this chapter shall not be construed to:

27 (1) Confer any legal right upon any individual,
28 including an individual participating in the drug offender
29 treatment program, to:

30 (i) participate in a drug offender treatment

1 program;
2 (ii) continue participation in a drug offender
3 treatment program;
4 (iii) modify the contents of the drug offender
5 treatment program; or
6 (iv) file any cause of action in any court
7 challenging the department's determination that a
8 participant be suspended or expelled from or that a
9 participant has successfully completed or failed to
10 successfully complete treatment to be provided during any
11 portion of a drug offender treatment program.

12 (2) Enlarge or limit the right of a participant to
13 appeal the participant's sentence.

14 § 9909. Evaluation.

15 The department and the commission shall monitor and evaluate
16 the motivational boot camp program under the act of December 19,
17 1990 (P.L.1391, No.215), known as the Motivational Boot Camp
18 Act, to ensure that the programmatic objectives are met. In even
19 numbered years, the department shall present a report of its
20 evaluation to the Judiciary Committee of the Senate and the
21 Judiciary Committee of the House of Representatives no later
22 than February 1. In odd numbered years, the commission shall
23 present a report of its evaluation to the Judiciary Committee of
24 the Senate and the Judiciary Committee of the House of
25 Representatives no later than February 1.

26 Section 9. The following acts and parts of acts are repealed
27 to the extent specified:

28 Section 5(e) of the act of December 19, 1990 (P.L.1391,
29 No.215), known as the Motivational Boot Camp Act, absolutely.

30 All other acts and parts of acts, insofar as they are

1 inconsistent with the addition of 42 Pa.C.S. Ch. 99.

2 Section 10. This act shall take effect in 180 days.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2199 Session of
1989

INTRODUCED BY EVANS, CALTAGIRONE, ROEBUCK, RIEGER, BLAUM,
HAYDEN, WILLIAMS, CARN, WAMBACH, FOX, YANDRISEVITS, COLAIZZO,
STUBAN, RYBAK, BELFANTI, VEON, TIGUE, NOYE, LINTON, FARGO,
FREEMAN, GLADECK, LANGTRY, WOGAN, RAYMOND, PISTELLA, McCALL,
J. L. WRIGHT, VROON, KOSINSKI, LUCYK, KASUNIC, ITKIN,
FAIRCHILD, MAINE, GIGLIOTTI, HERSHEY, BATTISTO, HERMAN,
BISHOP, PESCI, MELIO, HAGARTY, D. F. CLARK, JOSEPHS, McVERRY,
TRELLO, BROUJOS, BUSH, LEVDANSKY, DIETTERICK, GEIST,
LAUGHLIN, FARMER, CAPPABIANCA, DeLUCA, B. SMITH, LEE AND
BORTNER, DECEMBER 13, 1989

SENATOR TILGHMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, NOVEMBER 14, 1990

AN ACT

1 Providing for motivational boot camps for certain youthful
2 offenders; and providing for selection of participants.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Motivational
7 Boot Camp Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 (1) The Commonwealth recognizes the severe problem of
11 overcrowding in State and county prisons and understands that
12 overcrowding is a causative factor contributing to

1 insurrection and prison rioting.

2 (2) The Commonwealth also recognizes that the frequency
3 of convictions responsible for the dramatic expansion of the
4 prison population is attributable in part to the increased
5 use of drugs and alcohol.

6 (3) The Commonwealth, in wishing to salvage the
7 contributions and dedicated work which its displaced citizens
8 may someday offer, is seeking to explore alternative methods
9 of incarceration which might serve as the catalyst for
10 reducing criminal behavior.

11 Section 3. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Commission." The Pennsylvania Commission on Sentencing.

16 "Department." The Department of Corrections of the
17 Commonwealth.

18 "Eligible inmate." A person sentenced to a term of
19 confinement under the jurisdiction of the Department of
20 Corrections who is serving a term of confinement, the minimum of
21 which is not more than two years and the maximum of which is
22 five years or less, and who has not reached 35 years of age at
23 the time he is approved for participation in the motivational
24 boot camp program. The term shall not include any inmate serving
25 a sentence for any violation of one or more of the following
26 provisions:

27 18 Pa.C.S. § 2501 (relating to criminal homicide).

28 18 Pa.C.S. § 2901 (relating to kidnapping).

29 18 Pa.C.S. § 3121 (relating to rape).

30 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual

1 intercourse).

2 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
3 robbery).

4 "Motivational boot camp." A program in which eligible
5 inmates participate for a period of six months in a humane
6 program for motivational boot camp programs which shall provide
7 for rigorous physical activity, intensive regimentation and
8 discipline, work on public projects, substance abuse
9 ~~rehabilitation therapy and programming certified~~ TREATMENT ←
10 SERVICES LICENSED by the Department of Health, ventilation
11 therapy, continuing education, vocational training and
12 prerelease counseling.

13 "Secretary." The Secretary of Corrections of the
14 Commonwealth.

15 Section 4. Selection of inmate participants.

16 (a) Duties of commission.--Through the use of sentencing
17 guidelines, the commission shall employ the definition of
18 "eligible inmate" as provided in this act to further identify
19 inmates who would be appropriate for participation in a
20 motivational boot camp.

21 (b) Duties of sentencing judge.--~~The sentencing judge shall~~ ←
22 ~~employ the sentencing guidelines to identify those defendants~~
23 ~~who are eligible for participation in a motivational boot camp.~~

24 THE SENTENCING JUDGE SHALL EMPLOY THE SENTENCING GUIDELINES TO ←
25 IDENTIFY THOSE DEFENDANTS WHO ARE ELIGIBLE FOR PARTICIPATION IN
26 A MOTIVATIONAL BOOT CAMP. The judge shall have the discretion to
27 exclude a defendant from eligibility if the judge determines
28 that the defendant would be inappropriate for placement in a
29 motivational boot camp. ~~The judge shall note on the sentencing~~ ←
30 ~~order whether the defendant has been identified as eligible for~~

1 ~~a motivational boot camp program.~~ THE JUDGE SHALL NOTE ON THE
2 SENTENCING ORDER WHETHER THE DEFENDANT HAS BEEN IDENTIFIED AS
3 ELIGIBLE FOR A MOTIVATIONAL BOOT CAMP PROGRAM.

4 (c) Duties of department.--The secretary shall promulgate
5 rules and regulations providing for inmate selection criteria
6 and the establishment of motivational boot camp selection
7 committees within each diagnostic and classification center of
8 the department.

9 Section 5. Establishment of motivational boot camp program.

10 (a) Establishment.--There is hereby established in the
11 department a motivational boot camp program.

12 (b) Program objectives.--The objectives of the program are:

13 (1) To protect the health and safety of the Commonwealth
14 by providing a program which will reduce recidivism and
15 promote characteristics of good citizenship among eligible
16 inmates.

17 (2) To divert inmates, who ordinarily would be sentenced
18 to traditional forms of confinement under the custody of the
19 department, to motivational boot camps.

20 (3) To provide discipline and structure to the lives of
21 eligible inmates, and to promote these qualities in the
22 postrelease behavior of eligible inmates.

23 (c) Rules and regulations.--The secretary shall have the
24 duty to promulgate rules and regulations which shall include,
25 but not be limited to, inmate discipline, selection criteria,
26 programming and supervision, and administration. The department
27 shall provide four weeks of intensive training for all staff
28 prior to the start of their involvement with the program.

29 (d) Approval.--Motivational boot camp programs may be
30 established only at correctional facilities classified by the

1 secretary as motivational boot camp facilities.

2 (e) Evaluation.--The department and the commission shall
3 monitor and evaluate the motivational boot camp programs to
4 ensure that the programmatic objectives are met. Both shall
5 present annual reports of the evaluations of the Judiciary
6 Committees of the House of Representatives and Senate no later
7 than February 1 of each year.

8 Section 6. Procedure for selection of participant in
9 motivational boot camp program.

10 (a) Application.--An eligible inmate may make an application
11 to the motivational boot camp selection committee for permission
12 to participate in the motivational boot camp program.

13 (b) Selection.--If the selection committee determines that
14 an inmate's participation in the program is consistent with the
15 safety of the community, the welfare of the applicant, the
16 programmatic objectives and the rules and regulations of the
17 department, the committee shall forward the application to the
18 secretary or his designee for approval or disapproval.

19 (c) Conditions.--Applicants may not participate in the
20 motivational boot camp program unless they agree to be bound by
21 all the terms and conditions thereof and indicate their
22 agreement by signing a memorandum of ~~the program immediately~~ <—
23 ~~below a statement reading as follows:~~

24 ~~I accept the foregoing program and agree to be bound by~~
25 ~~the terms and conditions thereof. I understand that my~~
26 ~~participation in the program is a privilege that may be~~
27 ~~revoked at any time at the sole discretion of the~~
28 ~~secretary. I understand that I am also provided with the~~
29 ~~right to terminate, at any time, my involvement in the~~
30 ~~program. I understand that I must successfully complete~~

1 ~~the entire program to obtain a certificate of earned~~
2 ~~eligibility upon the completion of said program, and, in~~
3 ~~the event that I do not successfully complete said~~
4 ~~program, for any reason, I will be transferred to a~~
5 ~~nonintensive incarceration correctional facility to~~
6 ~~continue service of my sentence.~~

7 ~~(d) Privilege. Participation in the motivational boot camp~~
8 ~~program shall be a privilege. Nothing contained in this act may~~
9 ~~be construed to confer upon any inmate the right to participate~~
10 ~~or continue to participate therein. UNDERSTANDING.~~ <—

11 (D) QUALIFICATIONS TO PARTICIPATE.--SATISFYING THE ABOVE
12 QUALIFICATIONS TO PARTICIPATE DOES NOT MEAN THE INMATES WILL
13 AUTOMATICALLY BE PERMITTED TO PARTICIPATE IN THE PROGRAM.

14 (E) EXPULSION FROM PROGRAM.--THE INMATE'S PARTICIPATION IN
15 THE MOTIVATIONAL BOOT CAMP UNIT MAY BE SUSPENDED OR REVOKED FOR
16 ADMINISTRATIVE OR DISCIPLINARY REASONS. THE DEPARTMENT SHALL
17 DEVELOP REGULATIONS CONSISTENT HEREIN.

18 Section 7. Completion of motivational boot camp program.

19 Upon certification by the department of the inmate's
20 successful completion of the program, the Pennsylvania Board of
21 Probation and Parole shall immediately release the inmate on
22 parole, notwithstanding any minimum sentence imposed in the
23 case. The parolee will be subject to intensive supervision for a
24 period of time determined by the board, after which he will be
25 subject to the usual parole supervision. For all other purposes,
26 the parole of the inmate shall be as provided by the act of
27 August 6, 1941 (P.L.861, No.323), referred to as the
28 Pennsylvania Board of Probation and Parole Law.

29 Section 8. Appeals.

30 Nothing in this act shall be construed to enlarge or limit

1 the right of an inmate to appeal his or her sentence.

2 Section 9. Repeals.

3 All acts and parts of acts are repealed insofar as they are
4 inconsistent with this act.

5 Section 10. Effective date.

6 This act shall take effect in 60 days.