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TITLE 61
PRISONS AND PAROLE

Part
I. General Provisions
II. Correctional Institutions
III. Inmate Confinement
IV. Probation and Parole
V. Miscellaneous Provisions

Enactment. Unless otherwise noted, the provisions of Title 61 were added August 11, 2009, P.L.147, No.33, effective in 60 days.

PART I
GENERAL PROVISIONS

Chapter
1. Preliminary Provisions

Enactment. Part I was added August 11, 2009, P.L.147, No.33, effective in 60 days.
Special Provisions in Appendix. See sections 8 and 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

CHAPTER 1
PRELIMINARY PROVISIONS

Sec.
101. Short title of title.
102. Definitions.

Enactment. Chapter 1 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

§ 101. Short title of title.
This title shall be known and may be cited as the Prisons and Parole Code.

§ 102. Definitions.
The following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Board." The Pennsylvania Parole Board.
"Chief administrator." The warden, superintendent or other officer in charge of a correctional institution.
"City department." The department of human services of a city of the first class, or such other agency of a city of the first class as shall be determined by a mayor of the city.
"Commission." The Pennsylvania Commission on Sentencing.
"Correctional institution." A State correctional institution or a county correctional institution.
"Corrections officer." A person employed at a correctional institution to provide any security or custodial service for inmates.
"County correctional institution." A correctional facility, prison or jail owned or operated by a county.
"Department." The Department of Corrections of the Commonwealth.

"Inmate." A person committed to a term of imprisonment or otherwise confined under the custody of the Commonwealth or a county in a correctional institution in accordance with law.

"Offender." An individual that has been convicted or found guilty of a criminal offense by a judge or jury or an individual that pleads guilty or nolo contendere to a criminal offense at any time in a court of record or before a magisterial district justice under section 6138(a)(1.1) (relating to violation of terms of parole).

"Parole violator center." An area within the secure perimeter or on the grounds of a State correctional institution or any contracted facility or contracted county jail that has been designated to house offenders detained or recommitted by the board for a technical parole violation.

"Prescribed programming." An individualized treatment plan that is part of the correctional plan jointly developed by the department and the board following a diagnostic evaluation and risk and needs assessment that includes a structured set of evidence-based treatment curriculums designed to reduce the risk of reoffense by an offender.

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

"State correctional institution." A correctional facility, prison or jail owned or operated by the Commonwealth.
(Oct. 27, 2010, P.L.931, No.95, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended the def. of "board" and added the defs. of "offender" and "parole violator center."

2010 Amendment. Act 95 added the def. of "prescribed programming."

Cross References. Section 102 is referred to in section 9777 of Title 42 (Judiciary and Judicial Procedure).

PART II
CORRECTIONAL INSTITUTIONS

Chapter

11. General Administration
13. (Reserved)
15. (Reserved)
17. County Correctional Institutions

Enactment. Part II was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Special Provisions in Appendix. See sections 8 and 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

CHAPTER 11
GENERAL ADMINISTRATION

Subchapter

A. Penal Operations and Procedures
B. Inmate Transfers
C. Escaped Inmates
D. Drug Redistribution

Enactment. Chapter 11 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

SUBCHAPTER A
PENAL OPERATIONS AND PROCEDURES

Sec.
1101. Benefits to injured employees of State correctional institutions.
1102. Correctional facility for criminological diagnosis.
1103. Recording system for identification of criminal offenders.
1104. State recording system relating to pregnant and postpartum incarcerated individuals or detainees.
1105. Powers and duties of department.
1106. Powers of peace officers.

§ 1101. Benefits to injured employees of State correctional institutions.

(a) General rule.--An employee of a State correctional institution who is injured during the course of that employment by an act of an inmate or by any person who has been committed to the State correctional institution by any court of the Commonwealth or by any provision of the act of July 9, 1976 (P.L.817, No.143), known as the Mental Health Procedures Act, shall be paid by the Commonwealth the employee's full salary until the disability arising from the injury no longer prevents the employee's return as an employee of the department at a salary equal to that earned by the employee at the time of the injury.

(b) Medical and hospital expenses.--All medical and hospital expenses incurred in connection with an injury described in subsection (a) shall be paid by the Commonwealth until the disability arising from the injury no longer prevents the employee's return as an employee of the department at a salary equal to that earned by the employee at the time of the injury.

(c) Workers' compensation.--During the time salary for an injury described in subsection (a) shall be paid by the Commonwealth, any workers' compensation received or collected for the period shall be turned over to the Commonwealth and paid into the General Fund. If such payment is not made, the amount due the Commonwealth shall be deducted from any salary then or thereafter becoming due and owing to the employee.

(d) Survivor benefits.--

(1) The surviving spouse and minor dependents of an employee who dies within one year as a result of an injury described in subsection (a) shall be paid benefits equal to 50% of the full salary of the deceased employee.

(2) (i) When a surviving spouse and minor dependents not in the custody of the surviving spouse are entitled to payments, 50% of the payments shall be paid to the surviving spouse and 50% to the dependents.

(ii) In every case, the amount payable to minor dependents shall be divided equally among them and be paid to the persons or institutions having custody of them.

(3) (i) In the case of a surviving spouse or a surviving spouse with minor dependents in the custody of the surviving spouse, the benefits shall terminate when the surviving spouse remarries.

(ii) In the case of minor dependents, except when in the custody of a remarried surviving spouse, the

benefits shall terminate when all of the minor dependents become 18 years of age.

(iii) Neither a surviving spouse nor minor dependents shall receive any benefits under this section while receiving benefits under the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

(4) The benefits provided under this subsection shall be reduced by the amount of any workers' compensation benefits received or collected by the surviving spouse or minor dependents because of the same injury.

(5) Payments for the benefit of minor dependents shall be made to the person having legal custody of them.

(e) Effect of injury on leave of absence.--No absence from duty of any State employee to whom this section applies by reason of any injury described in subsection (a) shall in any manner be deducted from any period of leave allowed the employee by law or by regulation.

§ 1102. Correctional facility for criminological diagnosis.

(a) Establishment.--There is hereby established a correctional facility for criminological diagnosis, classification, social and psychological treatment and research, medical treatment and staff training.

(b) Operation and management.--The department shall operate and manage the correctional facility established under this section, including staff training and the treatment, care, maintenance, employment and rehabilitation of the inmates in that facility.

§ 1103. Recording system for identification of criminal offenders.

(a) General rule.--The Pennsylvania State Police shall continue to procure and file for record photographs, pictures, descriptions, fingerprints and such other information pertaining to all persons who have been convicted of a criminal offense within this Commonwealth and also of all well-known and habitual criminal offenders, wherever they may be procured.

(b) Cooperation from chief administrators.--Chief administrators of correctional facilities shall furnish to the Pennsylvania State Police, upon request, the fingerprints, photographs and description of any inmate.

(c) Fingerprinting and photographing authorized.--

(1) The Pennsylvania State Police, chief administrators of correctional facilities and all police officers within the several political subdivisions of this Commonwealth may take or cause to be taken the fingerprints or photographs of any person in custody, charged with the commission of a criminal offense or reasonably believed to be a fugitive from justice or a habitual criminal. This paragraph shall not apply to persons charged with a violation of 75 Pa.C.S. (relating to vehicles) which is punishable upon conviction in a summary proceeding unless the person is reasonably believed to be a fugitive from justice or a habitual criminal.

(2) The chiefs of law enforcement bureaus of all cities within this Commonwealth shall furnish daily to the Pennsylvania State Police copies of the fingerprints and, if possible, photographs of any person arrested within their jurisdiction charged with the commission of a criminal offense classified as a felony of any degree or who is reasonably believed to be a fugitive from justice or a habitual criminal. Such fingerprints shall be taken on forms furnished or approved by the Pennsylvania State Police.

(3) The Pennsylvania State Police, immediately upon the receipt of records under this subsection, shall compare them with those already in their files and, if they find that any person arrested has a previous criminal record or is a fugitive from justice, shall immediately inform the arresting officer or the officer having the inmate in charge of that fact.

(d) Cooperation outside this Commonwealth.--The Pennsylvania State Police shall cooperate with agencies of other states and of the United States having similar powers to develop and carry on a complete international, national and interstate system of criminal identification and investigation and also to furnish, upon request, any information in its possession concerning any person charged with a criminal offense to any court, district attorney or police officer of this Commonwealth, another state or the United States.

(e) District attorneys may employ experts.--

(1) District attorneys may employ experts on fingerprints to assist them in the investigation of pending cases and to testify at the trial thereof. The compensation of any such expert shall be fixed by the district attorney employing the expert, with the approval of the court of common pleas, and shall be paid from the county treasury upon warrant of the county commissioners in the usual manner.

(2) The district attorney of any county, the chief administrator of a county correctional institution, any expert employed by the district attorney or any other person designated by the district attorney may, upon the written order of the district attorney, take the fingerprints of any person confined in the county correctional institution for use in the identification of the inmate or for the inmate's trial.

(3) (i) The district attorneys of the several counties shall keep and arrange files of the fingerprints, taken under this section, of persons convicted of a criminal offense and shall destroy the fingerprints of all persons acquitted.

(ii) The files of fingerprints maintained by the district attorneys shall be open to the inspection of any other district attorney of this Commonwealth, or their representatives, or of the Pennsylvania State Police or any sheriff or law enforcement officer.

(f) Penalty.--

(1) Neglect or refusal of any person mentioned in this section to make the report required in this section, or to do or perform any other act required to be done or performed in connection with the operation of this section, shall constitute a summary offense.

(2) Such neglect or refusal shall also constitute malfeasance in office and subject such person to removal from office.

(3) Any person who removes, destroys or mutilates any of the records of the Pennsylvania State Police or of any district attorney shall be guilty of a misdemeanor of the third degree.

§ 1104. State recording system relating to pregnant and postpartum incarcerated individuals or detainees.

(a) General rule.--A correctional institution shall, in writing, report each restraint applied to a pregnant, laboring or postpartum individual in the correctional institution's custody, as well as any instance where a pregnant, laboring or postpartum individual is placed in restrictive housing. The

report shall note the number and type of restraints or, in the case of restrictive housing, the length of time the individual was placed in restrictive housing. The provisions of this subsection shall apply to any person tasked with transporting or housing incarcerated individuals or detainees. Reports shall be made as follows:

(1) A correctional institution that is not operated, supervised or licensed by the Department of Human Services pursuant to the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, shall make the report to the secretary.

(2) A correctional institution that is operated, supervised or licensed by the Department of Human Services pursuant to the Human Services Code shall make the report to the Secretary of Human Services.

(b) Contents of report.--Reports of each restraint or placement of a pregnant, laboring or postpartum individual in restrictive housing as required under subsection (a) must include the following:

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(2.1) The circumstances that led to the determination that:

(i) the pregnant, laboring or postpartum individual represented a substantial risk of imminent flight; or

(ii) other extraordinary medical or security circumstances dictated that the pregnant, laboring or postpartum individual be restrained or placed in restrictive housing to ensure the safety and security of the pregnant, laboring or postpartum individual, the staff of the correctional institution or medical facility, other incarcerated individuals or detainees or the public.

(3) The date and time restraints were applied or the restrictive housing placement occurred and the length of time the pregnant, laboring or postpartum individual was kept in restraints or restrictive housing.

(4) The badge number or identification number of the following:

(i) The custodian or staff member who applied the restraints or placed the individual into restrictive housing.

(ii) Any superior officers approving or advising the application of restraints or placement in restrictive housing.

(5) The number and type of restraints used or the location and description of the restrictive housing.

(6) Any visible injury of the pregnant, laboring or postpartum individual resulting from placement in the restraints that is documented by the correctional institution.

(c) Staff presence during labor.--Other than licensed medical professionals, only female staff shall be present in the room during the examination, labor or delivery of the pregnant incarcerated individual. If male staff, other than licensed medical professionals, remain present during the examination, labor or delivery of the pregnant incarcerated individual, that information and the reasons for the presence shall be reported to the department or the Department of Human Services, as applicable.

(d) Availability of reports.--The nonidentifying data contained in the written reports submitted to the department

or the Department of Human Services shall be posted on the department's or the Department of Human Services' publicly accessible Internet website annually. No identifying information, such as names or dates of birth, shall be posted.

(e) Failure to submit report.--If a correctional institution fails to submit a report under this section within 30 days after the end of the fiscal year, the department or the Department of Human Services, as applicable, shall obtain a certification, to be created by the department or the Department of Human Services, as applicable, from the correctional institution verifying that the correctional institution had zero instances of use of restraints, placement in restrictive housing or male staff presence, other than licensed medical professionals, during medical examinations or appointments of pregnant incarcerated individuals under the provisions of this section.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Correctional institution." As defined in section 5905(e)(relating to healthy birth for incarcerated women).

"Postpartum." The eight-week period, or longer as determined by the health care professional responsible for the health and safety of the incarcerated individual or detainee, following childbirth.

"Restraints." Any physical or mechanical device used to restrict or control the movement of an incarcerated individual's body, limbs or both.

"Restrictive housing." Placement in an area or group of cells designated to house individuals assigned to disciplinary or administrative custody in which out-of-cell time is limited to less than two hours per day.

"Staff." An individual who is employed or contracted by a correctional institution, the department or the Department of Human Services.

(July 2, 2010, P.L.275, No.45, eff. 60 days; Dec. 14, 2023, P.L.396, No.47, eff. 180 days)

Cross References. Section 1104 is referred to in sections 5905, 5905.1 of this title.

§ 1105. Powers and duties of department.

(a) General rule.--The department shall have the power and its duty shall be:

(1) To establish standards for county correctional institutions, including, but not limited to, standards for physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates.

(2) To inspect county correctional institutions and to classify them in accordance with standards adopted under paragraph (1) as eligible to receive inmates sentenced to maximum terms of six months or more but less than five years.

(b) Rules and regulations.--The department may prescribe, adopt, promulgate and enforce rules and regulations in order to administer the provisions of this section.

(Oct. 27, 2010, P.L.931, No.95, eff. imd.)

2010 Amendment. Act 95 added section 1105, retroactive to November 9, 2009. See section 23 of Act 95 in the appendix to this title for special provisions relating to continuation of regulations adopted under prior law.

§ 1106. Powers of peace officers.

A chief administrator, deputy superintendent or corrections officer of a State correctional facility may exercise the powers

of a peace officer in the performance of that individual's duties generally in:

(1) Guarding, protecting and delivering inmates.

(2) Protecting the property of the department.

(3) Capturing and returning inmates that may have escaped within the immediate area of a State correctional facility or mode of transport. For the purposes of this section, the immediate area of a State correctional facility or mode of transport shall encompass the curtilage up to and including one-half of one mile.

(June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 added section 1106. See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.

SUBCHAPTER B
INMATE TRANSFERS

Sec.

1151. General transfer authorization.
1152. Transfers to city department.
1153. Expense of removing certain inmates.
1154. Law enforcement use of county correctional institutions.

§ 1151. General transfer authorization.

(a) Between State and county.--At the request of the chief administrator of a county correctional institution, the secretary or his designee may transfer inmates located in a county correctional institution to the State correctional institution system for such reasons and upon such terms and conditions as the secretary may determine. The secretary or his designee may transfer inmates in the State correctional institution system to the jurisdiction of a county correctional institution system upon such terms and conditions that the secretary or his designee and the chief administrator of the county correctional institution determine to be in the best interests of the Commonwealth.

(b) Between counties.--An inmate located in a county correctional institution may be transferred to another county correctional institution upon such terms and conditions as the counties may determine.

(c) Between Federal Government and the State or county.--The department and county correctional institutions may contract with the Federal Government for the housing of Federal inmates in correctional facilities.

(d) Temporary transfers.--The following shall apply to temporary transfers:

(1) The department shall temporarily transfer an inmate confined in the State correctional system to a State correctional institution determined by the department to be of an appropriate security level that is nearest to the location of the judicial proceeding. The department shall have the discretion to select an alternative and reasonably accessible State correctional institution if bed space limitations in the nearest State correctional institution prevent the temporary transfer to that institution.

(2) The department shall not be required to temporarily transfer any inmate under this subsection unless all of the following apply:

(i) A court order has been entered directing the presence of the inmate at a judicial proceeding.

(ii) The court has found that the inmate's presence is required at the judicial proceeding.

(iii) The Constitution of the United States or the Constitution of Pennsylvania does not permit the inmate's testimony or participation in the proceeding to be conducted by videoconferencing technology.

(3) The department shall establish regulations for the implementation of this subsection in accordance with all of the following:

(i) The regulations may require up to 14 days' notice prior to the entry of a temporary transfer order.

(ii) The regulations may require return of an inmate to the inmate's home correctional institution upon completion of the judicial proceeding.

(iii) The regulations may require that an inmate is to be removed from the State correctional institution by a government official authorized by the court directing the presence of the inmate for a judicial preceding be detained in the county prison if the inmate has been temporarily transferred more than twice in the preceding six months or the judicial proceeding is scheduled to last more than one week.

(4) Pending implementation of the regulations required under paragraph (3), the department shall publish interim guidelines consistent with the provisions of paragraph (3). The provisions of this section shall be in full force and effect even if the department has not yet published interim guidelines or implemented the regulations required under this section.

(5) The department may presume that the judicial proceedings have concluded when the inmate is returned to the temporary correctional institution after a judicial proceeding unless a court otherwise notifies the department in the manner required by the department.

(6) The department may require a county to pay the reasonable cost of transportation between State correctional facilities if a court of that county has requested a temporary transfer under this section. The county reimbursements for transportation costs shall be automatically reappropriated to the department.

(7) This section shall not be construed:

(i) To prohibit the use of alternative transportation methods authorized by law.

(ii) To authorize a court to designate a particular place of confinement or the length of confinement in the temporary correctional institution.

§ 1152. Transfers to city department.

(a) Cities of the first class.--Every person sentenced by any court to a county correctional institution situate in a city of the first class shall be committed to the custody of the city department, where the city department has established a correctional, diagnostic and classification service for persons convicted of any crime.

(b) Duty of city department.--

(1) Every person committed to the custody of the city department under subsection (a) shall be confined, diagnosed and classified by the city department.

(2) Upon the completion of the diagnosis and classification, the person shall be placed in the county correctional institution of the city determined to be most appropriate for the service of sentence.

(3) In making the determination under paragraph (2), the city department shall consider the problem of rehabilitation, security, adequacy of facilities and such other factors as, in its opinion, will serve to promote the rehabilitation of inmates, consistent with the security and protection of the county.

(c) Intradepartmental transfers.--The city department may transfer between any correctional institutions under its control or supervision an inmate confined and serving in any of those institutions, whether the sentence is imposed before or after the effective date of this section, if the transfer is, in the opinion of the city department, consistent with the standards for original placement set forth in subsection (b).

§ 1153. Expense of removing certain inmates.

The expenses of conveying inmates from the several counties of this Commonwealth to the State correctional institutions in the Eastern Region and Western Region shall be paid by the counties from which the inmates may be sent.

§ 1154. Law enforcement use of county correctional institutions.

(a) General rule.--Sheriffs, constables, members of the Pennsylvania State Police and other persons authorized by the laws of this Commonwealth to make arrests shall have the use, for a period not to exceed 48 hours, of borough and township lockups and county correctional institutions for the detention of persons arrested until they can be disposed of according to law, if found necessary by the officer in charge.

(b) Reimbursement.--

(1) Boroughs, cities and townships are entitled to receive compensation of not more than $2 per day of 24 hours, for each prisoner detained under subsection (a), from the treasury of the county having jurisdiction over the person detained.

(2) This subsection does not apply to counties of the second class.

SUBCHAPTER C
ESCAPED INMATES

Sec.

1161. Return of escaped inmates.
1162. Escaped inmate costs.
1163. Maintenance of escaping inmates under new sentence.
1164. Criminal offense during confinement.

§ 1161. Return of escaped inmates.

(a) General rule.--In all cases where an inmate, after an escape from a State correctional institution, is apprehended or arrested by any officer having authority to make such arrest, the officer shall notify the State correctional institution from which the escape was made. The State correctional institution shall notify the department or the Pennsylvania State Police, which shall immediately send an officer or officers to return the inmate to the State correctional institution.

(b) Expenses.--All necessary expenses incurred by the officer or officers in returning an escaped inmate to the State correctional institution shall be borne by the State correctional institution from which the escape was made, which expenses shall be refunded to the county correctional institution or the Pennsylvania State Police whose officer or agent makes the return.

§ 1162. Escaped inmate costs.

(a) County jurisdiction.--

(1) The cost of transporting an escaped inmate under the jurisdiction of the county from the place of capture to any county correctional institution after being sentenced for the escape or for the commission of any crime or offense following such escape and before apprehension, the cost of maintenance while confined in the county correctional institution awaiting trial, as well as the costs of the trial for the violation by an inmate under the jurisdiction of the county under 18 Pa.C.S. § 5121 (relating to escape) or of the trial for crimes and offenses committed after the escape and before apprehension or of the trial for crimes and offenses committed on the grounds or within the buildings of any county correctional institution, as well as the costs incurred in any proceedings on writs of habeas corpus, coram nobis or other petitions arising out of any escape or crime or the trials therefor, or in any appeals of any such proceedings or trials, shall, in each instance, be borne and paid by the respective counties of the Commonwealth from whose courts the inmates were originally committed to any county correctional institution.

(2) The county liable for costs under this subsection shall, upon bills rendered by the county paying the costs in the first instance, pay to that county the amount of the costs.

(b) State jurisdiction.--The cost of transporting escaped inmates under the jurisdiction of the Commonwealth from the place of capture to any State correctional institution after being sentenced for the escape, or for the commission of any criminal offense following the escape and before apprehension, as well as the costs of the trial for escape or breaking away of inmates from any State correctional institution or the violation by the inmates under the jurisdiction of the Commonwealth under 18 Pa.C.S. § 5121, or of the trial for crimes and offenses committed after such escape and before apprehension or of the trial for crimes and offenses committed on the grounds or within the buildings of any State correctional institution, as well as the costs incurred in any proceedings on writs of habeas corpus, coram nobis or other petitions arising out of any escape or criminal offense or the trials therefor, or in any appeals of any such proceedings or trials, shall, in each instance, be borne and paid by the Commonwealth.

(c) Definition.--As used in this section, the term "costs" includes, but is not limited to, charges for court stenographer, district attorney, witness fees, magisterial district judge, clerk of court, public defender and court-appointed attorney.

§ 1163. Maintenance of escaping inmates under new sentence.

(a) County jurisdiction.--In case of conviction and sentence of an escaping inmate under the jurisdiction of the county, the costs of maintenance of the inmates under such new sentence shall be borne by the county from which the inmate was originally committed.

(b) State jurisdiction.--In case of conviction and sentence of an escaping inmate under the jurisdiction of the Commonwealth, the costs of maintenance of the inmate under such new sentence shall be borne by the Commonwealth.

(c) Additional police expenses.--Any additional police expenses incurred by a political subdivision as a result of the escape of an inmate under the jurisdiction of the Commonwealth shall be borne by the Commonwealth.

§ 1164. Criminal offense during confinement.

Where an inmate is in a State correctional institution either because of the inmate's sentence pursuant to the inmate's conviction or plea of guilty to a criminal charge or because of a commitment issued by any court of the Commonwealth having jurisdiction and, while so confined, the inmate commits a criminal offense and is subsequently convicted or enters a plea of guilty, the expenses of keeping the inmate in any State correctional institution pursuant to such subsequent conviction or plea of guilty shall be borne by the Commonwealth.

SUBCHAPTER D
DRUG REDISTRIBUTION

Sec.

1171. Scope of subchapter.
1172. Definitions.
1173. Return to and redispensing by vendor pharmacy.
1174. Vendor pharmacy redispensing.
1175. Credit for redispensing.
1176. Disposal of unacceptable returned drugs.
1177. Unprofessional conduct.

Enactment. Subchapter D was added July 9, 2010, P.L.457, No.59, effective immediately.

§ 1171. Scope of subchapter.
This subchapter relates to correctional facility drug redistribution.

§ 1172. Definitions.
The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Correctional facility." A correctional institution, group home, community corrections center, parole center or any facility that houses a person convicted of a criminal offense, or awaiting trial, sentencing or extradition in a criminal proceeding. The term does not include any facility or institution operated, supervised or licensed under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Designated personnel." Correctional facility employees or employees of a vendor for a correctional facility licensed by the State Board of Medicine, State Board of Osteopathic Medicine, State Board of Nursing or State Board of Pharmacy and authorized by their scope of practice to administer drugs.

"Drug." Any medication prescribed by a licensed practitioner, either patient specific or stock, to a patient in a correctional facility.

"Manufacturer." A company that produces a drug or a Federal Drug Administration certified repacker who packages or repackages a drug product for distribution.

"Manufacturer identifier." A manufacturer's name or product National Drug Code number.

"Unit dose package." An individually sealed package that contains a single dose drug with the drug name, strength, manufacturer identifier, lot number and expiration date of the drug on the package.

"Unit of issue package." A package that includes multiple unit dose packages of the same drug.

"Vendor pharmacy." A licensed pharmacy that packages, repackages or prepares a manufacturer-sealed container, unit

dose package or unit of issue package for delivery to a correctional facility.
(July 5, 2012, P.L.1050, No.122, eff. July 1, 2013)

2012 Amendment. Act 122 amended the def. of "correctional facility."

References in Text. The short title of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," referred to in the def. of "correctional facility," was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

§ 1173. Return to and redispensing by vendor pharmacy.

A drug that is issued to a correctional facility and has left the control of a pharmacist at a vendor pharmacy may be returned to its vendor pharmacy for the purpose of redispensing that drug to fill other prescriptions for other correctional facilities only if the following requirements are met:

(1) The drug is not a Schedule I, II, III, IV or V controlled substance as specified in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(2) The drug is returned to its vendor pharmacy in accordance with the vendor pharmacy's written policies and procedures that comply with section 1174 (relating to vendor pharmacy redispensing) and the State Board of Pharmacy's rules and regulations in regard to delivery, storage, labeling and reissuing of the drug.

(3) The drug is returned to the vendor pharmacy unopened and still sealed in the unit dose package, unit of issue package, bottle or manufacturer's package.

(4) Each returned unit dose package, unit of issue package, bottle or manufacturer's package retains the drug name, strength, manufacturer identifier, lot and expiration date as originally labeled by the pharmacy or manufacturer.

(5) The drug issued to the facility was at no time in the possession or control of a patient.

(6) The drug remained in a controlled environment of a secured drug room or secured drug cart under the supervision of designated personnel who are responsible for the drugs in that correctional facility.

(7) The drug has no fewer than 90 days before its expiration date.

(8) A pharmacist at the vendor pharmacy determines by visual inspection that the returned products are not adulterated or misbranded.

(9) A pharmacist at the vendor pharmacy using the pharmacist's professional judgment determines that:

(i) The conditions under which the drug has been delivered, stored and handled before and during its return to the pharmacy have preserved proper integrity, stability and labeling of the drug.

(ii) The drug labeling or packaging has not been altered or defaced.

(iii) The drug name, strength, manufacturer identifier, lot and expiration date are retrievable.

Cross References. Section 1173 is referred to in sections 1174, 1176 of this title.

§ 1174. Vendor pharmacy redispensing.

The vendor pharmacy to which drug products are returned may redispense a drug properly returned under section 1173 (relating

to return to and redispensing by vendor pharmacy), provided that:

(1) The drugs are returned directly from the correctional facility to the vendor pharmacy.

(2) The drugs returned to the vendor pharmacy are stored separately from the rest of the pharmacy's stock.

(3) The redispensing is in compliance with the United States Pharmacopeia and the vendor pharmacy's policies and procedures.

(4) The vendor pharmacy records receipt of the drug, including:

(i) The date the drug was received.

(ii) The quantity of the drug.

(iii) The lot number of the drug.

(iv) The expiration date of the drug.

(5) Information recorded under this section is maintained for at least two years from the date the drug is redispensed.

(6) The unit dose package, unit of issue or originally sealed container stays intact with drug name, strength, manufacturer identifier, lot and expiration date and is not emptied from the returned unit dose, unit of issue or original container for repacking.

(7) The name of any patient for whom the drug was previously prescribed is removed prior to redispensing.

(8) The drug remains in the original container or package and before redispensing the vendor pharmacy ensures that the label meets the requirements of the State Board of Pharmacy's rules and regulations.

Cross References. Section 1174 is referred to in section 1173 of this title.

§ 1175. Credit for redispensing.

The vendor pharmacy to which drug products are returned shall credit the correctional facility for the unused drugs that are permitted to be restocked for redispensing at a rate determined by the vendor pharmacy and the correctional facility.

§ 1176. Disposal of unacceptable returned drugs.

Returned drugs that do not meet all the requirements of section 1173 (relating to return to and redispensing by vendor pharmacy) shall be deemed unacceptable for redispensing and processed for disposal. Drugs deemed unacceptable for redispensing shall be sent to a destruction agency, reverse distributor, manufacturer, original wholesaler or other approved entity.

§ 1177. Unprofessional conduct.

(1) A pharmacist who is authorized under this subchapter to redispense a drug and who properly relabels and repackages the drug shall not be deemed to have engaged in unprofessional conduct under section 5 of the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

(2) A pharmacist who fails to comply with the provisions of this subchapter may be subject to discipline under the Pharmacy Act.

(3) A pharmacy that fails to comply with the provisions of this subchapter may be subject to discipline under the Pharmacy Act.

CHAPTER 13
(RESERVED)

Enactment. Chapter 13 (Reserved) was added August 11, 2009, P.L.147, No.33, effective in 60 days.

CHAPTER 15
(RESERVED)

Enactment. Chapter 15 (Reserved) was added August 11, 2009, P.L.147, No.33, effective in 60 days.

CHAPTER 17
COUNTY CORRECTIONAL INSTITUTIONS

Subchapter

A. (Reserved)
B. County Jail Oversight Boards
C. Board of Inspectors
D. Alternative Plan for Certain Counties
E. Penal Operations and Procedures
F. Joint Detention Centers
G. Joint Industrial Farms and Workhouses

Enactment. Chapter 17 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

SUBCHAPTER A
(RESERVED)

SUBCHAPTER B
COUNTY JAIL OVERSIGHT BOARDS

Sec.

1721. Scope of subchapter.
1722. Definitions.
1723. County jail oversight board.
1724. Powers and duties.
1725. Rules and regulations.
1726. Warden.
1727. Board meetings.
1728. Contracts and purchases.

Subchapter Heading. The heading of Subchapter B was amended October 27, 2010, P.L.931, No.95, effective immediately, retroactive to October 12, 2009.

§ 1721. Scope of subchapter.

This subchapter relates to county jail oversight boards. (Oct. 27, 2010, P.L.931, No.95, eff. imd.)

2010 Amendment. Section 27(1) of Act 95 provided that the amendment of section 1721 shall be retroactive to October 12, 2009.

§ 1722. Definitions.

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

"Board." The county jail oversight board of a county.

"County." A county of the second class or a county that has elected to be governed by the provisions of this subchapter under section 1723(d) (relating to county jail oversight board). (Oct. 27, 2010, P.L.931, No.95, eff. imd.)

2010 Amendment. Section 27(1) of Act 95 provided that the amendment of section 1722 shall be retroactive to October 12, 2009.

§ 1723. County jail oversight board.

(a) Establishment.--There is hereby established in each county a county jail oversight board which shall be named the (Name of County) County Jail Oversight Board. The board shall be a continuation of the county prison board originally established under the former act of December 10, 1980 (P.L.1152, No.208), known as the Second Class County Prison Board Act, and former Article XXX-A of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code.

(b) Composition.--The board shall be composed of:

(1) The county chief executive.

(2) Two judges of the court of common pleas, one of whom shall be the president judge, or his designee who shall be a judge, and one judge appointed by the president judge.

(3) The county sheriff.

(4) The county controller.

(5) The president of county council or his designee.

(6) Three citizen members as provided in subsection (c).

(c) Qualifications of citizen members.--The citizen members shall not be employees of the county or of the Commonwealth. They shall serve for a term of three years and shall be representative of the broad segments of the county's population and shall include persons whose background and experience indicate that they are qualified to act in the interest of the public. The citizen members shall be appointed by the county chief executive with the consent of county council.

(d) Counties that may elect to be subject to subchapter.--Any county that has adopted a home rule charter may elect by resolution of the governing body of the county to be governed by the provisions of this subchapter.
(Oct. 27, 2010, P.L.931, No.95, eff. imd.)

2010 Amendment. Act 95 added subsec. (d), retroactive to October 12, 2009.

Cross References. Section 1723 is referred to in section 1722 of this title.

§ 1724. Powers and duties.

(a) General rule.--The board's administrative powers and duties shall include the operation and maintenance of the prison and all alternative housing facilities, the oversight of the health and safekeeping of inmates and the confirmation of the chief executive's selection of a warden.

(b) Living conditions.--The board shall ensure that the living conditions within the prison and alternative housing facilities are healthful and otherwise adequate.

(c) Unannounced inspections.--The board shall, at least twice each year, conduct an unannounced inspection of the prison's physical plant. During such inspections, the board shall interview a cross section of inmates, out of the presence of the warden and his agents, to determine the conditions within the prison and alternative housing facilities. After each inspection, the board shall prepare a written report setting

forth its findings and determinations which shall be available for public inspection.

(d) Operations to be consistent with law.--The board shall ensure that the prison is being operated in accordance with its regulations and the laws and regulations of this Commonwealth and of the United States.

(e) Investigations.--The board shall investigate allegations of inadequate prison conditions and improper practices occurring within the prison and may make such other investigations or reviews of prison operation and maintenance. The books, papers and records of the prison, including, but not limited to, the papers and records of the warden and those relating to individual inmates, shall at all times be available for inspection by the board.

§ 1725. Rules and regulations.

The board shall, in the manner provided by law, promulgate such rules, regulations and forms it deems necessary for the proper administration of the board and for the operation of the prison and alternative housing facilities.

§ 1726. Warden.

(a) Appointment.--

(1) The chief executive shall appoint a warden subject to confirmation by the board. The warden shall serve at the pleasure of the chief executive, who shall fix an appropriate salary.

(2) The warden shall be a resident of the county six months after the date of appointment.

(b) Duty to employ staff.--Subject to approval of the manager, the warden shall employ deputies, assistants and other personnel required to adequately operate the prison and alternative housing facilities.

(c) Duty to report.--

(1) The warden shall submit an annual written report to the board which shall contain information on the population, conditions and practices in the prison and other matters as specified by the board. The annual report shall be available for public inspection.

(2) The warden shall report to the county chief executive and to the board.

§ 1727. Board meetings.

The board shall meet at least once each month and shall keep regular minutes of its proceedings which shall be open to public inspection.

§ 1728. Contracts and purchases.

All contracts and purchases required for the maintenance and support of the prisoners, repairs and improvements of the prison and alternative housing facilities and materials and supplies shall be conducted in accordance with the applicable provisions of the county administrative code.

SUBCHAPTER C
BOARD OF INSPECTORS

Sec.

1731. Establishment.
1732. Board meetings.
1733. Appointment of warden and employees.
1734. Powers of peace officers.
1735. Expenditures.
1736. Bonding requirement.

Subchapter Heading. The heading of Subchapter C was amended October 27, 2010, P.L.931, No.95, effective immediately, retroactive to October 12, 2009.

Applicability. Section 2 of Act 13 of 2022 provided that a county subject to the provisions of 61 Pa.C.S. Ch. 17 Subch. C shall continue to be governed by Subchapter C notwithstanding any change in classification after the effective date of section 2. Section 3 of Act 13 of 2022 provided that section 2 of Act 13 shall apply retroactively to October 1, 2021.

§ 1731. Establishment.

(a) General rule.--

(1) In counties of the third, fourth and fifth class, the persons now holding the following offices and their successors in each county of the third, fourth or fifth class shall compose a board to be known as the board of inspectors of the jail or county prison.

(2) The following persons shall be members of the board:

(i) The president judge of the court of common pleas or a judge designated by him.

(ii) The district attorney.

(iii) The sheriff.

(iv) The controller.

(v) The county commissioners.

(3) The board and the officers appointed by it shall provide for the safekeeping, discipline and employment of inmates and the government and management of the correctional institution.

(4) The duty of the sheriff relating to the safekeeping of inmates shall cease and determine on their committal to the correctional institution, and the sheriff may not be furnished a residence in the correctional institution.

(5) Notwithstanding the provisions of paragraph (2), the president judge may choose at any time to delete the judge position from the board by so notifying the chairperson and secretary of the board in writing. The decision to delete this position shall remain in effect for as long as the president judge making the decision shall remain as president judge and thereafter until rescinded in like fashion by a successor.

(b) Counties that may elect to be subject to subchapter.--Any county of the sixth, seventh or eighth class may elect by resolution of the county commissioners to be governed by the provisions of this subchapter.

(c) Counties of the second class A subject to subchapter.--A county that advances in class to become a county of the second class A on or after October 1, 2021, shall be governed by the provisions of this subchapter.

(Feb. 17, 2022, P.L.50, No.13, eff. imd.)

2022 Amendment. Act 13 added subsec. (c).

§ 1732. Board meetings.

(a) Quorum.--A majority of the members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall be by the approval of a majority of all the members of the board.

(b) Frequency and nature of meetings.--

(1) The board shall meet monthly or, in the case of a county of the eighth class, shall meet quarterly, or more often if required, and keep regular minutes of their proceedings in a book to be filed with the financial records of the county. The board shall make such rules and regulations for the government and management of the county

correctional institution and the safekeeping, discipline and employment of the inmates, as may be deemed necessary.

(2) The meetings shall be held at the county correctional institution no less often than quarterly or, in a county of the eighth class, as often as determined by the board, in its discretion.

(June 28, 2018, P.L.431, No.63, eff. 60 days)

2018 Amendment. Act 63 amended subsec. (b).

§ 1733. Appointment of warden and employees.

The board shall appoint a warden of the county correctional institution. The warden, subject to the approval of the board, may appoint such deputy or deputies, assistant or assistants or corrections officers as may be required in the taking care of the county correctional institution. The number and compensation of such deputies, assistants or corrections officers shall be fixed by the county salary board.

§ 1734. Powers of peace officers.

A chief administrator, deputy warden or corrections officer of a county correctional institution may exercise the powers of a peace officer in the performance of that person's duties generally in:

(1) Guarding, protecting and delivering inmates.

(2) Protecting the property and interests of the county.

(3) Capturing and returning inmates that may have escaped.

§ 1735. Expenditures.

All the expenditures required for the support and maintenance of inmates and the repairs and improvement of the county correctional institution shall be paid from the county treasury by warrants drawn, in the mode prescribed by law, on the regular appropriation for the purpose. No warrant shall be certified by the controller for any expense connected with the county correctional institution unless on vouchers approved by a majority of the board and endorsed by the president and secretary of the board, and all contracts involving an expenditure of funds from the county treasury shall be made in accordance with the procedures set forth in Article XVIII of the act of August 9, 1955 (P.L.323, No.130), known as The County Code.

§ 1736. Bonding requirement.

The chief administrator of a county correctional institution, at the time of appointment, shall give bond, with good and sufficient security to be fixed and approved by the board of inspectors, for the faithful performance of the chief administrator's duty and may at any time be removed by the board for misconduct or inefficiency. All deputies, assistants or corrections officers shall also give bond if required by the board and may at any time be suspended by the chief administrator or removed by the board.

SUBCHAPTER D
ALTERNATIVE PLAN FOR CERTAIN COUNTIES

Sec.

1741. Sixth, seventh and eighth class counties.
1742. Appointment of prison commissioners.

§ 1741. Sixth, seventh and eighth class counties.

(a) Management by sheriff.--In a county of the sixth, seventh and eighth class, the government, management and control of the county prison and the safekeeping, care, maintenance,

discipline and employment of the inmates therein are vested in the sheriff of the county and the officers and employees appointed by the sheriff.

(b) Residence may be furnished.--The sheriff and the sheriff's family may be furnished a residence in the county prison.

(c) Staffing.--The sheriff shall, from time to time, with approval of the county salary board, appoint as many corrections officers and other employees of the county prison as the salary board shall approve. The compensation of the corrections officers and other employees shall be fixed by the county salary board in the same manner as the compensation of other appointed county officers and employees.

§ 1742. Appointment of prison commissioners.

Whenever the appointment of prison commissioners in any county having a population of more than 150,000 is by law lodged in the judges of the court of common pleas, the appointments shall, in all cases as nearly as possible, be equally divided between the two political parties polling the highest number of votes at the preceding general election.

SUBCHAPTER E
PENAL OPERATIONS AND PROCEDURES

Sec.

1751. Costs of confinement.
1752. Board of inspectors to regulate salaries of wardens and other staff.
1753. Residence of warden.
1754. Bonds for county prison staff in fourth class counties.
1755. Property exempt from taxation.
1756. Loss of privileges.
1757. Collection from certain inmates.
1758. County recording system for pregnant and postpartum incarcerated individuals or detainees.

§ 1751. Costs of confinement.

(a) Liability of cities.--

(1) When an inmate is committed to any county correctional institution in this Commonwealth either for the nonpayment of a fine or penalty imposed for the violation of any city ordinance or while awaiting a hearing upon any charge for the violation of any city ordinance, the costs of proceedings and the expenses of maintaining the inmate during his confinement by virtue of the commitment shall be borne and paid by the city whose ordinance was alleged to have been violated or to which any such fines or penalties are payable.

(2) The county in which the city is located shall not be liable to the sheriff for any such maintenance or to any officer, magistrate or person for any costs of such proceedings.

(b) Nonapplicability.--This section does not apply to a city of the third class.

§ 1752. Board of inspectors to regulate salaries of wardens and other staff.

(a) General rule.--The board of inspectors in any county where such board exists shall, from time to time, fix and change the salaries and compensation of the deputy wardens, corrections officers and other persons employed in and about the county prison.

(b) Nonapplicability.--This section shall not apply to counties in which cities are coextensive with the counties.

§ 1753. Residence of warden.

In any county where the government of the county prison is vested in a prison board, the prison board may fix the place of residence of the warden of the county prison either in the jail or elsewhere.

§ 1754. Bonds for county prison staff in fourth class counties.

In any county of the fourth class in which there is a board of inspectors, the board shall pay out of the public moneys under its jurisdiction the premiums on all bonds of employees appointed by the board who are required to furnish bond.

§ 1755. Property exempt from taxation.

All the property, real and personal, authorized to be held under the former act of June 26, 1895 (P.L.377, No.269), entitled "An act authorizing the erection of work-houses in the several counties of this Commonwealth," shall be exempt from taxation and from levy and sale by virtue of execution or any other process.

§ 1756. Loss of privileges.

A chief administrator of a county correctional institution may refuse to permit a prisoner to exercise the prisoner's privilege to leave the county correctional institution for a period of not more than five days for any breach of discipline or other violation of regulations of the county correctional institution.

§ 1757. Collection from certain inmates.

The governing body of a county correctional institution or, where applicable, the county commissioners, may, by resolution which shall establish rates and qualifications, authorize the chief administrator to collect a reasonable amount from inmates incarcerated only on weekends or other short periods each week.

§ 1758. County recording system for pregnant and postpartum incarcerated individuals or detainees.

(a) General rule.--Each of the following shall constitute an incident that qualifies as an extraordinary occurrence that must be reported to the department in the County Extraordinary Occurrence Monthly Report in accordance with sections 5905 (relating to healthy birth for incarcerated women) and 5905.1 (relating to restrictive housing prohibited for pregnant or postpartum incarcerated individuals and detainees):

(1) The application of restraints or placement in restrictive housing for a pregnant or postpartum incarcerated individual or detainee.

(2) An invasive body cavity search of a pregnant or postpartum incarcerated individual or detainee or inspection of a female incarcerated individual or detainee in a state of undress.

(3) The presence of male staff during labor or delivery of the pregnant incarcerated individual or detainee.

(b) Information to be included in County Extraordinary Occurrence Monthly Report.--

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(3) The report for application of restraints or placement in restrictive housing for a pregnant or postpartum incarcerated individual or detainee shall require the following information:

(i) The circumstances that led to the determination that:

(A) the incarcerated individual or detainee represented a substantial risk of imminent flight; or

(B) other extraordinary medical or security circumstances dictated that the incarcerated individual or detainee be restrained or placed in restrictive housing to ensure the safety and security of the incarcerated individual or detainee, the staff of the correctional institution or medical facility, other incarcerated individuals or detainees or the public.

(ii) The date and time restraints were applied or the restrictive housing placement occurred and the length of time the incarcerated individual or detainee was kept in restraints or restrictive housing.

(iii) The badge number or identification number of the following:

(A) The custodian or staff member who applied the restraints or placed the individual into restrictive housing.

(B) Any superior officers approving or advising the application of restraints or placement in restrictive housing.

(iv) The number and type of restraints used or the location and description of the restrictive housing.

(v) Any visible injury of the incarcerated individual or detainee resulting from placement in the restraints that is documented by the correctional institution.

(4) The report for an invasive body cavity search of a pregnant or postpartum incarcerated individual or detainee or inspection of a female incarcerated individual or detainee in a state of undress shall contain the following information:

(i) The justification for performing a cavity search or male staff inspection of a female incarcerated individual or detainee in a state of undress.

(ii) The identification of any contraband that was found on the incarcerated individual or detainee.

(5) The report for the presence of male staff during labor or delivery of the pregnant incarcerated individual or detainee shall include the reasons for the presence of male staff.

(6) The nonidentifying data contained in the written reports submitted to the department or the Department of Human Services shall be posted annually on the publicly accessible Internet website of the department or the Department of Human Services. No identifying information, such as names or dates of birth, shall be posted.

(7) If a correctional institution fails to submit a report under this section within 30 days after the end of the fiscal year, the department or the Department of Human Services, as applicable, shall obtain a certification, to be created by the department or the Department of Human Services, as applicable, from the correctional institution verifying that the institution had zero instances of use of restraints, placement in restrictive housing or male staff presence, other than licensed medical professionals, during medical examinations or appointments of pregnant incarcerated individuals under the provisions of this section.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"County Extraordinary Occurrence Monthly Report." A collection of statistics and other information by the department on designated report forms or by other available approved methods for the collection of such incident information under this section and in accordance with written local policy providing for the collection of population information prescribed by 37 Pa. Code 95.242 (relating to Statistical/informational reporting).

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

(July 2, 2010, P.L.275, No.45, eff. 60 days; Dec. 14, 2023, P.L.396, No.47, eff. 180 days)

2023 Amendment. Act 47 amended the heading and subsecs. (a) and (b).

2010 Amendment. Act 45 added section 1758.

SUBCHAPTER F
JOINT DETENTION CENTERS

Sec.

1761. Establishment by adjoining counties.
1762. Selection of site.
1763. Buildings.
1764. Construction contracts.
1765. Advisory board.
1766. Meetings.
1767. Chief administrator and employees.
1768. Rules and regulations.
1769. Initial transfer of inmates.
1770. Employment of inmates.
1771. Cost of transporting inmates.
1772. Financial reporting.
1773. Allocation of expenses to counties.
1774. County appropriations.
1775. Exemption from taxation.

§ 1761. Establishment by adjoining counties.

(a) Authority.--The county commissioners of any two or more adjoining counties may join in establishing, according to a plan, detention facilities for the confinement of persons awaiting trial or sentence on criminal charges, convicted on criminal charges or not otherwise eligible for confinement in other county correctional institutions.

(b) Preapproval of plan by department.--Before establishing detention facilities, the counties shall submit their plan to the department for approval. The department may require, as a condition to approving any plan, that two or more adjoining counties join with another adjoining county to establish detention facilities.

§ 1762. Selection of site.

Whenever the commissioners of any two or more adjoining counties decide and agree to construct a joint detention facility, they shall acquire a suitable site for the facility. The site may be selected from suitable lands already held by any county of the district for county purposes from lands donated for such purposes or any quantity of land within the respective districts. In the selection of a site, there shall be taken into consideration the objects and purposes of the

joint detention center. Title to the land shall be approved by the county solicitor of the county in which the land is located, or such other title guarantee corporation or attorney as may be designated by the commissioners of the counties, and shall be taken in the name of the county or counties comprising the district. The site, before purchase, shall be approved by the department.

§ 1763. Buildings.

After the selection and acquisition of sites, the county commissioners of the counties may erect and construct suitable and necessary buildings thereon, repair any buildings already erected and equip the sites for use and occupancy.

§ 1764. Construction contracts.

Joint detention facilities shall be constructed by contract or contracts let by the county commissioners of the counties to the lowest responsible and best bidder after due advertisement in at least one newspaper, published in each of the counties joining in the erection of the joint detention facilities, once a week for two consecutive weeks. When so constructed, the joint detention facilities shall be equipped by the county commissioners of the counties at the cost of the counties in the same manner as other county buildings are equipped.

§ 1765. Advisory board.

After joint detention facilities have been erected and equipped and are ready for occupancy, the president judges of the courts of common pleas of the counties joining in the construction of the joint detention facilities shall appoint an advisory board to consist of three persons from each of the counties. The president judge of each of the counties shall appoint one member of the board to serve for one year, one to serve for two years and one to serve for three years or until their successors are appointed and qualified. All appointments at the expiration of any term shall be for a term of three years.

§ 1766. Meetings.

(a) General rule.--The advisory board shall meet at such times as it deems necessary. The board shall visit and inspect and keep in close touch with the management and operation of the joint detention facilities and shall, from time to time, make such recommendations and suggestions to the county commissioners for changes or improvements in the management and operations of the joint detention facilities as may be deemed advisable. It shall also make an annual report to the county commissioners concerning the management and operation of the joint detention facilities.

(b) Administrative support.--The county commissioners shall, at the expense of the counties, provide a meeting place for the board and furnish all supplies and materials necessary to carry on its work.

(c) Reimbursement of expenses.--The members of the board shall not receive any compensation for their services but shall be reimbursed for all actual and necessary expenses incurred in the discharge of their duties, which expenses shall be paid by the counties as part of the cost of maintenance of the joint detention facilities.

§ 1767. Chief administrator and employees.

The county commissioners of the counties may, after consultation with the advisory board, employ a chief administrator and such other employees as may be necessary to conduct and manage properly the joint detention facilities and shall fix their compensation. The duties of those officers shall

be prescribed by the rules and regulations of the joint detention facilities. They shall hold their offices, respectively, at the pleasure of and their compensation shall be fixed by the appointing power.

§ 1768. Rules and regulations.

The county commissioners of the counties shall, before any inmate may be admitted to the joint detention facilities, after consulting with the advisory board, make general rules and regulations for the management of the joint detention facilities, which rules and regulations shall be effective after they are approved by the department.

§ 1769. Initial transfer of inmates.

When, in any district formed by counties under this subchapter, the arrangements are complete for the reception of inmates, transfer of all persons who are subject to confinement as provided in this subchapter shall be made to the joint detention facilities of the district.

§ 1770. Employment of inmates.

An inmate of a joint detention facility under the provisions of this subchapter, unless disqualified by sickness or otherwise, shall be kept at some useful employment as may be suited to the inmate's age and capacity and as may tend to promote the best interest of the inmate. If an inmate refuses to perform the work assigned to the inmate or is guilty of other acts of insubordination, the chief administrator shall punish the inmate in such manner as the rules and regulations provided for may prescribe. The chief administrator shall keep a record of and report to the advisory board all such offenses and punishments.

§ 1771. Cost of transporting inmates.

The cost of transporting inmates committed to the joint detention facilities shall be paid by the counties, respectively, from which the inmates are committed. The sheriff of the county for inmates committed by the court and constables for inmates committed by magisterial district judges shall receive for the inmates committed to the joint detention facilities no mileage or travel expenses on writs, except the actual cost of transporting the inmates to the joint detention facilities, together with any other fees for their services allowed by law.

§ 1772. Financial reporting.

A detailed statement of the receipt and expenditures by any county constituting a part of the district for joint detention facilities erected under the provisions of this subchapter shall be published by the county commissioners of each county or by the controller in the county. Where the report is published by the controller, it shall be included in the annual statement of the fiscal affairs of such county.

§ 1773. Allocation of expenses to counties.

(a) General rule.--The original cost of the site and buildings of the joint detention facilities and the equipment thereof, all additions thereto and all fixed overhead charges in conducting the joint detention facilities shall be paid by the counties constituting the districts in the ratio of their population according to the last preceding United States census.

(b) Inmate expense.--

(1) The cost of the care and maintenance of the inmates in the districts shall be certified monthly to the counties from which inmates have been committed. The cost shall be paid by the counties in proportion to the number of inmates committed from each county.

(2) All payments shall be on warrants of the county commissioners, countersigned by the county controller in counties where that office exists.

§ 1774. County appropriations.

The county commissioners of each county joining in establishing detention facilities as provided for in this subchapter may make appropriations or incur or increase the indebtedness of the county, in the manner provided by law, to an amount sufficient to pay its proportionate part of the cost of acquiring a site and of erecting, constructing and equipping the joint detention facilities by issuing coupon bonds at a rate of interest not exceeding 7% and payable within 30 years from the date of issue. The county commissioners of the county shall levy an annual tax in an amount necessary to pay interest and sinking fund charges upon such bonds.

§ 1775. Exemption from taxation.

All the property, real and personal, authorized to be held by counties under this subchapter shall be exempt from taxation.

SUBCHAPTER G
JOINT INDUSTRIAL FARMS AND WORKHOUSES

Sec.

1781. Establishment by counties.
1782. Selection of site.
1783. Buildings.
1784. Construction contracts.
1785. Advisory board.
1786. Meetings.
1787. Chief administrator and employees.
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1789. Initial transfer of inmates.
1790. Employment of inmates.
1791. Cost of transporting inmates.
1792. Nature of inmate employment.
1793. Sale of goods and materials.
1794. Financial reporting.
1795. Allocation of expenses to counties.
1796. Borrowing authorized.
1797. Exemption from taxation.
1798. Nonapplicability.

§ 1781. Establishment by counties.

The county commissioners of any two or more counties may join in establishing a joint industrial farm and workhouse for the confinement of:

(1) Persons sentenced by the courts of those counties, after conviction, of any misdemeanor or felony, except murder, voluntary manslaughter, rape and arson.

(2) Persons who are in default of payment of any fine or penalty, or for nonpayment of costs, or for default in complying with any order of court entered in any prosecution for desertion or nonsupport, or for the violation of any municipal ordinance.

§ 1782. Selection of site.

Whenever the commissioners of any two or more counties decide and agree to construct a joint industrial farm and workhouse, they shall acquire a suitable site for the same. The site may be selected from suitable lands already held by any county of the district for county purposes, from lands donated for such purposes or from any quantity of land within the respective districts. In the selection of a site, there shall be taken

into consideration the objects and purposes of the joint industrial farm and workhouse and all or as many as practicable of the advantages and resources set forth in this section. The land selected and purchased shall be a varied topography, with natural resources and advantages for many forms of husbandry, fruit growing and stock raising, for brickmaking and for the preparation of all other road and paving material, and shall have good railroad, drainage, sewage and water facilities. Title to the land shall be approved by the county solicitor of the county in which the land is located or such other title guarantee corporation or attorney as may be designated by the commissioners of the counties and shall be taken in the name of the county or counties comprising the district.

§ 1783. Buildings.

After the selection and acquisition of the sites, the county commissioners of the counties may erect and construct suitable and necessary buildings thereon, repair any buildings already erected and equip the buildings for use and occupancy. All buildings constructed in pursuance of this subchapter shall be plain and inexpensive in character. The labor in constructing such buildings and improvements and facilities shall be supplied by the persons committed to county correctional institutions in the counties or transferred thereto from any county correctional institution, so far as found practicable.

§ 1784. Construction contracts.

Joint industrial farm and workhouse buildings shall be constructed by contract or contracts let by the county commissioners of the counties to the lowest responsible and best bidder, after due advertisement in at least one newspaper, published in each of the counties joining in the erection of the joint industrial farm and workhouse, once a week for four consecutive weeks. When so constructed, the joint industrial farm and workhouse buildings shall be equipped by the county commissioners of the counties at the cost of the counties in the same manner as other county buildings are equipped.

§ 1785. Advisory board.

After a joint industrial farm and workhouse has been erected and equipped and is ready for occupancy, the president judges of the courts of common pleas of the counties joining in the construction of the joint industrial farm and workhouse shall appoint an advisory board to consist of three persons from each of the counties. The president judge of each of the counties shall appoint one member of the board to serve for one year, one to serve for two years and one to serve for three years or until their successors are appointed and qualified. All appointments at the expiration of any term shall be for a term of three years.

§ 1786. Meetings.

(a) General rule.--The advisory board shall meet monthly and at such other times as may be deemed necessary. The board shall visit and inspect and keep in close touch with the management and operation of the joint industrial farm and workhouse and shall, from time to time, make such recommendations and suggestions to the county commissioners for changes or improvements in the management and operations of the joint industrial farm and workhouse as may be deemed advisable. It shall also make an annual report to the county commissioners concerning the management and operation of the industrial farm and workhouse.

(b) Administrative support.--The county commissioners shall, at the expense of the counties, provide a meeting place for the

board and furnish all supplies and materials necessary to carry on its work.

(c) Reimbursement of expenses.--The members of the board shall not receive any compensation for their services but shall be allowed all actual and necessary expenses incurred in the discharge of their duties, which shall be paid by the counties as part of the cost of maintenance of the joint industrial farm and workhouse.

§ 1787. Chief administrator and employees.

The county commissioners of the counties may, after consultation with the advisory board, employ a chief administrator and such other employees as may be necessary to conduct and manage properly the joint industrial farm and workhouse and shall fix their compensation. The duties of those officers shall be prescribed by the rules and regulations of the joint industrial farm and workhouse.

§ 1788. Rules and regulations.

The county commissioners of the counties shall, before any inmate may be admitted to the joint industrial farm and workhouse, after consulting with the advisory board, make general rules and regulations for the management of the joint industrial farm and workhouse.

§ 1789. Initial transfer of inmates.

(a) General rule.--When, in any district formed by the counties, the arrangements are complete for the reception of inmates, transfer shall be made from the county correctional institutions to the joint industrial farm and workhouse of the district of all persons:

(1) Who have been sentenced to any of the county correctional institutions for any misdemeanor or felony, except murder, voluntary manslaughter, rape and arson.

(2) Who have been committed to any of the county correctional institutions in default of payment of any fine or penalty, or for nonpayment of costs, or for default in complying with any order of court entered in any prosecution for desertion or nonsupport.

(3) Legally confined in any of the county correctional institutions, except those that are confined awaiting trial or held as material witnesses.

(b) Persons eligible to become inmates.--

(1) When any person is convicted in any court in any county of any offense classified as a misdemeanor or felony, except murder, voluntary manslaughter, rape and arson, the punishment of which is or may be imprisonment in any county correctional institution for a period of ten days or more, the court may sentence such person to a joint industrial farm and workhouse of the Commonwealth.

(2) Courts of record and courts not of record of any county in this Commonwealth may commit to the joint industrial farm and workhouse all persons who might be lawfully committed to the county correctional institution on charges of vagrancy, drunkenness or disorderly conduct, for default or nonpayment of any costs, fine or penalty, for default in complying with any order of court entered in any prosecution for desertion or nonsupport or for violations of municipal ordinances, where, in any such case, the commitment will be for a period of ten days or more.

(c) Existing county correctional institutions.--The existing county correctional institutions may be retained to confine persons awaiting trial, held as material witnesses or sentenced for a period of less than ten days, and such number of other

convicted persons as may be required to perform the necessary institutional maintenance work.

(d) Clothing and treatment.--All inmates shall be clothed and treated as provided for in this subchapter and in the rules and regulations of the joint industrial farm and workhouse.

§ 1790. Employment of inmates.

(a) General rule.--An inmate committed to a joint industrial farm and workhouse under the provisions of this subchapter, unless disqualified by sickness or otherwise, shall be kept at some useful employment as may be suited to the inmate's age and capacity and as may be most profitable to the joint industrial farm and workhouse and tend to promote the best interest of the inmate. If an inmate refuses to perform the work assigned to the inmate or is guilty of other acts of insubordination, the chief administrator shall punish the inmate in such manner as the rules and regulations provided for may prescribe. The chief administrator shall keep a record of and report to the advisory board all such offenses and punishments.

(b) Pay schedule and inmate accounts.--All inmates shall receive compensation for their work.

(1) Those inmates employed on institutional maintenance and nonproductive labor shall receive not more than 20¢ per day and not less than 10¢ per day.

(2) Those inmates employed on productive work shall receive not more than 50¢ per day and not less than 20¢ per day.

(3) The earnings of an inmate shall be credited to the inmate's account, and disbursements made on approval of the chief administrator of the institution and the written order of the inmate, except, when an inmate is committed for nonsupport, the court which sentenced the prisoner shall order payment of the earnings. At time of release or discharge, the inmate shall receive all moneys remaining in the inmate's account and give receipt for the same.

§ 1791. Cost of transporting inmates.

(a) General rule.--The cost of transporting inmates committed to the joint industrial farms and workhouses shall be paid by the counties, respectively, from which the inmates are committed. The sheriff of the county for inmates committed by the court and constables for inmates committed by magisterial district judges shall receive for the inmates committed to the joint industrial farm and workhouse no mileage or travel expenses on writs, except the actual cost of transporting the inmates so committed to the joint industrial farm and workhouse, together with any other fees for their services allowed by law.

(b) Railroad ticket upon discharge.--When an inmate is discharged from a joint industrial farm and workhouse, the chief administrator thereof shall procure for the inmate a railroad ticket to any point to which the inmate may desire to go, not farther from the joint industrial farm and workhouse than the point from which the inmate was sentenced.

§ 1792. Nature of inmate employment.

A joint industrial farm and workhouse shall employ the inmates committed or transferred thereto in work on or about the buildings and farm and in growing produce, raising stock, etc., for supplies for its own use, the use of the several city and county or county correctional institutions in the district, any political division thereof or any public or charitable institution owned or managed and directed by the counties constituting the district or any political division thereof. Inmates may also be employed in the preparation of road material, in making brick, tile and concrete or other road

building material and in the manufacture of other products and materials as may be found practicable for the use of any of the counties constituting the district and for the proper and healthful employment of the inmates.

§ 1793. Sale of goods and materials.

All road material, brick, tile, concrete and other goods and materials prepared or made at a joint industrial farm and workhouse that are not needed for the purposes of the joint industrial farm and workhouse shall be offered for sale at a price to be fixed by the commissioners of the district. In offering such material for sale, preference shall be given to the counties forming the district of the joint industrial farm and workhouse and to the cities, boroughs and townships in the joint district. All moneys so received shall be applied toward paying the overhead expenses of the joint industrial farm and workhouse.

§ 1794. Financial reporting.

A detailed statement of the receipts and expenditures by any county constituting a part of the district for a joint industrial farm and workhouse erected under the provisions of this subchapter shall be published by the county commissioners of each county or by the controller in the county. Where the report is published by the controller, it shall be included in the annual statement of the fiscal affairs of the county.

§ 1795. Allocation of expenses to counties.

(a) General rule.--The original cost of the site and buildings of the joint industrial farm and workhouse, the equipment thereof, all additions thereto and all fixed overhead charges in conducting the joint industrial farm and workhouse shall be paid by the counties constituting the districts in the ratio of their population according to the last preceding United States census.

(b) Inmate expense.--The cost of the care and maintenance of the inmates shall be certified monthly to the counties from which inmates have been committed. The cost shall be paid by the counties in proportion to the number of inmates committed from each county. All payments shall be on warrants of the county commissioners, countersigned by the county controller in counties where a county controller exists.

§ 1796. Borrowing authorized.

The county commissioners of each county joining in establishing a joint industrial farm and workhouse, as provided for in this subchapter, may incur or increase the indebtedness of the county, in the manner provided by law, to an amount sufficient to pay its proportionate part of the cost of acquiring a site and of erecting, constructing and equipping the joint industrial farm and workhouse by issuing coupon bonds at a rate of interest not exceeding 6% and payable within 30 years from the date of issue. The county commissioners of the county shall levy an annual tax in an amount necessary to pay interest and sinking fund charges upon the bonds.

§ 1797. Exemption from taxation.

All the property, real and personal, authorized to be held under this subchapter shall be exempt from taxation.

§ 1798. Nonapplicability.

This subchapter does not apply to cities and counties of the first class.

PART III
INMATE CONFINEMENT

Chapter

31. Inmate Labor
33. Medical Services
35. Visitation
37. Inmate Prerelease Plans
39. Motivational Boot Camp
41. State Intermediate Punishment
43. Execution Procedure and Method
45. Recidivism Risk Reduction Incentive
46. Nonnarcotic Medication Assisted Substance Abuse Treatment Grant Pilot Program
47. Community Corrections Facilities
49. Safe Community Reentry
50. Community Corrections Centers and Community Corrections Facilities
59. Miscellaneous Provisions

Enactment. Part III was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Special Provisions in Appendix. See sections 8 and 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

CHAPTER 31
INMATE LABOR

Subchapter

A. County Correctional Institutions
B. State Correctional Institutions

SUBCHAPTER A
COUNTY CORRECTIONAL INSTITUTIONS

Sec.

3101. Inmates to be employed.
3102. Disposition of proceeds of labor.
3103. Agricultural labor at county correctional institutions.
3104. Inmate labor in county correctional institutions.
3105. Inmate labor in counties of the first class.
3106. Inmate-made goods to be branded.
3107. Sale of inmate-made goods.

Enactment. Chapter 31 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Subchapter Heading. The heading of Subchapter A was added October 27, 2010, P.L.931, No.95, effective immediately.

§ 3101. Inmates to be employed.

The chief administrators may employ the inmates under their control for and on behalf of the Commonwealth and the inmates for and on behalf of their respective counties.

§ 3102. Disposition of proceeds of labor.

All moneys received under the provisions of this subchapter for labor done within county correctional institutions or the products of such labor sold shall be credited on account of the receipts and expenditures paid to and for the maintenance of the respective correctional institutions.

(Oct. 27, 2010, P.L.931, No.95, eff. imd.)

§ 3103. Agricultural labor at county correctional institutions.

(a) General rule.--The chief administrator of a county correctional institution shall permit the employment of such inmates serving sentences therein, as they shall deem advisable, at agricultural labor on any county farm of the county under the direction of any person appointed by the chief administrator, and all inmates so employed shall at all times be amenable to restraint, discipline and punishment in the same manner as if they were confined in the county correctional institution.

(b) Liability.--No person appointed by a chief administrator of a county correctional institution or his sureties shall be held liable on any bond conditioned for the safekeeping of persons given into that person's care, in case any inmate so employed shall escape, if due care and diligence has been exercised in the discharge of the duties imposed on that person.

§ 3104. Inmate labor in county correctional institutions.

(a) General rule.--An inmate of a county correctional institution who is physically capable may be employed at labor for not more than eight hours each day, other than Sundays and public holidays. The employment may be in such character of work and the production of such goods as may now be manufactured and produced in county correctional institutions and may also be for:

(1) the manufacture and production of supplies for the county correctional institutions;

(2) the preparation and manufacture of building material for the construction or repair of the county correctional institution;

(3) the manufacture and production of crushed stone, brick, tile and culvert pipe or other material suitable for draining roads; or

(4) the preparation of road building and ballasting material.

(b) Authority to county commissioners.--The county commissioners or chief administrator of the county correctional institution shall:

(1) determine the amount, kind and character of the machinery to be erected and the industries to be carried on in the county correctional institution;

(2) arrange for the purchase and installation of such machinery at the expense of the county; and

(3) provide for the sale of articles and material produced.

(c) Funding.--The county commissioners shall make available the necessary funds to carry out the provisions of this section.

(d) Inmate accounts.--

(1) The authorities in charge of a county correctional institution shall fix the wages of each inmate to be employed and shall keep an account of all such wages and the amount due each inmate.

(2) Three-fourths of the amount credited to each inmate, or the entire amount if the inmate so elects, shall constitute a fund for the relief of any person or persons dependent upon the inmate and shall be paid to such persons, establishing dependency to the satisfaction of the authorities, at such times as they may prescribe.

(3) In case an inmate has no person dependent upon him, the inmate's wages shall be deposited for his benefit and shall be paid to him as follows:

(i) one-third at the time of his discharge;

(ii) one-third, three months thereafter; and

(iii) one-third, six months thereafter.

(e) Special administrative fund.--

(1) The authorities in charge of a county correctional institution may establish a fund for the purpose of carrying out this section and may provide for the purchase of machinery and materials and payment of wages from such fund.

(2) All revenues received from the sale of articles produced shall be paid into the fund.

(f) Nonapplicability.--This section shall not apply to a county of the first class.

Special Provisions in Appendix. See section 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to applicability.

§ 3105. Inmate labor in counties of the first class.

(a) General rule.--The board of inspectors of a county correctional institution of a county of the first class may establish, from time to time, a scale of wages that shall not be less than 10¢ per day and may pay, and the inmates may receive compensation for their work, according to such scale.

(b) Inmate account.--

(1) Except as otherwise provided in paragraph (2), the earnings of each inmate shall be credited to his account and disbursements made on approval of the chief administrator of the institution and the written order of the inmate.

(2) When an inmate is committed for nonsupport, the court which sentenced the inmate shall order payment of his earnings, and, in the case of other inmates, the court which sentenced the inmate may order payments from his earnings to be paid to his dependents.

(3) At time of release or discharge, the inmate shall receive all moneys remaining in his account and give receipt for the same.

§ 3106. Inmate-made goods to be branded.

(a) General rule.--All goods, wares, merchandise or other article or thing made by inmate labor in any correctional institution or other establishment in which inmate labor is employed, whether for the direct benefit and maintenance of the correctional institution or other establishment or upon contract by the authorities of the same with any third person, immediately upon the completion of the same, shall be branded as provided in this section and may not be taken into or exposed in any place for sale at wholesale or retail without that brand.

(b) Style and place of brand.--

(1) The brand required by this section shall be in plain English lettering and shall contain at the head or top of the brand the words "inmate made," followed by the year and name of the correctional institution or other establishment in which made.

(2) The brand shall in all cases, when the nature of the article will permit, be placed on the article and only where the branding is impossible may it be placed on the box or other receptacle or covering in which it is contained.

(3) The brand shall be affixed to the article by casting, burning, pressing or other such process or means so that the article may not be defaced and in all cases shall be upon the most conspicuous place upon the article or the box, receptacle or covering containing the article.

(c) Applicability.--This section shall not apply to goods, wares and merchandise shipped to points outside of this Commonwealth.

§ 3107. Sale of inmate-made goods.

The department may contract to sell or sell the articles manufactured or produced in any correctional institution which cannot be used therein, to the Commonwealth or to any political subdivision thereof, or to any State, municipality or county authority, created by or under any law of this Commonwealth, or to any State correctional institution, or to any educational or charitable institution receiving aid from the Commonwealth, or to the Federal Government or any department, bureau, commission, authority or agency thereof, or to any other state or political subdivision or authority thereof, or to any institution receiving aid from the Federal Government or of any other state.

SUBCHAPTER B
STATE CORRECTIONAL INSTITUTIONS

Sec.
3121. Inmates to be employed.
3122. Manufacturing Fund.
3123. Deposit of sales receipts.
3124. Inmates accounts.
3125. Remainder of inmate accounts.
3126. Inmate-made goods to be branded.
3127. Sale of inmate-made goods.

Enactment. Subchapter B was added October 27, 2010, P.L.931, No.95, effective immediately.

Special Provisions in Appendix. See section 24 of Act 95 of 2010 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3121. Inmates to be employed.

The Chief Administrators at any correctional institution established by the Commonwealth may employ inmates under their control for and on behalf of the Commonwealth, any county, city, borough or township or for any public institution owned, managed and controlled by the Commonwealth.

§ 3122. Manufacturing Fund.

For the purchase of material, equipment and machinery to be used in the designated State correctional institutions, special appropriations shall be made, from time to time, to the Manufacturing Fund.

§ 3123. Deposit of sales receipts.

(a) General rule.--The receipts from the sales of manufactured articles, sold as authorized in this subchapter, shall be deposited into the Manufacturing Fund and used for the purchase of further material, equipment, machinery, supplies, staff compensation and inmate pay.

(b) Monthly reporting.--The department shall make a full monthly report of the products, sales, receipts and disbursements of the industries authorized under this subchapter to the Auditor General.

§ 3124. Inmates accounts.

(a) Duty to maintain.--The department shall maintain an account of the labor performed by all inmates under sentence in the institution.

(b) Contents of accounts.--In the account, the department shall credit the inmate with wages for the time the inmate is actually engaged in work. The rate of the wage and the amount credited to each inmate shall be determined at the discretion of the department.

§ 3125. Remainder of inmate accounts.

(a) Payment on discharge.--All sums credited to an inmate shall be for the benefit of the inmate and paid to the inmate on the inmate's discharge.

(b) Use for present needs.--An inmate who has sums to the inmate's credit may, subject to the rules and regulations of the department, draw upon the balance of the wages for present needs.

§ 3126. Inmate-made goods to be branded.

(a) General rule.--All goods, wares, merchandise or other article or thing made by inmate labor in any correctional institution or other establishment in which inmate labor is employed, whether for the direct benefit and maintenance of the correctional institution or other establishment or upon contract by the authorities of the same with any third person, immediately upon the completion of the same, shall be branded as provided in this section and may not be taken into or exposed in any place for sale at wholesale or retail without that brand.

(b) Style and place of brand.--

(1) The brand required by this section shall be in plain English lettering and shall contain at the head or top of the brand the words "inmate made," followed by the year and name of the department, correctional institution or other establishment in which made.

(2) The brand shall in all cases, when the nature of the article will permit, be placed on the article and only where the branding is impossible may it be on the box or other receptacle or covering in which it is contained.

(3) The brand shall be affixed to the article by casting, burning, pressing or other such process or means so that the article may not be defaced and in all cases shall be upon the most conspicuous place upon the article or the box, receptacle or covering containing the article.

(c) Applicability.--This section shall not apply to goods, wares and merchandise shipped to points outside this Commonwealth.

§ 3127. Sale of inmate-made goods.

The department may contract to sell or sell the articles manufactured or produced in any correctional institution which cannot be used therein to the Commonwealth or to any political subdivision thereof, or to any State, municipality or county authority created by or under any law of this Commonwealth or to any State correctional institution or to any educational or charitable institution receiving aid from the Commonwealth, or to the Federal Government or any department, bureau, commission, authority or agency thereof, or to any other state or political subdivision or authority thereof, or to any institution receiving aid from the Federal Government or of any other state.

CHAPTER 33
MEDICAL SERVICES

Sec.

3301. Short title of chapter.
3302. Definitions.
3303. Medical Services Program.
3304. Powers and duties of department.
3305. Costs outstanding upon release.
3306. Report to General Assembly.
3307. Applicability.

Enactment. Chapter 33 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

§ 3301. Short title of chapter.

This chapter shall be known and may be cited as the Correctional Institution Medical Services Act.

§ 3302. Definitions.

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

"Program." The Medical Services Program established for inmates under section 3303 (relating to Medical Services Program).

§ 3303. Medical Services Program.

(a) Establishment.--The Medical Services Program is established in the department which shall include, but not be limited to, the provisions of this chapter. The program shall be a copay program requiring inmates to pay a fee to cover a portion of the actual costs of the medical services provided.

(b) Fees.--

(1) The department shall develop by regulation a program for inmates which includes fees for certain medical services. The regulations shall provide for consistent medical services guidelines by specifying the medical services which are subject to fees, the fee amounts, payment procedures, medical services which are not subject to fees and fees applicable to medical emergencies, chronic care and preexisting conditions.

(2) In addition to other medical services provided to the inmate, an inmate may be required to pay a fee for medical services provided because of injuries the inmate inflicted upon himself or another inmate.

(c) Explanation of program.--Each inmate shall be advised of the medical services fees and payment procedures at the time of intake. An explanation of the program regulations shall be included in the inmate handbook.

(d) Written notice of changes.--Each inmate shall receive written notice of any changes in medical services fees and payment procedures and an initial written notice of the program's implementation.

(e) Payment for medical services.--

(1) No inmate shall be denied access to medical services because of an inability to pay the required fees.

(2) The department shall devise and implement a program whereby inmates of State correctional institutions who have medical insurance shall pay for their own medical needs through that insurance. This program shall be contained in regulations promulgated by the department.

(f) Fee debits.--An inmate shall acknowledge in writing any debit made to his inmate account for a medical services fee.

(g) Deposits.--Medical services fees collected under this chapter shall be deposited in the General Fund.

Cross References. Section 3303 is referred to in sections 3302, 3304 of this title.

§ 3304. Powers and duties of department.

The department shall implement the program by:

(1) Issuing regulations as required under section 3303 (relating to Medical Services Program).

(2) Providing department staff and medical services providers with training relating to the program.

(3) Developing administrative forms for the implementation of the program.

(4) Providing for administrative and accounting procedures for the program and an annual audit of the program.

(5) Providing written notice to all current inmates regarding implementation of the program.

Cross References. Section 3304 is referred to in section 3306 of this title.

§ 3305. Costs outstanding upon release.

(a) Right to seek recovery of costs.--The department may seek to recover any amount owed for medical services fees by an inmate upon release from prison through a civil action brought within one year of the inmate's release. The department shall have the burden to prove the amount owed.

(b) Defense.--An inmate's inability to pay as determined by the court shall be a defense to the payment of part or all of the fees.

§ 3306. Report to General Assembly.

The department shall submit to the chairmen and minority chairmen of the Appropriations Committee and the Judiciary Committee of the Senate and the chairmen and minority chairmen of the Appropriations Committee and the Judiciary Committee of the House of Representatives an annual report on the program. The report shall provide information on the fees charged and the fees collected under the program and shall include a summary of the annual audit of the program as required under section 3304 (relating to powers and duties of department). The report may recommend legislative changes for the program and propose model legislation for counties which may wish to develop similar programs.

§ 3307. Applicability.

The department shall collect fees for medical services provided to an inmate after the effective date of the program regulations as published in the Pennsylvania Bulletin.

CHAPTER 35
VISITATION

Subchapter

A. (Reserved)
B. Official Visitation

Enactment. Chapter 35 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

SUBCHAPTER A
(Reserved)

Sec.

3501. (Reserved).
3502. (Reserved).
3503. (Reserved).

Subchapter Heading. The heading of Subchapter A was amended July 5, 2012, P.L.1050, No.122, effective in 60 days.

Prior Provisions. Former Subchapter A, which related to general provisions, was added August 11, 2009, P.L.147, No.33, and reserved July 5, 2012, P.L.1050, No.122, effective in 60 days.

§ 3501. (Reserved).

Prior Provisions. Former section 3501, which related to gubernatorial visitor for philanthropic purposes, was added August 11, 2009, P.L.147, No.33, and reserved July 5, 2012, P.L.1050, No.122, effective in 60 days.

§ 3502. (Reserved).

Prior Provisions. Former section 3502, which related to official visitors, was added August 11, 2009, P.L.147, No.33, and reserved July 5, 2012, P.L.1050, No.122, effective in 60 days.

§ 3503. (Reserved).

Prior Provisions. Former section 3503, which related to rights of official visitors, was added August 11, 2009, P.L.147, No.33, and reserved July 5, 2012, P.L.1050, No.122, effective in 60 days.

SUBCHAPTER B
OFFICIAL VISITATION

Sec.

3511. Short title of subchapter.
3512. Definitions.
3513. Visitation.
3514. Employees of official visitor.

§ 3511. Short title of subchapter.

This subchapter shall be known and may be cited as the Official Visitation of Correctional Institutions Act.

§ 3512. Definitions.

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

"Official visitor." The Governor, Lieutenant Governor, President pro tempore and members of the Senate, Speaker and members of the House of Representatives, justices and judges of the courts of record, General Counsel, Attorney General and his deputies and authorized members of the Pennsylvania Prison Society who have been designated as official visitors, whose names shall be given to a chief administrator, in writing, together with the terms of their appointment under its corporate seal.

§ 3513. Visitation.

(a) Time.--An official visitor may enter and visit any correctional institution on any and every day, including Sundays, between the hours of 9 a.m. and 5 p.m. Visits at any other time shall be made only with the special permission of the chief administrator.

(b) Denial of entry.--

(1) If a chief administrator of a State correctional institution is of the opinion that the visit would be dangerous to the discipline or welfare of the correctional institution or the safety of the visitor, the chief administrator may temporarily deny entry to any official visitor if the secretary has previously declared that an emergency situation exists within the correctional institution.

(2) If a temporary exclusion under paragraph (1) exceeds 72 hours, the official visitor may apply to the Commonwealth Court for a ruling upon the secretary to show cause why the

official visitor should not be permitted entry into the State correctional institution.

(c) Temporary denial of visitation for county correctional institutions.--

(1) If the chief administrator of a county correctional institution has previously determined that an emergency exists at the county correctional institution, the chief administrator may, with the approval of the president judge of the court of common pleas of the county where the county correctional institution is located, temporarily deny entry to an official visitor.

(2) If a temporary exclusion under paragraph (1) exceeds 72 hours, the official visitor may apply to the Commonwealth Court for a ruling upon the president judge to show cause why the official visitor should not be permitted entry into the county correctional institution.

(d) Interviews.--

(1) An official visitor may interview privately any inmate confined in any correctional institution and for that purpose may enter the cell, room or apartment wherein any inmates are confined.

(2) If the chief administrator at the time of the visit is of the opinion that entry into a cell would be dangerous to the discipline of the correctional institution, then the chief administrator may conduct any inmates with whom the official visitor may desire a private interview into another cell or room as the chief administrator may designate and there permit the private interview between the official visitor and the inmate to take place.

(e) Official visitors and employees not exempt from prosecution.--Official visitors and their employees shall not be exempt from prosecution for any criminal offense, including, but not limited to, a violation of 18 Pa.C.S. §§ 5121 (relating to escape), 5122 (relating to weapons or implements for escape) and 5123 (relating to contraband).

(f) Decree of court.--

(1) If an official visitor violates any provision of this section, any chief administrator of a correctional institution may apply to the appropriate court for a ruling upon the official visitor to show cause why the official visitor should not be deprived of his official visitation status.

(2) Upon proof to the satisfaction of the court, the court shall enter a decree against the official visitor depriving him of all rights, privileges and functions of an official visitor.

§ 3514. Employees of official visitor.

One employee of an official visitor may accompany the official visitor when visiting any correctional institution and may be present during an interview conducted by the official visitor.

CHAPTER 37
INMATE PRERELEASE PLANS

Sec.

3701. Establishment of prerelease centers (Repealed).
3702. Prerelease plan for inmates (Repealed).
3703. Rules and regulations (Repealed).
3704. Salaries and wages of inmates (Repealed).

Enactment. Chapter 37 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

§ 3701. Establishment of prerelease centers (Repealed).

2012 Repeal. Section 3701 was repealed July 5, 2012, P.L.1050, No.122, effective July 1, 2013.

§ 3702. Prerelease plans for inmates (Repealed).

2012 Repeal. Section 3702 was repealed July 5, 2012, P.L.1050, No.122, effective July 1, 2013.

§ 3703. Rules and regulations (Repealed).

2012 Repeal. Section 3703 was repealed July 5, 2012, P.L.1050, No.122, effective July 1, 2013.

§ 3704. Salaries and wages of inmates (Repealed).

2012 Repeal. Section 3704 was repealed July 5, 2012, P.L.1050, No.122, effective July 1, 2013.

CHAPTER 39
MOTIVATIONAL BOOT CAMP

Sec.
3901. Scope of chapter.
3902. Declaration of policy.
3903. Definitions.
3904. Selection of inmate participants.
3905. Motivational boot camp program.
3906. Procedure for selection of participant in motivational boot camp program.
3907. Completion of motivational boot camp program.
3908. Appeals.
3909. Evaluation.

Enactment. Chapter 39 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Cross References. Chapter 39 is referred to in section 9721 of Title 42 (Judiciary and Judicial Procedure).

§ 3901. Scope of chapter.

This chapter authorizes motivational boot camps.

§ 3902. Declaration of policy.

The General Assembly finds and declares as follows:

(1) The Commonwealth recognizes the severe problem of overcrowding in correctional institutions and understands that overcrowding is a causative factor contributing to insurrection and prison rioting.

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

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

§ 3903. Definitions.

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

"Commission." The Pennsylvania Commission on Sentencing.

"Eligible inmate." A person sentenced to a term of confinement under the jurisdiction of the Department of Corrections who is serving a term of confinement, the minimum of which is not more than two years and the maximum of which is five years or less, or an inmate who is serving a term of confinement, the minimum of which is not more than three years where that inmate is within two years of completing his minimum term, and who has not reached 40 years of age at the time he is approved for participation in the motivational boot camp program. The term shall not include any inmate who is subject to a sentence the calculation of which included an enhancement for the use of a deadly weapon as defined pursuant to the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing, any inmate who has been convicted or adjudicated delinquent of any crime listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) or any inmate with a current conviction or a prior conviction within the past ten years for 18 Pa.C.S. § 2502 (relating to murder), drug trafficking as defined in section 4103 (relating to definitions) or a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second or subsequent offenses) or criminal attempt, criminal solicitation or criminal conspiracy to commit any of these offenses.

"Motivational boot camp." A program in which eligible inmates participate for a period of six months in a humane program for motivational boot camp programs which shall provide for rigorous physical activity, intensive regimentation and discipline, work on public projects, substance abuse treatment services licensed by the Department of Health, continuing education, vocational training, prerelease counseling and community corrections aftercare.

(July 5, 2012, P.L.1050, No.122, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended the def. of "eligible inmate."

Special Provisions in Appendix. See section 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to applicability.

§ 3904. Selection of inmate participants.

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

(b) Duties of sentencing judge.--The sentencing judge shall employ the sentencing guidelines to identify those defendants who are eligible for participation in a motivational boot camp. The judge shall have the discretion to exclude a defendant from eligibility if the judge determines that the defendant would be inappropriate for placement in a motivational boot camp. The judge shall note on the sentencing order whether the defendant has been excluded from eligibility for a motivational boot camp program.

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

(d) Waiver of eligibility requirements.--

(1) The prosecuting attorney, in the prosecuting attorney's sole discretion, may advise the court that the Commonwealth has elected to waive the eligibility requirements of this chapter if the victim has been given notice of the prosecuting attorney's intent to waive the eligibility requirements and an opportunity to be heard on the issue.

(2) The court, after considering victim input, may refuse to accept the prosecuting attorney's waiver of the eligibility requirements.

(July 5, 2012, P.L.1050, No.122, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsec. (b).

2012 Amendment. Act 122 added subsec. (d).

§ 3905. Motivational boot camp program.

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

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

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

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

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

(c) Rules and regulations.--

(1) The secretary shall promulgate rules and regulations which shall include, but not be limited to, inmate discipline, selection criteria, programming and supervision and administration.

(2) The department shall provide four weeks of intensive training for all staff prior to the start of their involvement with the program.

(d) Approval.--Motivational boot camp programs may be established only at correctional institutions classified by the secretary as motivational boot camp institutions.

(e) Evaluation.--(Deleted by amendment).

(Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 deleted subsec. (e).

§ 3906. Procedure for selection of participant in motivational boot camp program.

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

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

(c) Conditions.--Applicants may not participate in the motivational boot camp program unless they agree to be bound by all the terms and conditions thereof and indicate their agreement by signing a memorandum of understanding.

(d) Qualifications to participate.--Satisfaction of the qualifications set forth in this section to participate does

not mean that an inmate will automatically be permitted to participate in the program.

(e) Expulsion from program.--

(1) An inmate's participation in the motivational boot camp unit may be suspended or revoked for administrative or disciplinary reasons.

(2) The department shall develop regulations consistent with this subsection.

§ 3907. Completion of motivational boot camp program.

Upon certification by the department of the inmate's successful completion of the program, the Pennsylvania Board of Probation and Parole shall immediately release the inmate on parole, notwithstanding any minimum sentence imposed in the case. The parolee will be subject to intensive supervision for a period of time determined by the board, after which the parolee will be subject to the usual parole supervision. For all other purposes, the parole of the inmate shall be as provided by Chapter 61 (relating to Pennsylvania Board of Probation and Parole).

§ 3908. Appeals.

Nothing in this chapter shall be construed to enlarge or limit the right of an inmate to appeal his or her sentence.

§ 3909. Evaluation.

The department and the commission shall monitor and evaluate the motivational boot camp program to ensure that the programmatic objectives are met.

(Oct. 27, 2010, P.L.931, No.95, eff. imd.)

2010 Amendment. Act 95 added section 3909.

CHAPTER 41
STATE DRUG TREATMENT PROGRAM

Sec.

4101. Scope of chapter.
4102. Findings and purpose.
4103. Definitions.
4104. Selection for the State drug treatment program.
4105. State drug treatment program.
4106. Written guidelines and regulations.
4107. Evaluation.
4108. Construction.
4109. Evaluation (Repealed).

Enactment. Chapter 41 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Chapter Heading. The heading of Chapter 41 was amended December 18, 2019, P.L.776, No.115, effective immediately.

Cross References. Chapter 41 is referred to in section 2153 of Title 42 (Judiciary and Judicial Procedure).

§ 4101. Scope of chapter.

This chapter relates to the State drug treatment program.

(Dec. 18, 2019, P.L.776, No.115, eff. 60 days)

§ 4102. Findings and purpose.

The General Assembly finds as follows:

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

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

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

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

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

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

§ 4103. Definitions.

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

"Commission." The Pennsylvania Commission on Sentencing.

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

"Community corrections center." A residential program that is supervised and operated by the Department of Corrections in accordance with Chapter 50 (relating to community corrections centers and community corrections facilities).

"Court." The trial judge exercising sentencing jurisdiction over an eligible offender under this chapter or the president judge if the original trial judge is no longer serving as a judge of the sentencing court.

"Defendant." An individual charged with a drug-related offense, including an individual convicted of violating section 13(a)(14), (30) or (37) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, where the sentence was imposed pursuant to 18 Pa.C.S. § 7508(a)(1)(i), (2)(i), (3)(i), (4)(i) or (7)(i) (relating to drug trafficking sentencing and penalties).

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

"Drug offender treatment program." An individualized treatment program established by the Department of Corrections consisting primarily of drug and alcohol addiction treatment that satisfies the terms and conditions listed in section 4105 (relating to drug offender treatment program).

"Drug trafficking." A violation of section 13(a)(14), (30) or (37) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, where the controlled substance is:

(1) Marijuana, if the amount of marijuana involved is at least 50 pounds or at least 51 live plants.

(2) A narcotic drug classified in Schedule I or Schedule II under section 3 or 4 of The Controlled Substance, Drug, Device and Cosmetic Act, if the aggregate weight of the compound or mixture containing the substance involved is at least 100 grams.

(3) Any of the following, if the aggregate weight of the compound or mixture of the substance involved is at least 100 grams:

(i) Coca leaves.

(ii) A salt, compound, derivative or preparation of coca leaves.

(iii) A salt, compound, derivative or preparation which is chemically equivalent or identical with any of the substances under subparagraphs (i) and (ii).

(iv) A mixture containing any of the substances under subparagraphs (i) and (ii), except decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(4) Any of the following, if the aggregate weight of the compound or mixture of the substance involved is at least 100 grams:

(i) Methamphetamine.

(ii) Phencyclidine.

(iii) A salt, isomer or salt of an isomer of methamphetamine or phencyclidine.

(iv) A mixture containing:

(A) Methamphetamine or phencyclidine.

(B) A salt of methamphetamine or phencyclidine.

(C) An isomer of methamphetamine or phencyclidine.

(D) A salt of an isomer of methamphetamine or phencyclidine.

(5) Heroin or a mixture containing heroin, if the aggregate weight of the compound or mixture containing the heroin is 50 grams or greater.

(6) A mixture containing 3, 4-methylenedioxyamphetamine (MDA); 3, 4-methylenedioxymethamphetamine (MDMA); 5-methoxy-3, 4-methylenedioxyamphetamine (MMDA); 3, 4-methylenedioxy-N-ethylamphetamine; or N-hydroxy-3, 4-methylenedioxyamphetamine when the aggregate weight of the compound or mixture containing the substance involved is at least 1,000 tablets, capsules, caplets or other dosage units, or 300 grams.

(7) Fentanyl or a mixture containing Fentanyl, if the aggregate weight of the compound or mixture containing the Fentanyl is 10 grams or more.

(8) Carfentanil or a mixture containing carfentanil, if the aggregate weight of the compound or mixture containing the carfentanil is one gram or more.

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

"Eligible person."

(1) A person who has not been designated by the sentencing court as ineligible and is a person convicted of a drug-related offense who:

(i) Has undergone an assessment performed by the Department of Corrections, which assessment has concluded that the person is in need of drug and alcohol addiction treatment and would benefit from commitment to the State drug treatment program and that placement in the State drug treatment program would be appropriate.

(ii) Does not demonstrate a history of present or past violent behavior.

(iii) Is a person sentenced to a term of confinement under the jurisdiction of the department, the minimum

of which is not more than two years, or a person who is serving a term of confinement, the minimum of which is not more than five years where the person is within two years of completing the person's minimum term.

(iv) Provides written consent permitting release of information pertaining to the person's participation in the State drug treatment program.

(2) The term shall not include a person who is subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon, as defined pursuant to law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing, a person who has been convicted or adjudicated delinquent of any crime listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) or a person with a current conviction or a prior conviction within the past ten years for 18 Pa.C.S. § 2502 (relating to murder), drug trafficking as defined in this section or a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second or subsequent offenses) or criminal attempt, criminal solicitation or criminal conspiracy to commit any of these offenses.

(3) (Deleted by amendment).

(4) (Deleted by amendment).

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

"Group home." A residential program that is contracted out by the Department of Corrections to a private service provider for inmates who are on parole.

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

"Institutional therapeutic community." A residential drug treatment program in a State correctional institution, accredited as a therapeutic community for treatment of drug and alcohol abuse and addiction by the American Correctional Association or other nationally recognized accreditation organization for therapeutic community drug and alcohol addiction treatment.

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

"Participant." An eligible person placed in the State drug treatment program.

"Transitional residence." A residence investigated and approved by the Department of Corrections as appropriate for housing a participant in a drug offender treatment program. (July 5, 2012, P.L.1050, No.122, eff. July 1, 2013; Dec. 18, 2019, P.L.776, No.115. eff. 60 days)

2019 Amendment. Act 115 amended the defs. of "eligible person" and "participant" and added the def. of "drug trafficking."

2012 Amendment. Act 122 amended the defs. of "community corrections center," "defendant," "eligible offender" and "group home."

Cross References. Section 4103 is referred to in sections 3903, 4503, 4504, 6137.1 of this title.

§ 4104. Selection for the State drug treatment program.

(a) Duties of commission and sentencing judge.--

(1) Through the use of sentencing guidelines, the commission shall employ the term "eligible person" as defined in this chapter to further identify persons who would be potentially appropriate for participation in the State drug treatment program. The sentencing judge shall employ the sentencing guidelines to identify persons who are eligible for participation in the State drug treatment program. The judge shall consider the position of a victim of the crime, as advised by the prosecuting attorney, on whether to exclude the person from eligibility for placement in the State drug treatment program. The judge shall exclude the person from eligibility if the prosecuting attorney opposes eligibility. The judge shall note on the sentencing order if a person has been excluded from eligibility for the State drug treatment program. If the person is not excluded from eligibility, the minimum sentence imposed shall operate as the minimum for parole eligibility purposes if the person is not placed in the program by the department under subsection (c) or if the person is expelled from the program under section 4105(f) (relating to State drug treatment program).

(1.1) (Deleted by amendment).

(2) (i) The prosecuting attorney shall advise the court if the prosecuting attorney or a victim of the crime opposes eligibility and, in the prosecuting attorney's sole discretion, may advise the court that the Commonwealth has elected to waive the eligibility requirements of this chapter if the victim has been given notice of the prosecuting attorney's intent to waive the eligibility requirements and an opportunity to be heard on the issue.

(ii) The court, after considering victim input, may refuse to accept the prosecuting attorney's waiver of the eligibility requirements.

(iii) (Deleted by amendment).

(iv) (Deleted by amendment).

(v) (Deleted by amendment).

(b) Assessment of addiction.--The department shall conduct an assessment of the addiction and other treatment needs of an eligible person and determine whether the person would benefit from the State drug treatment program, public safety would be enhanced by the person's participation in the State drug treatment program, and placement of the person in the State drug treatment program would not depreciate the seriousness of the offense. The assessment shall be conducted using a nationally recognized assessment instrument or an instrument that has been normed and validated on the department's inmate population by a recognized expert in such matters. The assessment instrument shall be administered by persons skilled in the treatment of drug and alcohol addiction and trained to conduct assessments. The assessments shall be reviewed and approved by a supervisor with at least three years of experience providing drug and alcohol counseling services.

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(c) Placement in the State drug treatment program.--If the department in its discretion believes an eligible person would benefit from the State drug treatment program and placement in the program is appropriate, the department shall make the placement and notify the court, the eligible person, the commission and the attorney for the Commonwealth of the placement.

(d) Prerequisites for commitment.--(Deleted by amendment).

(e) Resentencing.--(Deleted by amendment).

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

(g) Applicability and program limitations.--(Deleted by amendment).

(h) Videoconferencing.--(Deleted by amendment).

(i) Victims.--(Deleted by amendment).

(j) Definitions.--(Deleted by amendment).

(July 5, 2012, P.L.1050, No.122, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. 60 days)

Cross References. Section 4104 is referred to in section 4105 of this title.

§ 4105. State drug treatment program.

(a) Establishment.--The department shall establish and administer the State drug treatment program. The program shall be designed to address the individually assessed drug and alcohol abuse and addiction needs of a participant and shall address other issues essential to the participant's successful reintegration into the community, including, but not limited to, educational and employment issues.

(b) Duration and components.--Notwithstanding any credit to which the defendant may be entitled under 42 Pa.C.S. § 9760 (relating to credit for time served), the duration of the State drug treatment program is 24 months, but if the participant is unable to complete the program within 24 months and is otherwise compliant with the program, subject to the discretion of the department, the program duration may be extended up to 30 months total in order for the participant to successfully complete the program. The program shall include the following:

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

(i) The time during which the eligible person is being evaluated by the department under section 4104(b) (relating to selection for the State drug treatment program).

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

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

(3) A period of at least six-months' treatment through an outpatient addiction treatment facility. During the outpatient addiction treatment period of the program, the participant may be housed in a community corrections center or group home or placed in an approved transitional residence. The participant must comply with any conditions established by the department regardless of where the participant resides during the outpatient addiction treatment portion of the program.

(4) A period of supervised reintegration into the community for the balance of the program, during which the participant shall continue to be supervised by the department and comply with any conditions imposed by the department.

(5) Upon certification by the department of the participant's successful completion of the program, the entire term of confinement that rendered the participant eligible to participate in the State drug treatment program shall be deemed to have been served.

(c) Program management.--

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

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

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

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

(f) Expulsion from program.--

(1) A participant may be expelled from the State drug treatment program at any time in accordance with guidelines established by the department, including failure to comply with administrative or disciplinary procedures or requirements set forth by the department. An expelled participant shall be housed in a State correctional institution to serve the remainder of the participant's sentence. The expelled participant shall be eligible for parole at the minimum sentence but may not be eligible for short sentence parole under section 6137.1 (relating to short sentence parole).

(1.1) A police officer commissioned under section 1 of the act of May 21, 1943 (P.L.469, No.210), entitled "An act providing for commissioning as police officers certain employes of institutions maintained in whole or in part by the Commonwealth; conferring upon them the powers of constables in certain cases; and imposing duties on wardens and keepers of jails, police stations and lock-ups," shall have the authority to issue a warrant for the return of a participant who is not in compliance with the terms of the drug offender treatment program to the custody of the department.

(2) The department shall promptly notify the court, the participant, the attorney for the Commonwealth and the commission of the expulsion of a participant from the State drug treatment program and the reason for such expulsion.

(3) (Deleted by amendment).

(Dec. 18, 2019, P.L.776, No.115, eff. 60 days)

Cross References. Section 4105 is referred to in sections 4103, 4104 of this title.

§ 4106. Written guidelines and regulations.

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

§ 4107. Evaluation.

(a) Final report.--(Deleted by amendment).

(b) Evaluation and report to General Assembly.--The department shall monitor and evaluate the State drug treatment program to ensure that the programmatic objectives are met. Every three years, the department shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. The report shall include:

(1) The number of persons evaluated for the State drug treatment program.

(2) The number of persons placed into the State drug treatment program.

(3) The number of persons sentenced to a State correctional institution who may have been eligible for the State drug treatment program.

(4) The number of persons successfully completing the State drug treatment program.

(5) The six-month, one-year, three-year and five-year recidivism rates for persons who have completed the State drug treatment program and for a comparison group of persons who were not placed in the State drug treatment program.

(6) Any changes the department believes will make the State drug treatment program more effective.

(Dec. 18, 2019, P.L.776, No.115, eff. 60 days)

§ 4108. Construction.

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

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

(i) participate in a drug offender treatment program;

(ii) continue participation in a drug offender treatment program;

(iii) modify the contents of the drug offender treatment program; or

(iv) file any cause of action in any court challenging the department's determination that a participant is to be suspended or expelled from or that a participant has successfully completed or failed to

successfully complete treatment to be provided during any portion of a drug offender treatment program.

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

§ 4109. Evaluation (Repealed).

2010 Repeal. Section 4109 was repealed October 27, 2010, P.L.931, No.95, effective immediately.

CHAPTER 43
EXECUTION PROCEDURE AND METHOD

Sec.

4301. Definitions.
4302. Issuance of warrant.
4303. Terms of confinement.
4304. Method of execution.
4305. Witnesses to execution.
4306. Certification of chief administrator.
4307. Postmortem examination.
4308. Costs of execution and examination.

Enactment. Chapter 43 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

§ 4301. Definitions.

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

"Victim." The term shall have the same meaning given to it in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

"Victim advocate." The victim advocate within the Pennsylvania Board of Probation and Parole.

§ 4302. Issuance of warrant.

(a) Time.--

(1) After the receipt of the record pursuant to 42 Pa.C.S. § 9711(i) (relating to sentencing procedure for murder of the first degree), unless a pardon or commutation has been issued, the Governor shall, within 90 days, issue a warrant specifying a day for execution which shall be no later than 60 days after the date the warrant is signed.

(2) If, because of a reprieve or a judicial stay of the execution, the date of execution passes without imposition of the death penalty, unless a pardon or commutation has been issued, the Governor shall, within 30 days after receiving notice of the termination of the reprieve or the judicial stay, reissue a warrant specifying a day for execution which shall be no later than 60 days after the date of reissuance of the warrant.

(b) Secretary.--The warrant shall be directed to the secretary commanding that the subject of the warrant be executed on the day named in the warrant and in the manner prescribed by law.

(c) Failure to timely comply.--If the Governor fails to timely comply with the provisions of this section and a pardon or commutation has not been issued, the secretary shall, within 30 days following the Governor's failure to comply, schedule and carry out the execution no later than 60 days from the date by which the Governor was required to sign the warrant under subsection (a).

§ 4303. Terms of confinement.

Upon receipt of the warrant, the secretary shall, until infliction of the death penalty or until lawful discharge from custody, keep the inmate in solitary confinement. During the confinement, no person shall be allowed to have access to the inmate without an order of the sentencing court, except the following:

(1) The staff of the department.

(2) The inmate's counsel of record or other attorney requested by the inmate.

(3) A spiritual adviser selected by the inmate or the members of the immediate family of the inmate.

§ 4304. Method of execution.

(a) Injection.--

(1) The death penalty shall be inflicted by injecting the convict with a continuous intravenous administration of a lethal quantity of an ultrashort-acting barbiturate in combination with chemical paralytic agents approved by the department until death is pronounced by the coroner. The coroner shall issue the death certificate.

(2) The execution shall be supervised by the chief administrator or his designee of the State correctional institution designated by the department for the execution.

(b) Injection agents.--Notwithstanding section 13 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, the secretary or his designee may obtain the injection agents directly from a pharmacist or manufacturer.

§ 4305. Witnesses to execution.

(a) List of witnesses.--No person except the following shall witness any execution under the provisions of this chapter:

(1) The chief administrator or his designee of the State correctional institution where the execution takes place.

(2) Six reputable adult citizens selected by the secretary.

(3) One spiritual adviser, when requested and selected by the inmate.

(4) Not more than six duly accredited representatives of the news media.

(5) Such staff of the department as may be selected by the secretary.

(6) Not more than four victims registered with and selected by the victim advocate.

(b) Witnesses.--The secretary may refuse participation by a witness for safety or security reasons. The department shall make reasonable efforts to provide victims with a viewing area separate and apart from the area to which other witnesses are admitted.

(c) Confidentiality.--The identity of department employees, department contractors or victims who participate in the administration of an execution pursuant to this section shall be confidential.

§ 4306. Certification of chief administrator.

After the execution, the chief administrator or his designee shall certify in writing, under oath or affirmation, to the court of the county where the inmate was sentenced to death that the inmate was duly executed in accordance with this chapter. The certificate shall be filed in the office of the clerk of such court.

Cross References. Section 4306 is referred to in section 4307 of this title.

§ 4307. Postmortem examination.

(a) General rule.--Immediately after execution, a postmortem examination of the body of the inmate shall be made at the discretion of the coroner of the county in which the execution is performed. The coroner shall report the nature of any examination made. This report shall be annexed to and filed with the certificate required under section 4306 (relating to certification of chief administrator).

(b) Disposition of body.--After the postmortem examination, unless claimed by a relative or relatives, the department shall be responsible for disposition of the body.

§ 4308. Costs of execution and examination.

The actual and necessary costs of the execution and the postmortem examination shall be paid by the department.

CHAPTER 45
RECIDIVISM RISK REDUCTION INCENTIVE

Sec.

4501. Scope of chapter.
4502. Purpose of chapter.
4503. Definitions.
4504. Recidivism risk reduction incentive programs.
4505. Sentencing.
4506. Recidivism risk reduction incentive minimum.
4507. Authority of board.
4508. Written guidelines and regulations.
4509. Evaluation (Repealed).
4510. Reports (Repealed).
4511. Construction of chapter.
4512. Applicability of chapter.

Enactment. Chapter 45 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Cross References. Chapter 45 is referred to in section 6113 of this title; section 9756 of Title 42 (Judiciary and Judicial Procedure).

§ 4501. Scope of chapter.

This chapter relates to recidivism risk reduction incentive.

§ 4502. Purpose of chapter.

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

§ 4503. Definitions.

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

"Court." The trial judge exercising sentencing jurisdiction over an eligible offender under this chapter or the president judge or the president judge's designee if the original trial judge is no longer serving as a judge of the sentencing court.

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

"Eligible person." A defendant or inmate convicted of a criminal offense who will be committed to the custody of the department and who meets all of the following eligibility requirements:

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

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

(3) Has not been found guilty of or previously convicted of or adjudicated delinquent for or criminal attempt, criminal solicitation or criminal conspiracy to commit murder, a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses) or a personal injury crime as defined under section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, except for an offense under 18 Pa.C.S. § 2701 (relating to simple assault) when the offense is a misdemeanor of the third degree, or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

(4) Has not been found guilty or previously convicted or adjudicated delinquent for violating any of the following provisions or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or criminal attempt, criminal solicitation or criminal conspiracy to commit any of these offenses:

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

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

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

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

Any offense listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders).

Drug trafficking as defined in section 4103 (relating to definitions).

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

(6) (Deleted by amendment).

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

(Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.1050, No.122, eff. 60 days; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended the def. of "eligible person."

Cross References. Section 4503 is referred to in sections 6113, 6137 of this title.

§ 4504. Recidivism risk reduction incentive programs.

(a) Authorization.--Subject to the provisions of this chapter, the department may create or otherwise designate treatment or other programs as recidivism risk reduction incentive programs.

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

(c) Program requirements.--In accordance with the provisions of this chapter, the department may designate a treatment program or other program as a recidivism risk reduction incentive program if there is appropriate scientific research that demonstrates that the proposed program would likely reduce overall recidivism rates or serious crime rates of program participants. A recidivism risk reduction incentive program designed to provide treatment in the form of a therapeutic community for drug abuse or addiction shall meet the requirements of an institutional therapeutic community as defined under section 4103 (relating to definitions).

(d) Consultation.--The department shall consult with appropriate research and technical assistance organizations, such as the National Institute of Justice, the National Institute of Corrections and the American Correctional Association concerning evidence-based programs that reduce recidivism risks of inmates and the scientific research relating to those programs.

(e) Program approval process.--

(1) The department shall publish, in a manner reasonably calculated to inform, a detailed description of the program, the types of inmates who will be eligible to participate in the program, the name and citation of research reports that demonstrate the effectiveness of the proposed program and the name and address of a department contact person responsible for receiving public comments. On the same date as publication, the department shall also deliver a copy of the list to the Judiciary Committee of the Senate, the Judiciary Committee of the House of Representatives, the board, the commission and the victim advocate.

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

§ 4505. Sentencing.

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

(b) Waiver of eligibility requirements.--The prosecuting attorney, in the prosecuting attorney's sole discretion, may advise the court that the Commonwealth has elected to waive the eligibility requirements of this chapter if the victim has been given notice of the prosecuting attorney's intent to waive the eligibility requirements and an opportunity to be heard on the issue. The court, after considering victim input, may refuse to accept the prosecuting attorney's waiver of the eligibility requirements.

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

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

(2) Imposes the recidivism risk reduction incentive minimum sentence. The court shall direct the department to calculate the length of the sentence. The recidivism risk reduction incentive minimum shall be equal to three-fourths of the minimum sentence imposed when the minimum sentence is three years or less. The recidivism risk reduction incentive minimum shall be equal to five-sixths of the minimum sentence if the minimum sentence is greater than three years. For purposes of these calculations, partial days shall be rounded to the nearest whole day. In determining the recidivism risk reduction incentive minimum sentence, the aggregation provisions of 42 Pa.C.S. §§ 9757 (relating to consecutive sentences of total confinement for multiple offenses) and 9762(f) (relating to sentencing proceeding; place of confinement) shall apply and the recidivism risk reduction incentive minimum sentence shall be recalculated following the aggregation of consecutive sentences. An offender determined by the court to be ineligible for a recidivism risk reduction incentive minimum sentence for any of the sentences subject to aggregation shall be ineligible for a recidivism risk reduction incentive minimum sentence for the aggregated sentence.

(3) Notwithstanding paragraph (2), if the defendant was previously sentenced to two or more recidivism risk reduction incentive minimum sentences, the court may, in its discretion, with the approval of the prosecuting attorney, impose the recidivism risk reduction incentive minimum sentence as provided for in paragraph (2).

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

(Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsec. (c) intro. par. and (2).

Cross References. Section 4505 is referred to in section 4506 of this title.

§ 4506. Recidivism risk reduction incentive minimum.

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

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

(2) The department has certified that it developed a program plan based on the assessment conducted under paragraph (1) that is designed to reduce the risk of recidivism through the use of recidivism risk reduction

incentive programs authorized and approved under this chapter that are appropriate for that particular inmate.

(3) The department advised the inmate that the inmate is required to successfully complete the program plan.

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

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

(6) The reentry plan for the inmate is adequate.

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

(8) Notice and opportunity to be heard was provided by the board to the sentencing court and the prosecuting attorney in a manner consistent with section 6137(g)(2) (relating to parole power).

(9) The department has certified that the inmate continues to be an eligible offender. In the event that a recidivism risk reduction minimum sentence was imposed under section 4505(b) (relating to sentencing), the department certifies that it has not received additional information demonstrating a history of past or present violent behavior which was not available at the time of sentencing and the prosecuting attorney was unaware of that information at the time of sentencing.

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

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

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

(1) Require the department to include recidivism risk reduction programs in an individual program plan where the risk assessment indicates that such a program is unlikely to reduce recidivism for that particular inmate.

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

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

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

Cross References. Section 4506 is referred to in section 6137 of this title.

§ 4507. Authority of board.

If an inmate has been sentenced by a court to a recidivism risk reduction incentive minimum sentence and the inmate is not paroled under this chapter, the board may grant parole. Except as otherwise provided under this chapter, the board shall retain its power and authority to parole, commit and reparole inmates committed to the department.

§ 4508. Written guidelines and regulations.

The department, upon consultation with the board, shall develop written interim guidelines to assist in the implementation of the provisions of this chapter. The interim guidelines shall not be subject to the requirements of the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, and shall be effective for a period of two years after publication in the Pennsylvania Bulletin. The interim guidelines shall be replaced by regulations promulgated by the department consistent with the Regulatory Review Act on or before the date of expiration of the interim guidelines.

§ 4509. Evaluation (Repealed).

2019 Repeal. Section 4509 was repealed December 18, 2019, P.L.776, No.115, effective immediately.

§ 4510. Reports (Repealed).

2019 Repeal. Section 4510 was repealed December 18, 2019, P.L.776, No.115, effective immediately.

§ 4511. Construction of chapter.

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

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

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

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

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

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

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

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

§ 4512. Applicability of chapter.

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

CHAPTER 46
NONNARCOTIC MEDICATION ASSISTED SUBSTANCE ABUSE TREATMENT GRANT PILOT PROGRAM

Sec.

4601. Definitions.
4602. Establishment of pilot program.
4603. County participation requirements.
4604. Use of grant funding.
4605. Powers and duties of department.
4606. Prior authorization.
4607. Report to General Assembly.
4608. Construction.

Enactment. Chapter 46 was added December 17, 2015, P.L.453, No.80, effective in 60 days.

§ 4601. Definitions.

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

"Eligible offender." A defendant or inmate convicted of a criminal offense who will be committed to the custody of the county and who meets all of the following eligibility requirements:

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

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

(3) Has not been found guilty of or previously convicted of or adjudicated delinquent for or an attempt or conspiracy to commit a personal injury crime as defined under section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, except for an offense under 18 Pa.C.S. § 2701 (relating to simple assault) when the offense is a misdemeanor of the third degree, or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

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

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

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

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

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

Any offense for which registration is required under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

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

"Pilot program." The Nonnarcotic Medication Assisted Substance Abuse Treatment Grant Pilot Program established under this chapter.

2020 Partial Repeal. Section 14(8) of Act 23 provided that the definition of "eligible offender" is repealed insofar as

it is inconsistent with section 1721-L(2) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

§ 4602. Establishment of pilot program.

The Nonnarcotic Medication Assisted Substance Abuse Treatment Grant Pilot Program is established in the department to increase opportunities for counties to provide long-acting nonnarcotic, nonaddictive medication combined with comprehensive substance abuse treatment to eligible offenders upon release from county correctional institutions. Grants shall be limited to fiscal year 2015-2016 and awarded to counties eligible to participate in the pilot program within six months of the effective date of this section.

§ 4603. County participation requirements.

In order to be eligible for grant funding under the pilot program, a county must:

(1) Make application to the department in a form and manner as provided by the department.

(2) Have a county correctional institution with an institutional substance abuse treatment program that supports offenders transitioning from a county correctional institution to the community or offenders who are sentenced to serve county intermediate punishment sentences.

(3) Be able to contract with a provider as required under section 4604 (relating to use of grant funding).

(4) Meet any other requirements established by the department.

Cross References. Section 4603 is referred to in section 4607 of this title.

§ 4604. Use of grant funding.

(a) County.--A county awarded a grant under the pilot program shall contract with an entity, provider or organization that shall:

(1) Assess each offender, prior to reentry into the community, and determine if the offender is a candidate to whom should be administered medication that prevents relapse to drug dependence or alcohol dependence, or both.

(2) Create an individualized program for each offender identified under paragraph (1).

(3) Provide access to and administer long-acting nonnarcotic, nonaddictive medication assisted treatment.

(4) Provide clinically appropriate inpatient or outpatient services determined as necessary to support each individual's treatment plan.

(5) Cooperate with the county probation and parole office as to the use of any drug under paragraph (1) by any eligible offender.

(6) Create a discharge plan for each offender under paragraph (1).

(b) Requirement of participants.--Each participant must agree to waive the privacy requirements of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936) to the extent needed for the county to have access to the information required under this section.

Cross References. Section 4604 is referred to in section 4603 of this title.

§ 4605. Powers and duties of department.

(a) General rule.--The department shall:

(1) Establish a form for counties to apply for grant funding under the pilot program.

(2) Establish criteria for counties making application for grant funding under the pilot program.

(3) Develop or approve training and instructional materials for the law enforcement community about opioid and alcohol addiction and the proper and effective use of nonnarcotic medication assisted substance abuse treatment in consultation with the appropriate State agencies, including, but not limited to, the Department of Drug and Alcohol Programs, the Department of Human Services, the Department of Health, the Pennsylvania Board of Probation and Parole and the Pennsylvania Commission on Crime and Delinquency.

(4) Make a form available to providers to be used to confirm that an offender is eligible for and enrolled in the pilot program.

(5) Set forth the basis for medical providers to be reimbursed and for medical providers to be reimbursed for counseling services.

(6) Promulgate any rules and regulations necessary to implement this chapter.

(b) Limitation on grant awards.--Grant awards shall be at the discretion of the department and shall be limited to amounts annually appropriated to the department for the pilot program.

§ 4606. Prior authorization.

Long-acting injectable naltrexone shall be approved as part of a prior authorization process by any Medicaid managed care plan operating under contract with the Commonwealth for eligible offenders enrolled in the pilot program and receiving comprehensive substance abuse treatment which includes the monitoring of medication adherence upon their release from county correctional institutions. Within 90 days of the effective date of this section, the Department of Human Services shall issue a bulletin notice to instruct Medicaid managed care plans that approval for the use of long-acting injectable naltrexone must be granted if the eligible offenders are enrolled in the pilot program upon their release from county correctional institutions.

§ 4607. Report to General Assembly.

Within 18 months of the effective date of this section, the department shall issue a report to the Judiciary Committee of the Senate and the Appropriations Committee of the Senate and the Judiciary Committee of the House of Representatives and the Appropriations Committee of the House of Representatives evaluating the effectiveness of the pilot program. The report shall include:

(1) The number of eligible offenders to whom long-acting nonnarcotic, nonaddictive medication assisted treatment was administered.

(2) The number of eligible offenders who completed the program of long-acting nonnarcotic, nonaddictive medication assisted treatment.

(3) Recidivism rates of eligible offenders to whom long-acting nonnarcotic, nonaddictive medication assisted treatment was administered.

(4) The average amount of grants awarded to counties.

(5) The number of providers available to meet the requirements provided in section 4603 (relating to county participation requirements) on a county-by-county basis.

(6) The impact of the use of long-acting nonnarcotic, nonaddictive medication assisted treatment on treatment outcomes and any potential cost savings.

§ 4608. Construction.

Nothing in this act shall be construed to create an entitlement or a right of an eligible offender to receive treatment upon release from a county correctional institution.

CHAPTER 47
COMMUNITY CORRECTIONS FACILITIES

Sec.
4701. Definitions.
4702. Public hearing required.
4703. Public notice.
4711. Nonapplicability.

Enactment. Chapter 47 was added October 7, 2010, P.L.476, No.65, effective in 60 days.

Special Provisions in Appendix. See the preamble to Act 65 of 2010 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 4701. Definitions.

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

"Community corrections facility." A residential facility operated by a private contractor that:

(1) houses offenders pursuant to a contract with the Department of Corrections; and

(2) is operated in accordance with Chapter 50 (relating to community corrections centers and community corrections facilities).

(July 5, 2012, P.L.1050, No.122, eff. July 1, 2013)

§ 4702. Public hearing required.

(a) General rule.--

(1) A private vendor who intends to submit a bid to the department pursuant to a request for proposal for beds in a community corrections facility shall conduct a public hearing in the municipality of the proposed site.

(2) Paragraph (1) shall not apply to a bid submitted as the result of a renewal for an existing contract at a facility which has been in use for a minimum of five years.

(b) Conduct of hearing.--At the public hearing, the private vendor shall explain the operation of the community corrections facility and shall permit public comments relating to the site and operation of the facility.

(c) Transcript.--The private vendor shall submit a transcript of the public hearing to the department as part of its bid pursuant to the request for proposal.

(d) Department review.--The department shall review the transcript and shall consider the substance of the public comments when awarding a contract pursuant to the request for proposal.

§ 4703. Public notice.

(a) Public notice.--The private vendor shall provide notice of the public hearing in a newspaper of general circulation on at least two different dates prior to the hearing. Each notice shall provide information regarding topic, location and time of the public hearing and a contact number for interested persons to call for additional information. The private vendor shall submit notarized statements attesting to the publishing of the notices to the department as part of its bid pursuant to the request for proposal.

(b) Notice to municipality.--The private vendor shall send a copy of the notice of the public hearing to the governing body of the municipality where the proposed site is located.

§ 4711. Nonapplicability.

This chapter shall not apply to any request for proposal issued prior to the effective date of this section.

CHAPTER 49
SAFE COMMUNITY REENTRY

Sec.

4901. Scope of chapter.
4902. Definitions.
4903. Safe Community Reentry Program.
4904. Contract for services.
4905. Rules and regulations.

Enactment. Chapter 49 was added July 5, 2012, P.L.1050, No.122, effective in 60 days.

§ 4901. Scope of chapter.

This chapter relates to the Safe Community Reentry Program.

§ 4902. Definitions.

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

"Community-based programs." Programs which are administered and operated outside of a correctional institution.

"Community organization." A community, faith-based or other private charitable organization which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of the United States or this Commonwealth which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth.

"Institutional-based programs." Programs which are administered and operated within a correctional institution.

"Offender." An inmate in a correctional institution or a person released from incarceration. The term shall not include an inmate serving a sentence of life imprisonment or death.

"Program." The Safe Community Reentry Program established in this chapter.

§ 4903. Safe Community Reentry Program.

(a) Program established.--The department and the board shall jointly establish a Safe Community Reentry Program to reduce recidivism and ensure the successful reentry of offenders into the community.

(b) Assessment and plan.--

(1) The department shall assess each offender entering into the State correctional system to determine which treatment services, programs and skills the offender needs to develop to be successful in the community following the offender's release.

(2) The department or the board shall assist each offender in developing a reentry plan for the offender. The reentry plan shall include the offender's educational, employment, housing and treatment needs as appropriate and necessary to encourage the successful transition and reintegration of the offender into the community.

(3) The department or the board shall endeavor to coordinate the specifics of the offender's reentry plan with the educational, vocational training and treatment services

that will be provided to the offender during the offender's incarceration.

(c) Transition and reintegration programs.--The department may identify a comprehensive network of transition and reintegration programs to address the needs of offenders released from incarceration.

(d) Community organizations.--

(1) The department and the board may use community organizations and other nonprofit and for-profit entities to assist the department and the board in meeting the needs of offenders reentering the community.

(2) The department and the board may develop and maintain a list of community organizations and other nonprofit and for-profit entities available to provide services. Community organizations and other nonprofit and for-profit entities may provide services, including education, vocational training, treatment services, support with finding housing and employment and may help with family issues and other elements of life after incarceration.

(3) The department and the board may refer offenders to community organizations and other nonprofit and for-profit entities on the list.

(e) Sharing of information.--The department and the board may share information about offenders with the entities the department and the board contract with under section 4904 (relating to contract for services) and other agencies and providers of services as necessary to adequately assess and address the needs of each offender. The following shall apply:

(1) No person having access to any report, record or other information prepared or assembled under this chapter shall disclose the report, record or information without the permission of the department or the board.

(2) Nothing under this subsection shall be construed to permit the department or the board to disclose information where disclosure is prohibited under Federal or State law or regulations.

§ 4904. Contract for services.

(a) Authority.--The department and the board may contract with community organizations and other nonprofit or for-profit entities to provide programs and services under this chapter. The programs and services provided under these contracts may include:

(1) Assisting in the development of each offender's reentry plan.

(2) Coordinating the supervision and services provided to offenders in correctional institutions with any supervision and services provided to offenders who have been released from incarceration.

(3) Providing offenders awaiting release with documents that are necessary after release, including identification papers, referrals to services, medical prescriptions, job training certificates, apprenticeship papers, information on obtaining public assistance and other documents useful in achieving a successful transition from a correctional institution to the community.

(4) Involving county agencies whose programs and initiatives strengthen inmate reentry services for offenders who have been returned to the county of their jurisdiction.

(5) Providing structured programs, post-release housing and transitional housing, including group homes for recovering substance abusers, through which offenders are

provided supervision and services immediately following reentry into the community.

(6) Assisting offenders in securing permanent housing upon release or following a stay in post-release or transitional housing.

(7) Continuing to link offenders with health resources for health services that were provided to them when they were under the jurisdiction of the department, including mental health, substance abuse treatment, aftercare and treatment services for contagious diseases.

(8) Providing education, job training, English as a second language programs, work experience programs, self-respect and life skills training and other skills needed to achieve self-sufficiency for a successful transition from incarceration.

(9) Facilitating collaboration among corrections administrators, technical schools, community colleges and the work force development and employment service sectors so that there are efforts to:

(i) Promote, where appropriate, the employment of offenders released from correctional institutions and facilitate the creation of job opportunities, including transitional jobs, for such offenders that will also benefit communities.

(ii) Connect offenders to employment, including supportive employment and employment services, before their release from correctional institutions.

(iii) Address barriers to employment, including obtaining a driver's license.

(10) Assessing the literacy and educational needs of offenders and providing appropriate services to meet those needs, including follow-up assessments and long-term services.

(11) Addressing systems under which family members of offenders are involved with facilitating the successful reentry of those offenders into the community, including removing obstacles to the maintenance of family relationships while the offender is in custody, strengthening the family's capacity to establish and maintain a stable living situation during the reentry process where appropriate and involving family members in the planning and implementation of the reentry process.

(12) Facilitating visitation and maintenance of family relationships with respect to offenders by addressing obstacles such as travel, telephone costs, mail restrictions and restrictive visitation policies.

(13) Addressing barriers to the visitation of children with an incarcerated parent and maintenance of the parent-child relationship, including, but not limited to, the location of facilities in remote areas, telephone costs, mail restrictions and visitation policies.

(14) Creating mentoring programs designed to assist offenders in changing the offenders' pattern of behavior so that the offenders will not revictimize their victims or have new victims. Mentoring may occur inside the correctional institution and in the community once the offender is released. The mentor shall:

(i) Act as a role model for the offender.

(ii) Foster a caring and supportive relationship by creating an independence from and not a dependence upon the mentor or the system as a whole.

(iii) Encourage positive self-concept.

(iv) Teach and aid in goal setting.

(v) Support other positive relationships within the community.

(vi) Assist in linking the offender to community-based services.

(vii) Promote appropriate, positive family relationships.

(viii) Help develop personal accountability and personal responsibility.

(15) Facilitating and encouraging timely and complete payment of restitution and fines by offenders to victims and the community.

(b) Accountability.--To ensure accountability, any contract entered under this section shall contain specific performance measures that the department and the board shall use to evaluate compliance with the terms of the contract.

Cross References. Section 4904 is referred to in section 4903 of this title.

§ 4905. Rules and regulations.

The department and board may promulgate rules and regulations as deemed necessary to implement this chapter.

CHAPTER 50
COMMUNITY CORRECTIONS CENTERS AND COMMUNITY CORRECTIONS FACILITIES

Sec.

5001. Definitions.
5002. Department.
5003. Offenders who may be housed.
5004. Authority of Commonwealth employees.
5005. Authority of chairman.
5006. Escape.
5007. Certain offenders residing in group-based homes.
5008. Reporting.

Enactment. Chapter 50 was added July 5, 2012, P.L.1050, No.122, effective in 180 days.

Cross References. Chapter 50 is referred to in sections 4103, 4701, 6101 of this title.

§ 5001. Definitions.

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

"Board." The Pennsylvania Parole Board.

"Chairman." The chairman of the Pennsylvania Parole Board.

"Community corrections center." A residential program that is supervised and operated by the department in accordance with this chapter.

"Community corrections facility." A residential facility operated by a private contractor that:

(1) houses offenders pursuant to a contract with the department; and

(2) is operated in accordance with this chapter.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 5002. Department.

The department may do all of the following:

(1) Establish community corrections centers at locations throughout this Commonwealth approved by the Governor.

(2) Enter into contracts with private vendors to operate community corrections facilities.

(3) Establish parole violator centers.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 5003. Offenders who may be housed.

(a) Community corrections centers, parole violator centers and community corrections facilities.--The following offenders may be housed in community corrections centers, parole violator centers and community corrections facilities:

(1) An offender paroled by the board who is in good standing as defined in section 6101 (relating to definitions).

(2) An offender paroled by the board who:

(i) Except as provided in subparagraph (ii), is detained or awaiting a hearing or who has been recommitted for a technical violation of the conditions of supervision if the offender is eligible to be housed in a community corrections center, parole violator center or community corrections facility under section 6138 (relating to violation of terms of parole).

(ii) Subparagraph (i) shall not apply to an offender paroled by the board who is detained pending resolution of criminal charges as a convicted violator under section 6138(a) or awaiting a hearing or who has been recommitted.

(3) (Deleted by amendment).

(4) (Deleted by amendment).

(5) (Expired).

(b) Community corrections centers and community corrections facilities.--The following offenders may be housed in community corrections centers and community corrections facilities:

(1) An offender who is serving the community-based portion of a sentence in a State drug treatment program.

(2) An offender who has been granted clemency by the Governor.

(June 30, 2021, P.L.260, No.59, eff. imd.)

2013 Expiration. Paragraph (5) expired July 1, 2013. See Act 122 of 2012.

§ 5004. Authority of Commonwealth employees.

Commonwealth employees of community corrections centers and parole violator centers and other Commonwealth employees present in community corrections facilities have the authority to do all of the following:

(1) In order to maintain security and to enforce the rules of the community corrections center, parole violator center or community corrections facility:

(i) search the person and property of an offender residing in the community corrections center, parole violator center or community corrections facility;

(ii) seize property from an offender residing in the community corrections center, parole violator center or community corrections facility; and

(iii) if necessary, use reasonable force against an offender residing in the community corrections center or community corrections facility.

(2) Detain, by using reasonable force if necessary, an offender residing in the community corrections center, parole violator center or community corrections facility to maintain control of the offender pending the arrival of a department parole agent, police officer or other appropriate law enforcement officer.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 5005. Authority of chairman.

The chairman has the following authority:

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(3) Determine, jointly with the secretary, using evidence-based practices designed to reduce the likelihood of recidivism and improve public safety, the appropriate treatment and programming for offenders paroled by the board who are housed at community corrections centers, parole violator centers and community corrections facilities.

(4) Audit, jointly with the secretary, the performance of treatment and services provided by community corrections centers, parole violator centers and community corrections facilities.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 5006. Escape.

An offender detained or recommitted to a community corrections center, parole violator center or a community corrections facility as a result of a parole violation shall be deemed to be in official detention under 18 Pa.C.S. § 5121 (relating to escape). An offender living in a community corrections center or community corrections facility while in good standing on parole shall not be deemed to be in official detention under 18 Pa.C.S. § 5121.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 5007. Certain offenders residing in group-based homes.

(a) Notification requirement.--

(1) A group-based home located within a county of the sixth, seventh or eighth class that agrees to provide housing to an individual knowing that the individual has been previously convicted of an offense under 18 Pa.C.S. § 2502 (relating to murder) or a substantially similar offense committed in another jurisdiction shall notify the head of the governing body of the municipality and the county in which the group-based home is located that the individual is staying at the group-based home.

(2) The notification required under paragraph (1) shall be sent by certified mail within 48 hours of the individual's arrival at the group-based home and shall include the following information:

(i) Name of the individual, including all known aliases.

(ii) Date of the individual's arrival at the group-based home.

(iii) The individual's expected length of stay at the group-based home.

(iv) Contact information for the group-based home.

(b) Public hearing.--

(1) The governing body of a municipality or county receiving notification from a group-based-home provider under subsection (a) may conduct a public hearing concerning the group-based-home provider, its site and its operations.

(2) All hearings shall be conducted in compliance with 65 Pa.C.S. Ch. 7 (relating to open meetings). A governing body conducting a public hearing under this subsection shall announce the hearing via posting on its official publicly accessible Internet website no less than two weeks prior to the hearing. The announcement shall provide information regarding the purpose, location, date and time of the public hearing and a contact number for interested persons to call in order to obtain additional information about the hearing.

(3) At a public hearing under this subsection, the group-based-home provider shall explain the operation of the group-based home and the governing body conducting the hearing shall permit public questions and comments.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Group-based home." A nonprofit or for-profit entity that maintains a facility that provides housing to individuals on probation or parole or other individuals previously convicted of crimes. The term shall not include a correctional institution or a facility maintained by a domestic violence program.
(June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 added section 5007.

Cross References. Section 5007 is referred to in sections 9799.25, 9799.55 of Title 42 (Judiciary and Judicial Procedure).

§ 5008. Reporting.

The department shall ensure that any crime committed within a community corrections center or community corrections facility is immediately reported to the appropriate law enforcement agency with jurisdiction over the community corrections center or community corrections facility.
(June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 added section 5008.

CHAPTER 57
DEPARTMENT OF HUMAN SERVICES FACILITIES

Sec.
5701. Definitions.
5702. Seclusion prohibited for pregnant or postpartum child.
5703. Body cavity search and inspection restrictions.
5704. Training and education requirement.
5705. (Reserved).
5706. Menstrual hygiene and incontinence products.
5707. Postpartum recovery.
5708. Reports relating to pregnant or postpartum child.

Enactment. Chapter 57 was added December 14, 2023, P.L.396, No.47, effective in 180 days.

§ 5701. Definitions.

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

"Body cavity search." An invasive search of a child conducted by staff in search of contraband, excluding the nose, ears and mouth.

"Child." As follows:

(1) An individual who resides in an entity licensed or operated by the department and meets one of the following conditions:

(i) Is under 18 years of age.

(ii) Is under 21 years of age and committed an act of delinquency before reaching 18 years of age and remains under the jurisdiction of the juvenile court.

(iii) Was adjudicated dependent before reaching 18 years of age and while engaged in instruction or treatment, requests the court to retain jurisdiction until the instruction or treatment is completed, but a

child may not remain in a course of instruction or treatment past 21 years of age.

(iv) Has an intellectual disability, a mental illness or a serious emotional disturbance, with a transfer plan to move to an adult setting by 21 years of age.

(2) The term does not include a child in foster care as provided in 42 U.S.C. Ch. 7 Subch. IV (relating to grants to states for aid and services to needy families with children and for child-welfare services).

"Department." The Department of Human Services of the Commonwealth.

"Facility." Except as exempted by regulation, a premise or part of a premise serving children who are adjudicated either dependent or delinquent and meeting one of the following conditions:

(1) Operated for a portion of a 24-hour day in which alternative education, intervention or support programs are provided to one or more children to prevent a child's placement in a more restrictive setting or to facilitate the child's reunification with the child's family.

(2) Operated in a 24-hour living setting in which care is provided for one or more children who are not relatives of the facility operator.

"Health care professional." An individual who is licensed, certified or otherwise authorized or permitted by the laws of this Commonwealth to administer health care in the ordinary course of business or in the practice of a profession.

"Menstrual hygiene products." As follows:

(1) Products relating to bodily functions that are used during menstruation.

(2) The term includes tampons and sanitary pads.

"Postpartum." An eight-week period or a longer period as determined by the health care professional responsible for the health and safety of the child following childbirth.

"Restraints." Any physical or mechanical device used to restrict or control the movement of a child's body or limbs or both.

"Seclusion." As follows:

(1) The removal of a resident from the resident's immediate environment and restricting the resident alone in a room or area.

(2) The term does not include an occasion when:

(i) An employee of a facility remains in the seclusion area with the resident.

(ii) A resident is voluntarily restricted to an area or room.

(iii) All residents are required to be in their rooms or another room or area as part of the program schedule.

"Staff." An individual who is employed by a facility.

"State of undress." A state where a child is partially or fully naked, either in the shower, toilet areas, a medical examination room or while a body cavity search is being conducted.

"Substantial risk of imminent flight." A showing of real and considerable risk of escaping by a child from a facility.

"Trauma-informed care." A strengths-based approach to service delivery and organizational structure that:

(1) Realizes the widespread impact of trauma, including historical trauma.

(2) Understands potential paths to recovery.

(3) Recognizes the signs and symptoms of trauma in a child, parent, legal guardian, staff or another involved in the system.

(4) Responds by fully integrating knowledge about trauma into policies, procedures, practices and relationships.

(5) Seeks to actively prevent retraumatization.

§ 5702. Seclusion prohibited for pregnant or postpartum child.

(a) General rule.--Except as provided under subsection (c), a pregnant or postpartum child may not be involuntarily placed in seclusion in any facility in this Commonwealth.

(b) Alternative discipline.--Forms of discipline for a pregnant or postpartum child shall be limited to sanctions, including restrictions on telephone usage or visitation or other common forms of alternative discipline used in the United States.

(c) Exceptions.--A pregnant or postpartum child may be placed in seclusion only as a temporary response to behavior that poses a serious and immediate risk of physical harm to the pregnant or postpartum child, another child, the unborn child of the pregnant child or staff. The following apply:

(1) The decision to place a pregnant or postpartum child in seclusion under this subsection must be approved by the individual in charge of the facility.

(2) The rationale for the decision to use seclusion must be documented as required by section 5708 (relating to reports relating to pregnant or postpartum child).

(3) No period of seclusion in excess of seven days may be approved.

(d) Bed assignments.--The facility may not assign a pregnant child to any bed that is elevated more than three feet from the floor of the facility.

§ 5703. Body cavity search and inspection restrictions.

(a) Body cavity search and inspection restrictions.--To the greatest extent possible:

(1) Only a health care professional shall conduct an invasive body cavity search of a pregnant child.

(2) If a search is required, staff shall accommodate the child's stated preference regarding the gender of the staff to be present in the room during the search except in cases of exigent circumstances as determined by the facility director or designee.

(b) Documentation requirement.--If a health care professional is required to perform an invasive body cavity search on a pregnant child, or the child's stated preference regarding the gender of the staff present in the room during a search while the child is in a state of undress is not met, staff shall submit a written report to the individual in charge of the facility within 72 hours following the body cavity search or inspection. The report under this subsection shall:

(1) Include the justification for performing the body cavity search or failing to honor the child's stated preference regarding the gender of the staff performing the inspection.

(2) Note if any contraband was found on the child.

(3) Be sent to the department.

§ 5704. Training and education requirement.

(a) Facility staff training.--The facility shall provide or arrange a training program for staff who have contact with a pregnant, laboring or postpartum child. The training program shall be related to the physical and mental health of the pregnant or postpartum child and unborn baby, including:

(1) The general care of a pregnant child.

(2) The impact of restraints on a pregnant child and unborn baby.

(3) The impact of being placed in seclusion on a pregnant child.

(4) The impact of invasive searches on a pregnant child.

(5) Any other pertinent information the department finds appropriate or necessary.

(b) Facility staff training exceptions.--If the facility prohibits the placement of a pregnant child as a matter of policy, the facility may submit a written exemption reporting that there is no risk of staff interacting with a pregnant child housed in the facility. The following apply:

(1) The exemption under this subsection shall apply only to the facility, not the individual staff of the facility.

(2) All facility staff that come in contact with a pregnant child shall complete the training under this section.

(3) If facility staff work at more than one institution, the staff must receive the required training at the nonexempt facility.

(c) Education programming for a pregnant child.--The facility shall develop and provide educational programming for a pregnant or postpartum child. The educational programming shall be related to:

(1) Medical screenings related to reproductive and overall health, including preventive screenings.

(2) Prenatal care.

(3) Pregnancy-specific hygiene.

(4) The impact of alcohol and drugs on the unborn baby.

(5) General health of the unborn baby.

(6) Any other pertinent information the department finds appropriate or necessary.

(d) Trauma-informed care.--

(1) The individual in charge of a facility shall, as necessary, ensure that the facility provides quality trauma-informed care to a child.

(2) Trauma-informed care for a child shall begin immediately upon the child's intake and assessment at a facility.

(3) Facility staff shall have no fewer than four hours of professional training related to trauma-informed care, which shall include the following:

(i) Training to identify a child with trauma.

(ii) Training on how and when to refer a child to the proper health care professionals, including preventive health care and mental health care.

(iii) Training on how to interact with and empower a child who has experienced trauma.

§ 5705. (Reserved).

§ 5706. Menstrual hygiene and incontinence products.

(a) Issuance of menstrual hygiene products.--

(1) A facility shall supply menstrual hygiene products each month to a child who is menstruating at no cost to the child regardless of financial means.

(2) A child may not be required to show proof of need or to undergo a medical examination or obtain a medical permit, authorization or diagnosis to receive the products under subsections (b) and (c).

(b) Menstrual hygiene products provided.--A choice of at least two sizes or absorbencies of sanitary pads and tampons

shall be available to a child who is menstruating in a facility or if requested from medical staff.

(c) Issuance of hygiene products related to bladder control and incontinence.--A supply of products for bladder control and incontinence, including adult diapers and protective undergarments, shall be provided to a child, including a postpartum child, who requires the products each month at no cost to the child, regardless of financial means.

§ 5707. Postpartum recovery.

(a) Restraints during postpartum recovery.--No restraints shall be used on any child who has given birth within the last 30 days and is in postpartum recovery, unless the department has a reasonable belief that the child will harm the child, the child's newborn or another individual or pose a substantial risk of imminent flight. If restraints are used, the staff ordering the use of restraints on a child while in postpartum recovery shall submit a written report to the individual in charge of the facility within 72 hours following the use of the restraints, containing the justification for restraining the child during postpartum recovery. The report shall also be sent to the department.

(b) Postdelivery bonding period.--Subject to hospital policy, following the delivery of a newborn, the department shall permit the newborn to remain with the child at the hospital for 72 hours unless a health care professional has a reasonable belief that the newborn remaining with the child poses a health or safety risk to the newborn.

(c) Nutritional and hygiene products.--During the 72-hour period under subsection (b), the department shall make available the necessary nutritional and hygiene products to care for the newborn.

§ 5708. Reports relating to pregnant or postpartum child.

(a) Requirement.--A facility shall, in writing, report to the department on each restraint applied to a pregnant, laboring or postpartum child in the facility's custody. The following apply:

(1) The report shall note the number and type of restraints.

(2) The provisions of this subsection shall apply to any person tasked with transporting or housing a pregnant or postpartum child.

(b) Contents of report.--Reports of each restraint or placement of a child as required under subsection (a) must include the following:

(1) The circumstances that led to the determination that the child represented a substantial risk of imminent flight.

(2) The circumstances that led to the determination that other extraordinary medical or security circumstances dictated that the child be restrained to ensure the safety and security of the child, the staff of the facility or medical facility, another child or the public.

(3) The date and time restraints were applied and the length of time the child was kept in restraints.

(4) The number and type of restraints used.

(5) Any physical effects on the child or the unborn baby of a child resulting from placement in the restraints.

(c) Staff presence during labor.--If staff presence is required, staff shall accommodate the child's stated preference regarding the gender of the staff to be present in the room during the examination, labor or delivery of the pregnant child,

except in cases of exigent circumstances as determined by the facility director or designee.

(d) Availability of reports.--The nonidentifying data contained in the reports submitted to the department shall be posted on the department's publicly accessible Internet website annually. No identifying information, such as names or dates of birth, shall be posted.

Cross References. Section 5708 is referred to in section 5702 of this title.

CHAPTER 59
MISCELLANEOUS PROVISIONS

Sec.
5901. Physical welfare of inmates.
5902. Contraband prohibited.
5903. Inmate uniforms.
5904. Assessment and collection of costs.
5905. Healthy birth for incarcerated women.
5905.1. Restrictive housing prohibited for pregnant or postpartum incarcerated individuals and detainees.
5906. Confidentiality of victim information.
5907. Oleoresin capsicum spray.
5908. Cavity search and inspection restrictions.
5909. Training and education requirement.
5910. Feminine hygiene and incontinence products.
5911. Postpartum recovery.

Enactment. Chapter 59 was added August 11, 2009, P.L.147, No.33, effective in 60 days, unless otherwise noted.

§ 5901. Physical welfare of inmates.

(a) Physical exercise.--

(1) A chief administrator who may or shall have in charge any inmate, whether the inmate has been tried or not, shall provide the inmate with at least two hours of daily physical exercise in the open, weather permitting, and, upon such days on which the weather is inclement, with two hours of daily physical exercise inside of the correctional institution.

(2) The physical exercise must be safe and practical, and the judges of several courts are to be the judges thereof.

(3) Inmates in segregation or disciplinary status shall receive a minimum of at least one hour of daily exercise five days per week.

(b) Limitation.--The physical exercise required by subsection (a) shall not be taken by an inmate within the confines of his cell or room in which the inmate is confined.

(c) Applicability.--This section shall not apply to inmates who are confined and not physically able to take the required physical exercise.

§ 5902. Contraband prohibited.

(a) Alcohol and drugs.--No spirituous or fermented liquor, drug, medicine, poison, opium, morphine or any other kind or character of narcotic shall, on any pretense whatever:

(1) be sold or given away in a correctional institution or in any building appurtenant thereto, or on the land granted to or owned or leased by the Commonwealth for the use and benefit of inmates; or

(2) be brought into a correctional institution or any building appurtenant thereto, or on to the land granted to or owned or leased by the Commonwealth for the use of and benefit of inmates, without a written permit signed by the physician of the correctional institution specifying the quantity and quality of the liquor or narcotic which may be furnished to the inmate or employee in the prison and the name of the inmate or employee for whom and the time when the liquor or narcotic may be furnished, except the ordinary hospital supply of the prisons.

(b) Permit.--The permit shall be delivered to and kept by the chief administrator.

(c) No secured storage.--No spirituous or fermented liquor, drug, medicine, poison, opium, morphine or any other kind or character of narcotic shall be sold, given away or furnished, either directly or indirectly, to an inmate, either in or anywhere outside of the correctional institution, or be disposed of in such manner or in such a place that it may be secured by an inmate or employee of the prison.

(d) Tobacco.--Tobacco may be supplied and used, subject to such regulations as may be adopted by the chief administrator.

(e) Weapons.--No weapon or other implement which may be used to injure an inmate or person or in assisting an inmate to escape from imprisonment shall:

(1) be sold, given away or furnished to an inmate in any correctional institution or any building appurtenant thereto or on the land granted to or owned or leased by the Commonwealth for the use and benefit of inmates;

(2) except as provided under subsection (e.1), be brought into any correctional institution or any building appurtenant thereto or on to the land granted to or owned or leased by the Commonwealth for the use and benefit of inmates; or

(3) be sold, given away or furnished, either directly or indirectly, to an inmate, either in or anywhere outside of the correctional institution, or be disposed of in such a manner or in such a place that it may be secured by an inmate in the correctional institution.

(e.1) Commonwealth employees.--

(1) The following apply:

(i) An employee of the Commonwealth employed at or assigned to a State correctional institution may carry or store one lawfully owned and transported firearm and ammunition in a vehicle located at a specified location outside of the State correctional institution upon providing advance written notice to the chief administrator of the State correctional institution.

(ii) If an employee of the Commonwealth carries or stores a firearm and ammunition under subparagraph (i), the employee of the Commonwealth shall do all of the following:

(A) Keep the firearm secured with a trigger lock or a gun safe.

(B) Keep the firearm out of plain sight.

(C) Comply with all applicable laws governing the use, possession and carrying of firearms and ammunition and all policies of the department.

(iii) A chief administrator who has received written notice under subparagraph (i) from an employee of the Commonwealth may deny or revoke the ability of the employee of the Commonwealth to carry or store a firearm and ammunition under this paragraph in writing.

(iv) An employee of the Commonwealth may not carry or store a firearm under subparagraph (i) if the vehicle also contains prohibited ammunition suitable for the firearm.

(2) The following words and phrases when used in this subsection shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:

"Firearm." A pistol or revolver with a barrel length less than eight inches as determined by measuring from the muzzle of the barrel to the face of the closed action or cylinder, whichever is applicable.

"Prohibited ammunition." A bullet or projectile which, if fired from a firearm as defined in 18 Pa.C.S. § 6102 (relating to definitions) under the test procedure of the National Institute of Justice for the Ballistic Resistance of Body Armor published July 2008, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIIA of Standard NIJ Standard-0101.06 as formulated by the United States Department of Justice.

(f) Searches.--A chief administrator may search or cause to have searched any person coming to the correctional institution as a visitor, or in any other capacity, who is suspected of having upon his person:

(1) any weapon or other implement which may be used to injure an inmate or any other person or in assisting an inmate to escape from imprisonment; or

(2) any spirituous or fermented liquor, drug, medicine, poison, opium, morphine or any other kind or character of narcotic.

(g) Penalty.--A person who violates any of the provisions of this section commits a felony and shall, upon conviction, be sentenced to pay a fine of not more than $1,000 or to imprisonment for not more than five years, or both.
(Oct. 24, 2018, P.L.749, No.123, eff. 60 days)

2018 Amendment. Act 123 amended subsec. (e) and added subsec. (e.1).

Cross References. Section 5902 is referred to in sections 3505, 5122 of Title 18 (Crimes and Offenses).

§ 5903. Inmate uniforms.

While incarcerated, an inmate of a State correctional institution shall wear identifiable prison uniforms and shall not wear civilian clothing.

Special Provisions in Appendix. See section 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to applicability.

§ 5904. Assessment and collection of costs.

(a) Power of department.--When the department determines that there has been a financial loss or cost as a result of a violation of a written rule governing inmate behavior, including, but not limited to, property loss or damage or use of a controlled substance, the department may require the inmate to pay to the department, or to the person whose property has been lost or damaged, the value of the property or the costs incurred in the investigation and administrative review of the behavior.

(b) Procedures.--The department shall develop written procedures relating to the determination, assessment and collection of the costs of losses due to inmate misconduct.

When the procedures have been adopted by the department, the provisions of 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) shall not apply to proceedings conducted by the department under this section.

(c) Deduction from inmate's institutional account.--

(1) The department may deduct from an inmate's institutional account the amount of any judgment, court-ordered costs or assessments against the inmate under subsection (a).

(2) Notice of the deduction shall be provided to the inmate by certified mail or personal notice.

§ 5905. Healthy birth for incarcerated women.

(a) Duties of correctional institution.--Consistent with established policy and practice, it shall be the duty and responsibility of the correctional institution to provide adequate personnel to monitor the pregnant incarcerated individual or detainee during transport to and from the medical facility and during her stay at the medical facility.

(b) Restraint of pregnant incarcerated individuals and detainees.--

(1) Unless provided in paragraph (2), a correctional institution shall not apply restraints, including handcuffs, to an incarcerated individual or detainee known to be pregnant during any stage of labor or any period of postpartum as defined in section 1104(f) (relating to State recording system relating to pregnant and postpartum incarcerated individuals or detainees).

(2) Paragraph (1) shall not bar reasonable restraint provided the correctional institution staff assigned to the incarcerated individual or detainee makes an individualized determination that the incarcerated individual or detainee presents a substantial risk of imminent flight or some other extraordinary medical or security circumstance dictates that the incarcerated individual or detainee be restrained to ensure the safety and security of the incarcerated individual or detainee, the staff of the correctional institution or medical facility, other incarcerated individuals or detainees or the public. The assigned correctional institution staff shall report the incident to the correctional institution in a reasonable amount of time after the restraint occurs. In the case of any use of restraints on a pregnant or postpartum incarcerated individual by an individual or entity that is not employed by the correctional institution but is transporting the pregnant or postpartum incarcerated individual on behalf of the correctional institution, the individual or entity shall report the restraint to the correctional institution in a reasonable amount of time after the incident occurs. The reporting requirement shall not apply to a law enforcement agency unless the law enforcement agency is transporting pregnant or postpartum incarcerated individuals on behalf of the correctional institution.

(3) If restraint is applied under paragraph (2), at no time shall the incarcerated individual or detainee be left unattended by a correctional institution staff with the ability to release the restraint should a release become medically necessary.

(4) When a restraint is permitted under this section, a correctional institution shall use the least restrictive restraint necessary when the facility has actual or constructive knowledge that an incarcerated individual or detainee is in the second or third trimester of pregnancy.

(c) Restraints.--The following shall apply to an incarcerated individual or detainee who has been restrained under this subsection:

(1) The correctional institution staff accompanying the incarcerated individual or detainee shall promptly remove all restraints upon request of a doctor, nurse or other health care professional.

(2) Leg or waist restraints shall not be used on any incarcerated individual or detainee who is in labor.

(3) The type of restraint applied and the application of the restraint shall be done in the least restrictive manner possible.

(d) Annual report.--(Deleted by amendment).

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Correctional institution." Any entity under the authority of the state or any county or municipality that has the power to detain and restrain a person under the laws of this Commonwealth.

"Detainee." Includes any person detained under the immigration laws of the United States at any correctional facility.

"Incarcerated individual." An individual incarcerated or detained in a correctional institution who is accused of, convicted of, sentenced for or adjudicated delinquent for violations of criminal law or the terms and conditions of parole, probation, pretrial release or a diversionary program.

"Labor." (Deleted by amendment).

"Postpartum." (Deleted by amendment).

"Prisoner." (Deleted by amendment).

"Restraint." Any physical hold or mechanical device used to control the movement of an incarcerated individual's or detainee's body or limbs or both.

(July 2, 2010, P.L.275, No.45, eff. 60 days; Dec. 14, 2023, P.L.396, No.47, eff. 180 days)

Cross References. Section 5905 is referred to in sections 1104, 1758 of this title.

§ 5905.1. Restrictive housing prohibited for pregnant or postpartum incarcerated individuals and detainees.

(a) Restrictive housing prohibited.--Except as provided under subsection (c), a pregnant or postpartum incarcerated individual or detainee may not be involuntarily placed in restrictive housing in any correctional institution in this Commonwealth.

(b) Alternative discipline.--Forms of discipline for pregnant and postpartum incarcerated individuals or detainees shall be limited to sanctions, including restrictions on telephone usage or visitation or other common forms of alternative discipline used in the United States.

(c) Exceptions.--A pregnant or postpartum incarcerated individual or detainee may be placed in restrictive housing only as a temporary response to behavior that poses a serious and immediate risk of physical harm to the pregnant or postpartum incarcerated individual or detainee, another incarcerated individual or detainee, the unborn child of the pregnant incarcerated individual or detainee or staff. The following shall apply:

(1) The decision to place a pregnant or postpartum incarcerated individual or detainee in restrictive housing

under this subsection must be approved by the chief administrator.

(2) The rationale for the decision under this subsection must be documented as required by section 1104 (relating to State recording system relating to pregnant and postpartum incarcerated individuals or detainees).

(3) No period of restrictive housing shall exceed seven days without additional approval and documented rationale, as required by section 1104, of the chief administrator. There shall be a minimum of 24 hours between each restrictive placement absent extraordinary circumstances.

(d) Bed assignments.--The correctional institution may not assign a pregnant incarcerated individual or detainee to any bed that is elevated more than three feet from the floor of the facility.

(e) Definition.--As used in this section, the term "postpartum" means the eight-week period, or longer as determined by the health care professional responsible for the health and safety of the incarcerated individual or detainee, following childbirth.

(Dec. 14, 2023, P.L.396, No.47, eff. 180 days)

2023 Amendment. Act 47 added section 5905.1.

Cross References. Section 5905.1 is referred to in section 1758 of this title.

§ 5906. Confidentiality of victim information.

(a) General rule.--Notwithstanding any other provision of law, any and all statements or testimony of the victim and of any family member submitted to the department shall be:

(1) Deemed confidential and privileged.

(2) Not be subject to subpoena or discovery.

(3) Not be introduced into evidence in any judicial or administrative proceeding.

(4) Not be released to the inmate.

(b) Records.--All records maintained by the department pertaining to victims shall be kept separate. Current address, telephone numbers and any other personal information of the victim and family members shall be deemed confidential.

(c) Disclosure prohibited.--Notwithstanding any other provision of law, no person who has had access to a report, record or any other information under this section shall disclose the content of the report, record or other information or testify in a judicial or administrative proceeding without the written consent of the victim.

(Oct. 27, 2010, P.L.931, No.95, eff. imd.; Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 amended subsec. (a) intro. par.

2010 Amendment. Act 95 added section 5906.

§ 5907. Oleoresin capsicum spray.

(a) Issuance.--The department shall issue, on a routine basis, oleoresin capsicum spray to:

(1) Any officer or employee of the department who:

(i) is employed by and on duty in a State correctional institution; and

(ii) may respond to an emergency situation.

(2) To additional officers and employees of a State correctional institution as the department determines appropriate, in accordance with this section.

(b) Training.--The following shall apply:

(1) In order for an officer or employee of the department, including a corrections officer, to be eligible

to receive and carry oleoresin capsicum spray under this section, the officer or employee shall complete a training course in accordance with department policy on the use of oleoresin capsicum spray.

(2) An officer or employee of the department who completes a training course under paragraph (1) and subsequently transfers to employment at a different State correctional institution shall not be required to complete an additional training course solely due to the transfer.

(3) An officer or employee of the department who completes a training course required under paragraph (1) shall do so during the course of that officer's or employee's regular employment and shall be compensated at the same rate that the officer or employee would be compensated for conducting the officer's or employee's regular duties.

(c) Use of oleoresin capsicum spray.--Officers and employees of the department that are issued oleoresin capsicum spray under subsection (a) may use the spray in accordance with department policy, including:

(1) in any situation where verbal direction given to inmates has failed and staff may have to use physical force to maintain or regain control;

(2) when an inmate barricades or arms himself and cannot be approached without danger to personnel and the inmate; or

(3) when it is determined that a delay in establishing control would constitute a hazard to the inmate or other individuals or would result in a disturbance or property damage.

(Nov. 21, 2016, P.L.1515, No.174, eff. 60 days)

2016 Amendment. Act 174 added section 5907.

§ 5908. Cavity search and inspection restrictions.

(a) Cavity search and inspection restrictions.--To the greatest extent possible:

(1) No staff other than a licensed health care professional shall conduct an invasive body cavity search of a pregnant or postpartum incarcerated individual or detainee.

(2) A correctional institution shall limit searches by male staff, other than medically licensed professional male staff, if a female incarcerated individual or detainee is in a state of undress.

(b) Documentation requirement.--If staff is required to perform an invasive body cavity search on a pregnant or postpartum incarcerated individual or detainee, or male staff, other than medically licensed professional male staff, is required to conduct a search on a female incarcerated individual or detainee in a state of undress, a written report shall be submitted to the correctional institution within 72 hours following the cavity search or inspection. The report under this subsection shall:

(1) include the justification for performing the cavity search or male staff inspection as required in this subsection;

(2) document and identify any contraband that was found on the incarcerated individual or detainee; and

(3) be sent to the department or the Department of Human Services, as applicable.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Body cavity search." An invasive search of incarcerated individuals or detainees, conducted by staff in search of contraband, excluding the nose, ears and mouth.

"Staff." An individual, including contracted staff, who is employed by a correctional institution, the department or the Department of Human Services, excluding any licensed medical professional.

"State of undress." A state where an incarcerated or detained female is partially or fully naked, either in the shower, toilet areas, a medical examination room or while a body cavity search is being conducted.

(Dec. 14, 2023, P.L.396, No.47, eff. 180 days)

2023 Amendment. Act 47 added section 5908.

§ 5909. Training and education requirement.

(a) Correctional institution staff training.--The department and the Department of Human Services shall jointly develop and provide correctional institutions with a training program for staff who have contact with a pregnant, laboring or postpartum incarcerated individual or detainee. The training program shall be related to the physical and mental health of the pregnant or postpartum incarcerated individual or detainee and unborn child, including:

(1) The general care of a pregnant individual.

(2) The impact of restraints on a pregnant individual and unborn child.

(3) The impact of being placed in restrictive housing on a pregnant individual.

(4) The impact of invasive searches on a pregnant individual.

(5) Any other pertinent information the department or the Department of Human Services finds appropriate or necessary.

(b) Correctional institution staff training exceptions.--If the correctional institution or county correctional institution prohibits the placement of pregnant individuals as a matter of policy, that institution may submit a written exemption reporting that there is no risk of staff interacting with pregnant individuals housed in the institution. The exemption under this subsection shall apply only to the correctional institution, not the individual staff of the institution. All correctional institution staff that come in contact with pregnant incarcerated individuals shall complete the training under this section. If correctional institution staff work at more than one institution, the staff must receive the required training at the nonexempt institution.

(c) Education programming for pregnant incarcerated individuals.--The department and the Department of Human Services shall jointly develop and provide correctional institutions and county correctional institutions with educational programming for pregnant or postpartum incarcerated individuals or detainees. The educational programming shall be related to:

(1) Medical screenings related to female reproductive and overall health, including preventive screenings.

(2) Prenatal care.

(3) Pregnancy-specific hygiene.

(4) The impact of alcohol and drugs on the unborn child.

(5) General health of the child.

(6) Any other pertinent information the department or the Department of Human Services finds appropriate or necessary.

(d) Trauma-informed care.--

(1) The chief administrator shall, as the chief administrator deems necessary, ensure that the correctional institution provides to incarcerated individuals and detainees quality trauma-informed care.

(2) Trauma-informed care for an individual shall begin immediately upon the individual's intake and assessment at a correctional institution.

(3) Correctional staff shall receive professional training, approved by the Department of Human Services, relating to trauma-informed care, which shall include the following:

(i) Training to identify individuals with trauma.

(ii) Training on how and when to refer individuals to the proper health care professionals, including preventive health care and mental health care.

(iii) Training on how to interact with and empower incarcerated individuals who have experienced trauma.

(e) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Postpartum." The eight-week period, or longer as determined by the health care professional responsible for the health and safety of the incarcerated individual or detainee, following childbirth.

"Trauma-informed care." An organizational structure and treatment framework that involves recognizing, understanding and responding to the effects of trauma.

(Dec. 14, 2023, P.L.396, No.47, eff. 180 days)

2023 Amendment. Act 47 added section 5909.

§ 5910. Feminine hygiene and incontinence products.

(a) Issuance of feminine hygiene products relating to menstruation.--A supply of feminine hygiene products shall be provided to all incarcerated individuals and detainees who are menstruating in a correctional institution each month at no cost to the incarcerated individuals and detainees, regardless of financial means. Incarcerated individuals and detainees shall not be required to show proof of need or to undergo a medical examination or obtain a medical permit, authorization or diagnosis to receive the products under subsection (b).

(b) Feminine hygiene products provided.--A choice of at least two sizes or absorbencies of sanitary pads shall be distributed to all incarcerated individuals and detainees who are menstruating in a correctional institution or if requested from medical staff.

(c) Feminine hygiene products to be requested.--A choice of at least two sizes of tampons shall be distributed to incarcerated individuals and detainees who request a tampon from medical staff.

(d) Issuance of feminine hygiene products relating to bladder control and incontinence.--A supply of products for bladder control and incontinence shall be provided to incarcerated individuals and detainees, including geriatric incarcerated individuals and postpartum incarcerated individuals, who require such products each month at no cost to incarcerated individuals and detainees, regardless of financial means.

(e) Bladder control and incontinence products distribution.--Adult diapers or protective undergarments shall be distributed to incarcerated individuals who require them.

(f) Rules and regulations.--The correctional institution shall promulgate rules necessary to implement and enforce the provisions of this section.

(g) Definition.--As used in this section, the term "feminine hygiene products" means products that women use during menstruation. The term includes tampons and sanitary napkins.
(Dec. 14, 2023, P.L.396, No.47, eff. 180 days)

2023 Amendment. Act 47 added section 5910.

§ 5911. Postpartum recovery.

(a) Restraints during postpartum recovery.--No restraints shall be used on any incarcerated individual or detainee who has given birth within the last 30 days and is in postpartum recovery, unless the department or the Department of Human Services, as applicable, has a reasonable belief that the incarcerated individual or detainee will harm themselves, their newborn or another individual or pose a substantial risk of imminent flight. If restraints are used, the facility employee ordering the use of restraints on an incarcerated individual or detainee while in postpartum recovery shall submit a written report to the chief administrator of the facility within 72 hours following the use of the restraints, containing the justification for restraining the incarcerated individual or detainee during postpartum recovery. The report shall also be sent to the department or the Department of Human Services, as applicable.

(b) Postdelivery bonding period.--Following the delivery of a newborn and subject to hospital policies, including length of stay, the department or the Department of Human Services shall permit the child to remain with the mother at the hospital for up to 72 hours unless there is a reasonable belief that the child remaining with the mother presents a health or safety risk to the child.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Postpartum." The eight-week period, or longer as determined by the health care professional responsible for the health and safety of the incarcerated individual or detainee, following childbirth.

"Substantial risk of imminent flight." A showing of real and considerable risk of escaping by the incarcerated individual.
(Dec. 14, 2023, P.L.396, No.47, eff. 180 days)

2023 Amendment. Act 47 added section 5911.

PART IV
DEPARTMENT OF CORRECTIONS

Chapter
61. Pennsylvania Board of Probation and Parole
63. County Probation Officers' Firearm Education and Training

Enactment. Part IV was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Part Heading. The heading of Part IV was amended June 30, 2021, P.L.260, No.59, effective immediately.

Special Provisions in Appendix. See sections 8 and 10 of Act 33 of 2009 in the appendix to this title for special

provisions relating to continuation of prior law and applicability.

CHAPTER 61
PENNSYLVANIA BOARD OF PROBATION AND PAROLE

Subchapter
A. Preliminary Provisions
B. Administration of the Pennsylvania Parole Board
C. Powers and Duties
D. State Parole Agents
E. Parolee Homicide Review
F. Supervision of Offenders
G. Agents

Enactment. Chapter 61 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Cross References. Chapter 61 is referred to in section 3907 of this title.

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.
6101. Definitions.
6102. Operation of parole system generally.

§ 6101. Definitions.

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

"Agent." A State parole agent appointed by the department.

"Board." The Pennsylvania Parole Board.

"Community corrections center." A residential program that is supervised and operated by the department in accordance with Chapter 50 (relating to community corrections centers and community corrections facilities).

"Community corrections facility." A residential facility operated by a private contractor that:

(1) provides housing to offenders pursuant to a contract with the department; and

(2) is operated in accordance with Chapter 50.

"Conditions of supervision." Any terms or conditions of the offender's supervision, whether imposed by the court, the department or an agent, or promulgated by the board as a regulation, including compliance with all requirements of Federal, State and local law.

"Contraband." Any item that the offender is not permitted to possess under the conditions of supervision, including any item whose possession is forbidden by any Federal, State or local law.

"Court." A court of common pleas or any judge thereof, the Philadelphia Municipal Court or any judge thereof, the Pittsburgh Magistrates Court or any judge thereof or any magisterial district judge.

"Crime of violence." The term shall have the same meaning given to it under 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses).

"Evidence-based practices." Interventions and treatment approaches that have been proven effective through appropriate empirical analysis.

"Exigent circumstances." The term includes, but is not limited to, suspicion that contraband or other evidence of violations of the conditions of supervision might be destroyed or suspicion that a weapon might be used. Exigent circumstances always exist with respect to a vehicle.

"In good standing." An offender who is on parole or reparole shall be considered in good standing if the offender:

(1) is in compliance with all conditions of supervision;

(2) has not been arrested for or charged with a crime other than one from which he has been paroled or one for which he has served the sentence imposed and otherwise complied with all the sanctions imposed other than the payment of money;

(3) is not subject to an active protection from abuse order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or an active protection from intimidation order under 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation); and

(4) is in compliance with all legal requirements applicable to the offender, including, but not limited to, maintaining registration in any applicable sex offender registry.

"Personal injury crime." The term shall have the meaning given to it under section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

"Real property." Any residence or business property of a department-supervised offender, including all portions of the property to which the department-supervised offender has access.

"Supervisor." Any individual acting in a supervisory or administrative capacity.

"Victim." The term shall have the meaning given to it under section 103 of the Crime Victims Act. The term shall also include a member of the victim's family or the victim's representative if the victim is incapable of communicating or has died.

(Dec. 18, 2019, P.L.776, No.115, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. See section 28 of Act 59 in the appendix to this title for special provisions relating to reference in law.

Cross References. Section 6101 is referred to in section 5003 of this title; sections 5702, 5729 of Title 18 (Crimes and Offenses).

§ 6102. Operation of parole system generally.

The parole system shall operate consistently with the following provisions:

(1) The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.

(2) In providing these benefits to the criminal justice system, the board, the department and any other paroling entity shall first and foremost seek to protect the safety of the public.

(3) In addition to this goal, the board, the department and any other paroling entity shall address input by crime victims, assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders, shall consider any applicable guidelines

established by the commission and shall ensure that parole proceedings, release and recommitment are administered in an efficient and timely manner.
(June 30, 2021, P.L.260, No.59, eff. imd.)

SUBCHAPTER B
ADMINISTRATION OF THE PENNSYLVANIA PAROLE BOARD

Sec.
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Subchapter Heading. The heading of Subchapter B was amended December 18, 2019, P.L.776, No.115, effective in 60 days.

§ 6111. Pennsylvania Parole Board.

(a) Establishment.--The Pennsylvania Parole Board is established as an independent administrative board for the purpose of granting and revoking paroles to certain offenders within this Commonwealth. The board shall function independently of the department regarding all of the board's decision-making functions, as well as any other powers and duties specified in this title.

(b) Membership.--The board shall consist of nine members who shall be appointed by the Governor, by and with the advice and consent of a majority of the members of the Senate, and each of whom shall hold office for a term of six years or until that person's successor shall have been duly appointed and qualified, but in no event more than 90 days beyond the expiration of that person's appointed term.

(c) Vacancies.--

(1) Vacancies occurring in an office of a member of the board by expiration of term, death, resignation, removal or for any other reason shall be filled in the manner provided by section 8 of Article IV of the Constitution of Pennsylvania for the remainder of the term.

(2) Whenever a board member's term expires, that member's position shall be immediately deemed a vacancy, and the Governor shall nominate a person to fill that membership position on the board within 90 days of the date of expiration, even if the member continues to remain on the board.

(d) Eligibility.--To be eligible to be appointed by the Governor for membership on the board, an individual shall have at least six years of professional experience in parole, probation, social work or related areas, including one year in a supervisory or administrative capacity, and a bachelor's

degree. Any equivalent combination of experience and training shall be acceptable.

(e) General powers.--Subject to the provisions of this chapter, the board shall have all the powers and shall perform the duties generally vested in and imposed upon independent administrative boards and commissions by the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, and shall be subject to all the provisions of that act applicable generally to independent administrative boards and commissions.

(Dec. 18, 2019, P.L.776, No.115, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsec. (a).

2019 Amendment. Act 115 amended the section heading and subsec. (a).

§ 6112. Board chairperson.

(a) Designation by Governor.--The Governor shall, from time to time, as the occasion may arise, designate one of the members of the board to be its chairperson who shall:

(1) Direct the operations, management and administration of the board and fulfill the functions established by this chapter.

(2) (Deleted by amendment).

(3) Preside at all meetings of the board.

(4) Perform all the duties and functions of chairperson, including organizing, staffing, controlling, directing and administering the work of the board.

(5) Administer the proceedings of the board to ensure efficient and timely procedures for parole board decisions, discharges and recommitments.

(b) Alternate chairperson.--The board may designate one of its members to act as alternate chairperson during the absence or incapacity of the chairperson, and, when so acting, the member so designated shall have and perform all the powers and duties of chairperson of the board but shall not receive any additional compensation for acting as chairperson.

(June 30, 2021, P.L.260, No.59, eff. imd.)

Special Provisions in Appendix. See section 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to applicability.

§ 6113. Board action.

(a) Quorum.--

(1) A majority of the board shall constitute a quorum for transacting business and, except as otherwise provided in this chapter and Chapter 45 (relating to recidivism risk reduction incentive), a majority vote of those present at any meeting shall be sufficient for any official action taken by the board. One or more members of the board may attend and participate in any meeting via videoconferencing or similar virtual presence technology.

(2) Except as provided in subsections (b), (c), (d) and (e), Chapter 45 and section 6137.1 (relating to short sentence parole), no person shall be paroled or discharged from parole or have his parole revoked, except by a majority of the entire membership of the board.

(b) Panel decisions.--The board may make decisions on parole, reparole, return or revocation in panels of two persons. A panel shall consist of one board member and one hearing examiner or of two board members. Panels shall be appointed by the chairperson or the chairperson's designee. A panel may act

without meeting. A panel may meet and take action via videoconferencing or similar virtual presence technology, with the exception of in-person testimony under section 502 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(c) Disagreement within panel.--

(1) If there is disagreement on a decision to parole between the members of a panel, the matter shall be decided by a board member appointed by the chairperson or the chairperson's designee, who shall concur with one of the original panel members.

(2) If there is disagreement on a revocation decision between the members of the panel, the matter shall be decided by three board members appointed by the chairperson or the chairperson's designee; at least two of these members must not have been on the disagreeing panel, if practicable.

(d) Appeal.--

(1) An interested party may appeal a revocation decision within 30 days of the board's order. The decision shall be reviewed by three board members appointed by the chairperson or the chairperson's designee.

(2) If practicable, at least two of the board members reviewing the decision must not have been on the panel whose decision is being appealed. The three board members deciding the appeal may affirm, reverse or remand the decision of the panel or may order the matter be heard de novo.

(e) Decision without review.--Subject to the provisions of section 6137(g) (relating to parole power), the board or its designee may issue a decision to parole an eligible offender as defined under section 4503 (relating to definitions) without further review by the board.

(f) Decision accountability.--The board shall develop, adopt and periodically update as deemed necessary, a parole decisional instrument that is tested prior to implementation, which incorporates evidence-based practices to assist and inform the board's professional judgment in the parole decision-making process.

(Oct. 27, 2010, P.L.931, No.95, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 6114. Salaries of board members.

The Executive Board shall determine the salaries to be paid to the members of the board.

§ 6115. Incompatible offices and removal.

(a) General rule.--The members of the board shall not hold any other public office or employment nor engage in any business, profession or employment during their terms of service as members thereof and shall hold their offices during the terms for which they shall have been appointed.

(b) Procedure for removal.--

(1) A member of the board may be removed for cause by the Governor, by and with the advice and consent of two-thirds of the members of the Senate.

(2) During a recess of the Senate, the Governor may suspend a member of the board for cause, and before suspension, the Governor shall furnish to the member a statement in writing of the reasons for the proposed suspension of the member. The suspension shall operate and be effective only until the adjournment of the next session of the Senate following the suspension.

§ 6116. Meetings.

(a) General rule.--As soon as may be convenient after their appointment, the members of the board shall meet and organize.

(b) Appointment of secretary of board.--The members of the board shall appoint a secretary, who shall:

(1) Not be a member of the board.

(2) Hold office at the pleasure of the board.

(3) Maintain a record of the proceedings of the board and perform such duties not inconsistent with any law of this Commonwealth as the board shall prescribe.

(4) Receive such compensation as the board shall determine in conformity with the rules of the Executive Board.

(c) Temporary secretary of board.--In the absence or incapacity of the secretary to act, the board may designate such other person as it may choose to perform temporarily the duties of the secretary of the board.

(d) Counsel.--Legal counsel for the board shall be appointed in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(e) Hearing examiners.--The board may appoint a sufficient number of individuals to conduct hearings as required or authorized by this title.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 6117. Official seal.

The board shall adopt an official seal by which its acts and proceedings shall be authenticated and of which the courts shall take judicial notice. The certificate of the chairperson of the board, under the seal of the board and attested by the secretary, shall be accepted in evidence in any judicial proceeding in any court of this Commonwealth as adequate and sufficient proof of the acts and proceedings of the board referenced in the certificate.

§ 6118. Offices.

The department shall provide offices for the board. The board shall appoint and employ such number and character of officers, agents, clerks, stenographers and employees as may be necessary to carry out the purposes of this chapter. The salaries of persons so appointed and employed by the board shall be fixed by the board.

(a) Principal office.--(Deleted by amendment).

(b) District offices.--(Deleted by amendment).

(c) Location of district offices.--(Deleted by amendment).

(d) Consideration for fixing compensation.--(Deleted by amendment).

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 6119. District directors (Repealed).

2021 Repeal. Section 6119 was repealed June 30, 2021, P.L.260, No.59, effective immediately.

§ 6120. District office employees (Repealed).

2021 Repeal. Section 6120 was repealed June 30, 2021, P.L.260, No.59, effective immediately.

§ 6121. Disciplinary action (Repealed).

2021 Repeal. Section 6121 was repealed June 30, 2021, P.L.260, No.59, effective immediately.

§ 6122. Political activities.

(a) General rule.--No member of the board, or officer, clerk or employee thereof, or any person officially connected with the board:

(1) Shall take any active part in politics or be a member of or delegate or alternate to any political

convention or be present at such convention, except in the performance of that person's official duties under this chapter.

(2) Shall serve as a member of or attend the meetings of any committee of any political party, or take any part in political management or political campaigns, or use that person's office to influence political movements, or to influence the action of any other officer, clerk or employee of the board.

(3) Shall in any way or manner interfere with or participate in the conduct of any election or the preparation therefore at the polling place, or with the election officers while counting the votes or returning the ballot boxes, books, papers, election paraphernalia and machinery to the place provided by law, or be within any polling place, except for the purpose of voting as speedily as it reasonably can be done, or be otherwise within 50 feet of any polling place, except for purposes of ordinary travel or residence during the period of time beginning with one hour preceding the opening of the polls for holding the election and ending with the time when the election officers shall have finished counting the votes and have left the polling place.

(4) Shall directly or indirectly make or give, demand or solicit or be in any manner concerned in making, giving, demanding, soliciting or receiving any assessments, subscriptions or contributions, whether voluntary or involuntary, to any political party or for any political purpose whatsoever.

(b) Penalty.--Any person who violates any of the provisions of this section:

(1) Commits a misdemeanor of the third degree, and, upon conviction thereof, shall be punished by a fine not exceeding $500 or imprisonment not exceeding one year, or both.

(2) Shall forfeit that person's office or employment, as the case may be.

(3) Shall not thereafter be appointed or employed by the board in any position or capacity whatsoever.

(c) Dismissal required.--The board shall dismiss any officer, clerk or employee thereof who shall violate this section from that person's office or employment.

§ 6123. Advisory committee (Repealed).

2019 Repeal. Section 6123 was repealed November 27, 2019, P.L.667, No.92, effective in 60 days.

§ 6124. Certain offenders residing in group-based homes (Repealed).

2021 Repeal. Section 6124 was repealed June 30, 2021, P.L.260, No.59, effective immediately.

SUBCHAPTER C
POWERS AND DUTIES

Sec.

6131. General powers of board.
6132. Specific powers of board involving offenders.
6133. Probation services (Repealed).
6134. Sentencing court recommendation.
6134.1. General criteria for parole by court.
6135. Investigation of circumstances of offense.

6136. Right of access to offenders.
6137. Parole power.
6137.1. Short sentence parole.
6137.2. Reentry supervision.
6138. Violation of terms of parole.
6139. Parole procedure.
6140. Victim statements, testimony and participation in hearing.
6141. General rules and special regulations.
6142. Investigations for the Board of Pardons.
6143. Early parole of offenders subject to Federal removal order.

§ 6131. General powers of board.

(a) General rule.--The board shall have the power and its duty shall be:

(1) (Deleted by amendment).

(2) To collect and maintain copies of all presentence investigations and reports.

(3) (Deleted by amendment).

(4) (Deleted by amendment).

(5) (Deleted by amendment).

(6) (Deleted by amendment).

(7) (Deleted by amendment).

(8) (Deleted by amendment).

(9) (Deleted by amendment).

(10) (Deleted by amendment).

(11) (Deleted by amendment).

(12) To provide information as required under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties) as requested by the commission.

(13) To incorporate evidence-based practices into parole decision making.

(14) (Deleted by amendment).

(15) To conduct research to identify, to be informed of and to recommend recognized evidence-based parole practices that promote public safety and reduce recidivism.

(16) To conduct outcome and performance analyses on implemented board programs and practices to enhance public safety through reduced recidivism.

(b) Court-appointed probation officers to submit information to department.--A court that appoints a probation officer shall require the probation officer to submit to the department such information as the department may require on forms prescribed and furnished by the department.

(c) Access to county records.--The department and the board shall have free and ready access to all probation and parole records of any county.

(d) Definitions.--(Deleted by amendment).

(Oct. 27, 2010, P.L.931, No.95, eff. imd.; Dec. 18, 2019, P.L.776, No.115, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 6132. Specific powers of board involving offenders.

(a) General rule.--The board shall have exclusive power:

(1) (i) To parole and reparole, commit and recommit for violations of parole and to discharge from parole all persons sentenced by any court at any time to imprisonment in a State correctional institution pursuant to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement).

(ii) This paragraph applies to inmates sentenced to definite or flat sentences.

(2) (i) (Deleted by amendment).

(ii) Except for such special cases, the powers and duties conferred by this section shall not extend to persons sentenced for a maximum period of less than two years and shall not extend to those persons committed to county confinement within the jurisdiction of the court pursuant to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement).

(3) To establish special conditions of supervision for paroled offenders. Conditions of supervision must be based on the risk presented by and the rehabilitative needs of the offender. Conditions may be modified pursuant to section 6171 (relating to powers and duties of department) or if the board or its designee consents to such modification.

(4) To promulgate regulations establishing general conditions of supervision applicable to every paroled offender.

(b) Construction.--Nothing contained in this section shall be construed to prevent a court from paroling any person sentenced by it for a maximum period of less than two years and housed in a county correctional facility or from paroling an offender committed to county confinement pursuant to 42 Pa.C.S. § 9762.

(c) Definition.--As used in this section, "period of two years" means the entire continuous term of sentence to which a person is subject, whether for one or more sentences, either to simple imprisonment or to an indeterminate imprisonment as authorized by law to be imposed for criminal offenses.
(July 5, 2012, P.L.1050, No.122, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended the section heading and subsecs. (a) and (b).

§ 6133. Probation services (Repealed).

2021 Repeal. Section 6133 was repealed June 30, 2021, P.L.260, No.59, effective immediately.

§ 6134. Sentencing court recommendation.

The following shall apply:

(1) A judge may make at any time a recommendation to the board respecting the offender sentenced and the term of imprisonment the judge believes that offender should be required to serve before parole is granted to that offender.

(2) A recommendation made by a judge under paragraph (1) respecting the parole or terms of parole of an offender shall be advisory only. No order in respect to the recommendation made or attempted to be made as a part of a sentence shall be binding upon the board or the department in performing the duties and functions conferred on it by this chapter.

(a) Duty to transmit.--(Deleted by amendment).

(b) Recommendations from judge.--(Deleted by amendment).
(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 6134.1. General criteria for parole by court.

(a) Guidelines.--The court may parole or reparole subject to consideration of guidelines established under 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole).

(b) Report of decision to commission.--If a court paroles or reparoles an offender, the court shall report the parole or reparole decision and shall provide a contemporaneous written statement for any deviation from the guidelines established under 42 Pa.C.S. § 2154.5, to the commission under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties).

(c) Procedure.--

(1) Prior to making a decision to parole an offender committed to county confinement within the jurisdiction of the court pursuant to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement) from a sentence of imprisonment imposed following conviction for a personal injury crime, each victim who has registered to receive victim services in connection with the personal injury crime shall be given an opportunity by the court to submit a preparole statement to the court expressing concerns or recommendations regarding the parole or parole supervision of the offender.

(2) The district attorney shall, immediately following sentence in cases where a sentence of confinement has been imposed and the sentenced offender remains within the jurisdiction of the court pursuant to 42 Pa.C.S. § 9762, notify all registered victims that they shall have the opportunity to submit a preparole statement to the court.

(3) Victims shall notify the court of their intention to submit a preparole statement and shall provide and keep current an appropriate mailing address.

(4) Preparole statements submitted pursuant to this subsection shall be subject to the confidentiality provisions contained in section 6140 (relating to victim statements, testimony and participation in hearing) applicable to preparole statements submitted to the board and shall be considered by the court prior to any parole decision, and each victim submitting a preparole statement shall be given notice of the court's parole decision.

(d) Definitions.--(Deleted by amendment).

(July 5, 2012, P.L.1050, No.122, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

§ 6135. Investigation of circumstances of offense.

(a) Duty to investigate.--The board, on the commitment to a correctional facility of any person whom the board is given the power to parole under this chapter, shall consider:

(1) The nature and circumstances of the offense committed.

(2) Any recommendations made by the trial judge and prosecuting attorney.

(3) The general character and background of the inmate.

(4) Participation by an inmate sentenced after February 19, 1999, and who is serving a sentence for a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses) in a victim impact education program offered by the Department of Corrections.

(5) The written or personal statement of the testimony of the victim or the victim's family submitted under section 6140 (relating to victim statements, testimony and participation in hearing).

(6) The notes of testimony of the sentencing hearing, if any, together with such additional information regarding the nature and circumstances of the offense committed for which sentence was imposed as may be available.

(7) The conduct of the person while in prison and his physical, mental and behavioral condition and history, his history of family violence and his complete criminal record.

(b) Cooperation of public officials.--A public official who possesses such records or information shall furnish the records or information to the board upon its request and without charge so far as may be practicable while the case is recent.

Cross References. Section 6135 is referred to in sections 6137.1, 6142, 6175 of this title.

§ 6136. Right of access to offenders.

All prison officials shall:

(1) At all reasonable times grant access to any offender whom the board has power to parole to the members of the board or its properly accredited representatives.

(2) At all reasonable times provide for the board or its properly accredited representative facilities for communicating with and observing an offender while imprisoned. Such facilities may, at the discretion of the prison officials, be provided via videoconferencing or similar virtual presence technology.

(3) Furnish to the board, no fewer than 90 days prior to a scheduled parole interview or if an interview is scheduled to be held within less than 90 days, as quickly as possible after such public officials are informed of such interview, reports concerning the conduct of offenders in their custody together with any other facts deemed pertinent in aiding the board to determine whether such offenders shall be paroled.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 6137. Parole power.

(a) General criteria for parole.--

(1) The board may parole subject to consideration of guidelines established under 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole) or subject to section 6137.1 (relating to short sentence parole) and such information developed by or furnished to the board under section 6174 (relating to right of access to offenders), or both, and may release on parole any offender to whom the power to parole is granted to the board by this chapter, except an offender condemned to death or serving life imprisonment, whenever in its opinion:

(i) The best interests of the offender justify or require that the offender be paroled.

(ii) It does not appear that the interests of the Commonwealth will be injured by the offender's parole.

(2) Parole shall be subject in every instance to the Commonwealth's right to immediately retake and hold in custody without further proceedings any offender charged after his parole with an additional offense until a determination can be made whether to continue his parole status.

(3) The power to parole granted under this section to the board may not be exercised in the board's discretion at any time before, but only after, the expiration of the minimum term of imprisonment fixed by the court in its sentence or by the Board of Pardons in a sentence which has been reduced by commutation.

(3.1) (i) Following the expiration of the offender's minimum term of imprisonment, if the primary reason for not paroling the offender is the offender's inability to access and complete prescribed programming within the correctional institution, the board may release the offender on parole with the condition that the offender complete the prescribed programming while on parole.

(ii) This paragraph shall not apply to offenders who are currently serving a term of imprisonment for a crime of violence as defined in 42 Pa.C.S. § 9714 (relating to sentences for second and subsequent

offenses) or for a crime requiring registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

(iii) For those offenders to whom subparagraph (ii) is applicable, the board may release the offender on parole if the offender is subject to another jurisdiction's detainer, warrant or equivalent writ.

(4) Unless the offender has served at least one year in a community corrections center or community corrections facility, the board shall not act upon an application of an offender who is granted clemency by the Governor, is subject to parole supervision and:

(i) whose term of imprisonment was commuted from life to life on parole;

(ii) who was serving a term of imprisonment for a crime of violence; or

(iii) who is serving a sentence under 42 Pa.C.S. § 9712 (relating to sentences for offenses committed with firearms).

(5) Upon parole, an offender subject to paragraph (4) shall:

(i) be subject to weekly supervision for the first six months of parole; and

(ii) have any violations of a condition of parole immediately made known to the Board of Pardons. This subparagraph shall apply to all offenders under supervision by other jurisdictions under Subchapter B of Chapter 71 (relating to interstate compact for the supervision of adult offenders).

(b) Cases involving deviations from guidelines.--In each case in which the board deviates from the guidelines established under 42 Pa.C.S. § 2154.5, the board shall provide a contemporaneous written statement of the reason for the deviation from the guidelines to the commission as established under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties). The board may develop and use internal decisional instruments. This subsection shall not be construed to prevent the board from also developing forms or other documents, policies and procedures consistent with this chapter, including internal decisional instruments.

(c) Administrative parole.--(Deleted by amendment).

(d) Recidivism risk reduction incentive minimum.--The board shall have the power and its duty shall be to comply with the requirements of section 4506 (relating to recidivism risk reduction incentive minimum).

(d.1) Short sentence parole.--The board shall have the power and its duty shall be to comply with the requirements of section 6137.1 (relating to short sentence parole).

(e) Drug screening tests.--

(1) The department may not release an offender on parole unless the offender achieves a negative result within 45 days prior to the date of release in a screening test approved by the Department of Health for the detection of the presence of controlled substances or designer drugs under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(2) (Deleted by amendment).

(3) Every offender who is released on parole who, prior to release, tested positive for the presence of a controlled substance or a designer drug or who was paroled from a sentence arising from a conviction under The Controlled Substance, Drug, Device and Cosmetic Act or from a

drug-related crime, shall, without further action of the board, be subject to an ongoing condition that the offender achieve negative results in drug screening tests randomly applied.

(i) (Deleted by amendment).

(ii) (Deleted by amendment).

(iii) (Deleted by amendment).

(4) For an offender who was not paroled from a sentence arising from a conviction under The Controlled Substance, Drug, Device and Cosmetic Act or from a drug-related crime, the board may establish, as a condition of supervision, that the offender achieve negative results in drug screening tests randomly conducted. The offender shall be responsible for testing costs.

(f) Crimes of violence.--The board may not order the release of an offender on parole who is sentenced after February 19, 1999, and is serving a sentence for a crime of violence unless the offender has received instruction from the department on the impact of crime on victims and the community.

(g) Procedures for Recidivism Risk Reduction Incentive.--

(1) The department shall identify all offenders committed to the custody of the department that meet the definition of an eligible offender.

(2) Upon identification of an inmate as an eligible offender, as defined under section 4503 (relating to definitions), the department shall send notice to the board. The board shall send notice to the prosecuting attorney and the court no less than six months before the expiration of the offender's minimum sentence indicating that the department has preliminarily identified the offender as an eligible offender. The notice shall be sent by United States mail unless the board, the court and the prosecutor have consented to receipt of notice via electronic means. For offenders committed to the department whose expiration of the minimum sentence is six months or less from the date of admission, the department shall give prompt notice.

(2.1) The department shall provide the board all information related to the offender's adjustment while incarcerated, misconducts, if any, information related to programming and treatment, including success, completion or failure to complete, or any other information the department deems relevant. The board shall send such information to the prosecuting attorney and to the court no less than six months before the expiration of the offender's minimum sentence. The notice may be sent electronically. For offenders committed to the department whose expiration of the minimum sentence is six months or less from the date of admission, such information shall be sent at the same time prompt notice under paragraph (2) is given.

(3) Within 30 days of receipt of notice under paragraph (2), the court or prosecuting attorney may file with the board a written objection to the department's preliminary identification of the offender as an eligible offender. Notice of the objection shall be provided to the department and the board.

(4) If no notice of objection has been filed under paragraph (3), the eligible offender shall be paroled at the minimum date upon a determination by the board or the board's designee that all of the following apply:

(i) The department certified that the offender has maintained a good conduct record and continues to remain an eligible offender under section 4503.

(ii) The reentry plan for the offender is adequate.

(iii) Individual conditions and requirements for parole have been established for the offender.

(iv) There is no reasonable indication that the offender poses a risk to public safety.

(5) If the court or prosecuting attorney files a timely objection under paragraph (3), the board shall make a determination as to whether the offender is an eligible offender. The board shall notify the department, prosecuting attorney and court of its determination no later than 30 days prior to the minimum parole date. If the board determines that the offender is an eligible offender under this chapter, the board shall follow the provisions under paragraph (4). If the board determines that the offender is not an eligible offender under section 4503 (relating to definitions), the board shall retain exclusive jurisdiction to grant parole and shall determine whether the offender should be paroled at the minimum date, paroled at a later date or denied parole.

(6) Nothing in this subsection shall be construed as granting a right to be paroled to any person, and any decision by the board and its designees or the department, under this section shall not be considered an adjudication under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(7) Except as provided under this subsection, nothing in this chapter shall otherwise affect the powers and duties of the board or the department.

(h) Power to recommit.--

(1) The board may, during the period for which an offender shall have been sentenced, recommit the offender, if paroled, for violation of the terms and conditions of his parole and from time to time to reparole and recommit in the same manner and with the same procedure as in the case of an original parol or recommitment if, in the judgment of the board:

(i) There is a reasonable probability that the offender will be benefited by paroling the offender again.

(ii) It does not appear that the interests of the Commonwealth will be injured by paroling the offender again.

(2) In exercising these powers, the board shall consider any applicable recommitment ranges established by the commission under 42 Pa.C.S. § 2154.6 (relating to adoption of recommitment ranges following revocation of parole by board).

(i) Cases involving deviations from guidelines.--In each case in which the board deviates from the recommitment ranges established under 42 Pa.C.S. § 2154.6, the board shall provide a contemporaneous written statement of the reason for the deviation from the recommitment ranges to the commission, as established under 42 Pa.C.S. § 2153(a)(14).

(j) Notice to county probation department.--When the board releases an offender from a correctional facility, the board shall provide written notice to the probation department located in the county where the sentencing order was imposed of the release and new address of the offender.

(k) Definitions.--(Deleted by amendment).

(Oct. 27, 2010, P.L.931, No.95, eff. imd.; Dec. 20, 2011, P.L.446, No.111, eff. one year; July 5, 2012, P.L.1050, No.122,

eff. July 1, 2013; Dec. 18, 2019, P.L.776, No.115; June 30, 2021, P.L.260, No.59, eff. imd.)

Cross References. Section 6137 is referred to in sections 4506, 6113, 6137.1 of this title.

§ 6137.1. Short sentence parole.

(a) General rule.--This section applies to persons committed to the department with an aggregate minimum sentence of confinement under 42 Pa.C.S. § 9756(b) (relating to sentence of total confinement) of two years or less or a recidivism risk reduction incentive minimum sentence under 42 Pa.C.S. § 9756(b.1) of two years or less, whichever is shorter. Regardless of sentence imposed, this section does not apply to:

(1) persons committed for or with an aggregate sentence containing a personal injury crime, or any criminal attempt, criminal solicitation or criminal conspiracy to commit a personal injury crime as defined in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act;

(1.1) persons committed for or with an aggregate sentence containing a crime of violence, or any criminal attempt, criminal solicitation or criminal conspiracy to commit a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second or subsequent offenses);

(2) persons committed for or with an aggregate sentence containing an offense under 18 Pa.C.S. Ch. 61 (relating to firearms and other dangerous articles) or a criminal attempt, criminal solicitation or criminal conspiracy to commit the offense;

(3) persons committed for or with an aggregate sentence containing an enhancement for the use of a deadly weapon as defined under law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing or where the attorney for the Commonwealth has demonstrated that the defendant has been found guilty of or was convicted of an offense involving a deadly weapon or a criminal attempt, criminal solicitation or criminal conspiracy to commit the offense or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation;

(4) persons committed for or with an aggregate sentence containing a violation of any of the following provisions or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, including a criminal attempt, criminal solicitation or criminal conspiracy to commit the offense:

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

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

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

A criminal sentence pursuant to 42 Pa.C.S. § 9712.1 (relating to sentences for certain drug offenses committed with firearms).

An offense listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

An offense listed under 42 Pa.C.S. Ch. 97 Subch. I (relating to continued registration of sexual offenders).

(5) persons committed for or with an aggregate sentence containing an offense of drug trafficking as defined in section 4103 (relating to definitions) or a criminal attempt,

criminal solicitation or criminal conspiracy to commit drug trafficking as defined in section 4103;

(6) persons awaiting trial or sentencing for additional criminal charges, if a conviction or sentence on the additional charges would cause the person to become ineligible under this subsection;

(7) persons who are currently serving a sentence to State prison and have been denied parole on that sentence;

(8) persons convicted of any criminal offense committed while incarcerated; or

(9) any person who the board, in its discretion, determines should be excluded from this section because:

(i) there exists an identifiable threat to public safety; or

(ii) inclusion substantially jeopardizes the rehabilitative needs of the person.

(b) Approval of parole.--The board shall, without requiring an interview, approve for parole a person eligible for short sentence parole under this section at the expiration of the person's minimum date or recidivism risk reduction incentive minimum date, whichever is shorter. If the person was committed to the department after expiration of the person's minimum date, the board shall approve the person for parole within 30 days after commitment to the department.

(b.1) Misconduct.--Notwithstanding subsection (b), a person shall not be eligible for short sentence parole under this section if the person has:

(1) been found guilty of a major disciplinary infraction while confined in a county correctional institution or State correctional institution; or

(2) a pending felony charge or outstanding felony arrest warrant or detainer, except that this section may be applied to allow a person to be paroled to a detainer related to an underlying felony charge.

(c) Nonapplicability.--The requirements of sections 6135 (relating to investigation of circumstances of offense), 6137(a)(3.1), (e)(1), (f) and (g) (relating to parole power) and 6139 (relating to parole procedure) and section 1101(e) of the Crime Victims Act do not apply to paroles under this section.

(d) Assessment.--The department shall provide a risk-and-needs assessment to the board, and the board shall establish initial conditions of parole based on the assessment.

(e) Applicability.--This section shall only apply to persons sentenced after the effective date of this section.

(f) Reports.--The Pennsylvania Commission on Sentencing shall provide a report to the General Assembly on cost savings and recidivism attributed to this section as follows:

(1) No later than two years after the effective date of this section.

(2) No later than two years after the report issued under paragraph (1).

(g) Procedures.--The board shall adopt procedures to carry out this section.

(h) Definition.--As used in this section, the term "major disciplinary infraction" means the violation:

(1) was sexual in nature;

(2) involved assaultive behavior or included a credible threat to cause bodily injury to another;

(3) involved possession or control of a weapon; or

(4) involved escape or possessing implements of escape.

(Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 added section 6137.1. Section 26 of Act 115 provided that the addition of section 6137.1 shall not be interpreted to create a right to parole or a liberty interest. The Commonwealth and its agencies shall not be subject to suit for failure to grant parole under section 6137.1.

Cross References. Section 6137.1 is referred to in sections 4105, 6113, 6137, 6139 of this title; section 2153 of Title 42 (Judiciary and Judicial Procedure).

§ 6137.2. Reentry supervision.

(a) General rule.--This section applies to persons committed to the department with an aggregate minimum sentence of total confinement under 42 Pa.C.S. § 9756(b) (relating to sentence of total confinement) of 4 years or more. Regardless of the sentence imposed, this section does not apply to persons sentenced to death, life imprisonment, persons otherwise ineligible for parole or persons subject to 42 Pa.C.S. § 9718.5 (relating to mandatory period of probation for certain sexual offenders).

(b) Reentry supervision.--Any person under subsection (a) shall be sentenced to a period of reentry supervision of 12 months consecutive to and in addition to any other lawful sentence issued by the court.

(c) Parole granted.--Persons who have been granted any period of parole by the parole board during the same period of incarceration shall be deemed to have served the requirements of this section.

(d) Supervision.--A person released to reentry supervision shall be considered to be released on parole.

(e) Imposition.--The court shall impose reentry supervision in addition to the maximum sentence permitted for the offense for which the defendant was convicted.

(f) Applicability.--This section shall only apply to persons sentenced after the effective date of this section.

(Dec. 18, 2019, P.L.776, No.115, eff. imd.)

2019 Amendment. Act 115 added section 6137.2.

§ 6138. Violation of terms of parole.

(a) Convicted violators.--

(1) The board may, at its discretion, revoke the parole of a paroled offender if the offender, during the period of parole or while delinquent on parole, commits a crime punishable by imprisonment, for which the offender is convicted or found guilty by a judge or jury or to which the offender pleads guilty or nolo contendere at any time thereafter in a court of record.

(1.1) In addition to paragraph (1), a parolee under the jurisdiction of the board released from a correctional facility who, during the period of parole or while delinquent on parole, commits a crime punishable by imprisonment for which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere or of any misdemeanor of the third degree or of any of the following offenses where graded as a summary offense, may at the discretion of the board be recommitted as a parole violator:

(i) Possession of a firearm in a court facility under 18 Pa.C.S. § 913(b)(3) (relating to possession of firearm or other dangerous weapon in court facility).

(ii) Harassment under 18 Pa.C.S. § 2709 (relating to harassment).

(iii) Retail theft under 18 Pa.C.S. § 3929 (relating to retail theft).

(iv) Disorderly conduct under 18 Pa.C.S. § 5503 (relating to disorderly conduct).

(v) Public drunkenness under 18 Pa.C.S. § 5505 (relating to public drunkenness and similar misconduct).

(vi) Cruelty to animals under 18 Pa.C.S. § 5533 (relating to cruelty to animal).

(vii) Aiding or abetting a minor to commit truancy under 18 Pa.C.S. § 6301 (relating to corruption of minors).

(viii) Selling or furnishing nonalcoholic beverages to minors under 18 Pa.C.S. § 6310.7 (relating to selling or furnishing nonalcoholic beverages to persons under 21 years of age).

(2) If the offender's parole is revoked, the offender shall be recommitted to serve the remainder of the term which the offender would have been compelled to serve had the parole not been granted and, except as provided under paragraph (2.1), shall be given no credit for the time at liberty on parole.

(2.1) The board may, in its discretion, award credit to an offender recommitted under paragraph (2) for the time spent at liberty on parole, unless any of the following apply:

(i) The crime committed during the period of parole or while delinquent on parole is a crime of violence or a crime listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders).

(ii) The offender was recommitted under section 6143 (relating to early parole of offenders subject to Federal removal order).

(2.2) Credit awarded under paragraph (2.1) is subject to forfeiture under this section if an offender is subsequently recommitted as a convicted parole violator.

(2.3) A parolee is at liberty on parole when the parolee is residing at a community corrections center, community corrections facility or group-based home for purposes of this section. This paragraph does not apply to parolees detained on the board's warrant or recommitted as a technical parole violator to a community corrections center or community corrections facility.

(3) The board may, in its discretion, reparole whenever, in its opinion, the best interests of the offender justify or require the offender's release on parole and it does not appear that the interests of the Commonwealth will be injured thereby.

(4) The period for which the offender is required to serve shall be computed by the board and shall begin on the date that the parole violator is taken into custody to be returned to the institution as an offender.

(5) If a new sentence is imposed on the offender, the service of the balance of the term originally imposed by a Pennsylvania court shall precede the commencement of the new term imposed in the following cases:

(i) If a person is paroled from a State correctional institution and the new sentence imposed on the person is to be served in the State correctional institution.

(ii) If a person is paroled from a county prison and the new sentence imposed upon him is to be served in the same county prison.

(iii) In all other cases, the service of the new term for the latter crime shall precede commencement of the balance of the term originally imposed.

(5.1) If the offender is sentenced to serve a new term of total confinement by a Federal court or by a court of another jurisdiction because of a verdict or plea under paragraph (1), the offender shall serve the balance of the original term before serving the new term.

(6) Any offender upon recommitment to a correctional facility shall be sent to the institution designated by the secretary or a designee.

(i) (Deleted by amendment).

(ii) (Deleted by amendment).

(b) Subsequent arrest.--

(1) The formal filing of a charge after parole against an offender within this Commonwealth for any violation of the laws of this Commonwealth shall constitute an automatic detainer and permit the offender to be taken into and held in custody.

(2) The automatic detainer shall dissolve 15 days after the offender is taken into custody unless sooner waived or otherwise superseded by direction of the department or its designee.

(3) The automatic detainer shall be in addition to and not in lieu of any other detainer that prior to the effective date of this chapter may have been lodged in such circumstances.

(c) Technical violators.--

(1) Subject to paragraph (1.3), an offender under the jurisdiction of the board who violates the terms and conditions of his parole, other than a convicted violator who has parole revoked under subsection (a), may be detained pending a hearing before the board or waiver of the hearing or recommitted after a hearing before the board or a waiver of the hearing. Detention and recommitment under this paragraph shall be in a community corrections center, community corrections facility or any secured facility operated or contracted by the department.

(i) (Deleted by amendment).

(ii) (Deleted by amendment).

(iii) (Deleted by amendment).

(iv) (Deleted by amendment).

(v) (Deleted by amendment).

(1.1) (Deleted by amendment).

(1.2) Notwithstanding paragraph (1) and subject to paragraph (1.3), an offender under the jurisdiction of the board who violates the terms and conditions of his parole, other than a convicted parole violator who has parole revoked under subsection (a), may be arrested and detained without revocation of parole under a program to impose swift, predictable and brief sanctions. The program shall provide for immediate detention in a community corrections center, community corrections facility or any secured facility operated or contracted by the department for a period not to exceed seven days. The board shall adopt procedures governing appropriate detention under this paragraph, including identifying which offenders are eligible for the program and providing warnings to offenders to clearly communicate expectations and consequences.

(1.3) If the board determines that one of the following conditions is present regarding an offender who violates the terms and conditions of parole, the offender shall not be

eligible for detention under paragraph (1.2) and shall be detained in or recommitted to a State correctional institution or contracted county jail:

(i) The violation was sexual in nature.

(ii) The violation involved assaultive behavior or included a credible threat to cause bodily injury to another.

(iii) The violation involved possession or control of a weapon.

(iv) The offender has absconded and the offender cannot be safely diverted to a community corrections center, community corrections facility or any secured facility operated or contracted by the department.

(v) There exists an identifiable threat to public safety, and the offender cannot be safely diverted to a community corrections center, community corrections facility or any secured facility operated or contracted by the department.

(vi) The violation involved an intentional and unexcused failure to adhere to recommended programming or conditions on more than three occasions, and the offender cannot be safely diverted to a community corrections center, community corrections facility or any secured facility operated or contracted by the department.

(1.4) Every offender's placement in a community corrections center, community corrections facility or parole violator center shall be subject to a condition that the offender comply with the rules of conduct applicable to the place where the offender is housed. The department may, at its discretion, place an offender accused of violating the rules of conduct in a State correctional institution or contracted county jail, pending an investigation or disciplinary hearing, or serve a disciplinary sanction under the department's procedures, or both.

(2) If the offender is recommitted under this subsection, the offender shall be given credit for the time served on parole in good standing but with no credit for delinquent time and may be reentered to serve the remainder of the original sentence or sentences. Credit awarded to a technical parole violator for time served on parole in good standing is subject to forfeiture if the offender is subsequently recommitted as a convicted parole violator.

(3) The remainder shall be computed by the board from the time the offender's delinquent conduct occurred for the unexpired period of the maximum sentence imposed by the court without credit for the period the offender was delinquent on parole. The offender shall serve the remainder so computed from the date the offender is taken into custody by the department's agent.

(4) Subject to subsection (e), the offender shall be subject to reparole by the board whenever in its opinion the best interests of the offender justify or require the offender being reparoled and it does not appear that the interests of the Commonwealth will be injured reparoling the offender.

(5) Parole violators shall be supervised in accordance with evidence-based practices that may include:

(i) Consideration of whether the offender poses a risk of safety to the community or himself.

(ii) The department's capacity to deliver programs that address criminal thinking behavior and related crime-producing factors.

(iii) Use of community-based sanctioning alternatives to incarceration.

(iv) Use of a graduated violation sanctioning process.

(v) Recommitment to:

(A) a State correctional institution;

(B) a contracted county jail;

(C) a community corrections center;

(D) a community corrections facility; or

(E) a parole violator center.

(6) (Deleted by amendment).

(7) (Deleted by amendment).

(8) An offender released from a county correctional facility by a parole order issued by a sentencing court, but supervised by the department, who violates the conditions of parole other than by the commission of a new crime of which the offender is convicted or found guilty by a judge or jury or to which the offender pleads guilty or nolo contendere in a court of record may be detained pending a hearing before the sentencing court or a waiver of the hearing. Detention and recommitment under this paragraph shall be to the county correctional facility from which the offender was released.

(d) Recommitment to correctional facility.--A technical parole violator recommitted to a State correctional institution or a contracted county jail under subsection (c) shall be recommitted as follows:

(1) If paroled from a county prison, to the same institution or to any other institution to which the offender may be legally transferred.

(2) If paroled from a State correctional institution, to any State correctional institution, parole violator center or contracted county jail designated by the department.

(3) Except as set forth in paragraph (4) or (5), the offender shall be recommitted for one of the following periods, at which time the offender shall automatically be reparoled without further action by the board:

(i) For the first recommitment under this subsection, a maximum period of six months.

(ii) For the second recommitment under this subsection for the same sentence, a maximum of nine months.

(iii) For the third or subsequent recommitment under this subsection for the same sentence, a maximum of one year.

(4) The offender may be reparoled by the board prior to expiration of the time period under paragraph (3) if the board determines that it is in the best interest of the Commonwealth and the offender.

(5) The time limit under paragraph (3) shall not be applicable to an offender who:

(i) committed a disciplinary infraction involving assaultive behavior, sexual assault, a weapon or controlled substances;

(ii) spent more than 90 days in segregated housing due to one or more disciplinary infractions; or

(iii) refused programming or a work assignment.

(e) Recommitment to community corrections center, community corrections facility or parole violator center.--

(1) A technical violator recommitted to a community corrections center, community corrections facility or parole violator center under subsection (c) shall be recommitted for a maximum period of six months, after which the offender shall automatically be reparoled without further action by the board.

(2) An offender under paragraph (1) may be reparoled by the board prior to expiration of the six-month period if the board determines that it is in the best interest of the Commonwealth and the offender.

(3) This subsection shall not apply to an offender who:

(i) commits a disciplinary infraction involving assaultive behavior, sexual assault, a weapon or controlled substances;

(ii) spends more than 61 days in segregated housing due to one or more disciplinary infractions;

(iii) refuses programming or a work assignment; or

(iv) is not in compliance with all legal requirements applicable to the offender, including, but not limited to, maintaining registration in any applicable sex offender registry.

(f) Definitions.--(Deleted by amendment).

(Oct. 27, 2010, P.L.931, No.95, eff. imd.; July 5, 2012, P.L.1050, No.122; Dec. 18, 2019, P.L.776, No.115; June 30, 2021, P.L.260, No.59, eff. imd.)

Special Provisions in Appendix. See section 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 6138 is referred to in sections 102, 5003, 6139 of this title; section 2153 of Title 42 (Judiciary and Judicial Procedure).

§ 6139. Parole procedure.

(a) Specific requirements.--

(1) The board may, subject to the provisions and limitations set forth in section 6138 (relating to violation of terms of parole), grant parole on its own motion whenever in its judgment the interests of justice require the granting of parole.

(2) The board shall consider applications for parole by an offender or the offender's attorney.

(3) Notwithstanding the provisions of paragraph (2), the board shall not be required to consider nor dispose of an application by an offender or an offender's attorney where a parole decision has been issued by the board on that case within one year of the date of the current application for parole.

(3.1) Notwithstanding paragraphs (2) and (3), the board shall not be required to consider nor to dispose of an application by an offender or an offender's attorney in the case of an offender sentenced under 18 Pa.C.S. § 1102.1 (relating to sentence of persons under the age of 18 for murder, murder of an unborn child and murder of a law enforcement officer) if a parole decision has been issued by the board within five years of the date of the current application.

(3.2) Nothing under this section shall be interpreted as granting a right to be paroled to any offender, and a decision by the board and its designees relating to an offender sentenced under 18 Pa.C.S. § 1102.1 may not be considered an adjudication under 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies)

and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(3.3) The following apply:

(i) Notwithstanding the provisions of paragraphs (2) and (3), if a parole decision has been issued by the board within three years of the date of the current application, the board shall not be required to consider nor dispose of an application by an offender or an offender's attorney in the case of an offender sentenced under any of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

Section 2502(c) (relating to murder).

Section 2503 (relating to voluntary manslaughter).

Section 2901(a.1) (relating to kidnapping).

Section 3011(b) (relating to trafficking in individuals).

Section 3012 (relating to involuntary servitude).

Section 3121 (relating to rape).

Section 3122.1(b) (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2(a.1) (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126(a)(7) (relating to indecent assault).

Section 4302(b) (relating to incest).

(ii) Nothing under this paragraph shall be interpreted as granting a right to be paroled to any person, and a decision by the board and its designees relating to a person sentenced to an offense as set forth under this paragraph may not be considered an adjudication under 2 Pa.C.S. Chs. 5 Subch. A and 7 Subch. A.

(3.4) The following apply:

(i) Notwithstanding the provisions of paragraphs (2) and (3), if a parole decision has been issued by the board within three years of the date of the current application, the board shall not be required to consider nor dispose of an application by an offender or an offender's attorney in the case of an offender designated as a sexually violent predator under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders).

(ii) Nothing under this section shall be interpreted as granting a right to be paroled to any person, and a decision by the board and its designees relating to a person designated as a sexually violent predator may not be considered an adjudication under 2 Pa.C.S. Chs. 5 Subch. A and 7 Subch. A.

(4) Hearings of applications may be held by the board whenever in its judgment hearings are necessary. Reasonable rules and regulations shall be adopted by the board for the presentation and hearing of applications for parole.

(5) Whenever an offender is paroled by the board, or whenever parole is refused by the board, a brief statement of the reasons for the board's action shall be filed of

record in the offices of the board and shall be at all reasonable times open to public inspection.

(6) In no case shall parole be granted unless a board member, hearing examiner or other person so designated by the board shall have seen and heard the offender in person in regard thereto within six months prior to the granting or dismissal thereof. Such in-person interviews may be conducted via videoconferencing or similar virtual presence technology. This requirement does not apply to paroles under section 6137.1 (relating to short sentence parole).

(7) The board shall dispose of an application within six months of its filing.

(b) Reliance on reports.--In granting and revoking paroles and in discharging from parole, the members of the board acting thereon shall not be required to personally hear or see all the witnesses and evidence submitted to them for their action, but they may act on the report submitted to them by the department's agents and employees, together with any pertinent and adequate information furnished to them by fellow members of the board or by others. In granting or revoking parole or bringing an alleged parole violator before a hearing examiner, the appearance may be conducted via videoconferencing or similar virtual presence technology. Notwithstanding any other provision of law to the contrary, a hearing examiner, hearing officer or member of the board charged with making the parole release decision shall be required to hear and see in person, without the use of videoconferencing or similar virtual presence technology, any in-person victim testimony under section 6140 (relating to victim statements, testimony and participation in hearing) or under section 502(b) of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act. Nothing in this section shall be construed to limit or reduce the rights of victims under section 6140 or under section 502(b) of the Crime Victims Act.

(c) Notice to district attorney.--At least ten days before paroling an offender on its own motion, the board shall give written notice of the contemplated parole to the district attorney of the county in which the offender was sentenced, and, in cases of hearings on applications for parole as provided for in this section, at least ten days' written notice of the time and place fixed for such hearing shall be given either by the board or by the offender or the offender's attorney, as the board shall direct, to the court and district attorney of the county in which the offender was sentenced.

(Oct. 25, 2012, P.L.1655, No.204; Dec. 18, 2019, P.L.776, No.115, eff. 120 days; Nov. 25, 2020, P.L.1219, No.124, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2020 Amendment. See section 2 of Act 124 in the appendix to this title for special provisions relating to applicability.

Cross References. Section 6139 is referred to in sections 6137.1, 6140 of this title.

§ 6140. Victim statements, testimony and participation in hearing.

(a) Duty of district attorney to provide notice.--

(1) The victim of the offense for which an offender is sentenced shall be notified by the district attorney immediately following sentencing, in cases where the defendant has been sentenced to a term of imprisonment, that the victim and family member shall have the opportunity to present a statement for the parole report to be considered

at the parole hearing or to testify to the board expressing his opinion concerning the release of the offender.

(2) The district attorney shall provide notice to a member of the immediate family of the victim if the victim:

(i) is a juvenile;

(ii) is incapable of testifying; or

(iii) died as a result of the offender's conduct.

(b) Notice of intent to submit statement.--In order to submit a statement under subsection (a), a victim and family member must notify the board through the Office of Victim Advocate of the victim's and family member's intention to do so and provide and keep current an appropriate mailing address with the Office of Victim Advocate.

(c) Contents of parole statement.--The parole statement may include discussion concerning:

(1) The continuing nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim.

(2) The extent of any loss of earnings or ability to work suffered by the victim.

(3) The continuing effect of the crime upon the victim's family.

(d) Notice to persons who previously contacted the Office of Victim Advocate.--

(1) At the time public notice is given that an offender is being considered for parole pursuant to this section, the Office of Victim Advocate shall also notify any victim or nearest relative who has previously contacted the Office of Victim Advocate of the opportunity to provide a statement for inclusion in the parole report or to present testimony for inclusion at the parole hearing.

(2) The Office of Victim Advocate shall notify the victim and family member identified under paragraph (1) at that person's last known mailing address. The notification required by this section shall be given by the Office of Victim Advocate in the case of a parole to be granted pursuant to section 6139 (relating to parole procedure) or by the court in the case of a parole to be granted pursuant to section 6172 (relating to probation services).

(e) Notice of intent to present testimony.--The victim and family member shall notify the Office of Victim Advocate which shall notify within 30 days from the date of the notice of his intent to present testimony at the parole hearing. This time period may be waived by the Office of Victim Advocate for good cause.

(f) Referral to hearing examiner.--If the victim and family member submits a written statement to the board through the Office of Victim Advocate subsequent to notice, the statement shall be made a part of the board's file on the offender, and the offender's case shall be referred to a hearing examiner designated to conduct parole release hearings.

(g) Assignment to hearing examiner.--If the victim and family member informs the board through the Office of Victim Advocate subsequent to notice being provided that they intend to testify, the chairperson shall assign the offender's case to a hearing examiner for the purpose of receiving the person's testimony.

(h) Hearing procedure.--

(1) The assigned hearing examiner shall conduct a hearing within 30 days from the date the board received notification of the intent to offer testimony.

(2) The hearing shall be conducted at a time and place and on a date determined by the chairperson or designee. Notice of the time, place and date of the hearing shall be provided by the Office of Victim Advocate to the victim and family member, in writing, and shall be provided at least ten days prior to the hearing date.

(3) The hearing shall be recorded by an electronic recording device.

(4) The hearing examiner shall prepare a written statement within a reasonable time prior to the hearing date. A copy of the statement shall be forwarded to the person offering testimony. A copy of the report shall be made a part of the board's file on the offender.

(5) Upon completion of the written statement, the offender's case shall be referred to a hearing examiner designated to conduct parole release hearings.

(6) (i) The hearing scheduled pursuant to this section shall be conducted, when possible, prior to a parole release hearing and prior to the board rendering a decision.

(ii) Nothing in this section shall be construed to preclude the board from conducting a timely parole release hearing.

(7) After submission of the statement, the board shall within a reasonable time:

(i) Evaluate the information provided.

(ii) Determine whether the decision shall be affirmed or modified.

(iii) Determine whether a rescission hearing shall be conducted.

(iv) Notify the offender in writing of its decision.

(8) Notwithstanding any other provision of law, any and all statements or testimony of the victim and family member submitted to the board or the Office of Victim Advocate pertaining to:

(i) the continuing nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim;

(ii) the extent of any loss of earnings or ability to work suffered by the victim; and

(iii) the continuing effect of the crime upon the victim's family:

(A) Shall be deemed confidential and privileged.

(B) Shall not be subject to subpoena or discovery.

(C) Shall not be introduced into evidence in any judicial or administrative proceeding.

(D) Shall not be released to the offender.

(9) All records maintained by the board or the Office of Victim Advocate pertaining to victims shall be kept separate. Current address, telephone numbers and any other personal information of the victim and family members shall be deemed confidential.

(10) Notwithstanding any other provision of law, no person who has had access to a report, record or any other information under this section shall disclose the content of the report, record or other information or testify in a judicial or administrative proceeding without the written consent of the victim.

(11) A victim and the family member who has submitted a written statement for the parole report or testified at a hearing pursuant to this section shall be notified by the

board through the Office of Victim Advocate of the final decision rendered in the offender's case.

(12) If the final decision is to not release the offender and if, subsequent to that decision, additional parole release hearings are conducted for that same offender, then the victim and family member who has submitted a written statement for the parole report or who has testified at a hearing pursuant to this section shall be notified by the board through the Office of Victim Advocate at the last known address if and when additional parole hearings are scheduled by the board.

(i) Victim and family member.--The term "victim and family member" shall be interpreted and applied to include all victims and family members and shall not be interpreted or applied to exclude any victim, victim's representative or family member who wishes to submit a statement, testify or otherwise participate under this section.

(Oct. 27, 2010, P.L.931, No.95, eff. imd.; Dec. 18, 2019, P.L.776, No.115, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

Cross References. Section 6140 is referred to in sections 6134.1, 6135, 6139, 6173 of this title.

§ 6141. General rules and special regulations.

The board may make general rules for the conduct and supervision of offenders and may, in particular cases, as it deems necessary to effectuate the purpose of parole, prescribe special regulations for particular persons.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 6142. Investigations for the Board of Pardons.

The board shall make an investigation for the Board of Pardons in cases coming before it and upon its request. The investigation shall include all information set forth under section 6135 (relating to investigation of circumstances of offense), including a risk assessment if the applicant is incarcerated.

§ 6143. Early parole of offenders subject to Federal removal order.

(a) Eligibility.--Notwithstanding any other provision of law, the board may parole an offender into the custody of the United States Immigration and Customs Enforcement for deportation prior to the expiration of the offender's minimum term of imprisonment if all of the following requirements are satisfied:

(1) The board has received an order of removal for the offender from the United States Immigration and Customs Enforcement.

(2) The offender is at least 18 years of age and is not a native or citizen of the United States.

(3) The offender has never been convicted or adjudicated delinquent of a crime of violence or a crime requiring registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

(4) The board certifies that removal of the offender is appropriate and in the best interests of the Commonwealth.

(5) The offender has been advised of all of the following:

(i) Unlawful reentry into the United States will result in the offender's return to the department to serve the remainder of the offender's maximum term of imprisonment without the possibility of parole.

(ii) If the offender reenters the United States and commits a criminal offense, upon conviction the offender shall be subject to 42 Pa.C.S. § 9720.3 (relating to sentencing for certain paroled offenders).

(iii) Reentry into the United States may subject the offender to prosecution by the United States under 8 U.S.C. § 1326 (relating to reentry of removed aliens).

(b) Parole discretionary.--The decision to parole an offender under subsection (a) shall be within the sole discretion of the board. Nothing under this section shall be construed to confer a legal right upon the offender to parole under subsection (a).

(c) Return of offender by United States.--If the United States Immigration and Customs Enforcement is unable to or does not deport the offender, the offender shall be returned to the custody of the department and the board shall rescind the offender's parole.

(d) Unlawful reentry.--An offender paroled under this section who returns unlawfully to the United States shall be given a hearing before the board and recommitted as a parole violator upon a determination by the board that the offender did unlawfully return to the United States. Upon recommitment, the offender shall be required to serve the remainder of the offender's maximum term of imprisonment without the possibility of parole. The offender shall not be entitled to credit for any time on parole under this section.

(e) Definition.--(Deleted by amendment).

(July 5, 2012, P.L.1050, No.122, eff. 60 days; June 30, 2021, P.L.260, No.59, eff. imd.)

Cross References. Section 6143 is referred to in section 6138 of this title; 9720.3 of Title 42 (Judiciary and Judicial Procedure).

SUBCHAPTER D
STATE PAROLE AGENTS
(Repealed)

2021 Repeal. Subchapter D (§§ 6151 - 6153) was added August 11, 2009, P.L.147, No.33, and repealed June 30, 2021, P.L.260, No.59, effective immediately.

SUBCHAPTER E
PAROLEE HOMICIDE REVIEW

Sec.

6161. Parolee Homicide Review Team.
6162. Members.
6163. Confidentiality.
6164. Regulations.

Enactment. Subchapter E was added December 18, 2019, P.L.776, No.115, effective immediately.

§ 6161. Parolee Homicide Review Team.

(a) Establishment.--The department shall establish the Parolee Homicide Review Team, which shall examine circumstances surrounding those who have committed criminal homicide while under supervision by the board.

(b) Powers and duties.--The department, in cooperation with the members of the Parolee Homicide Review Team, shall have the following powers and duties in relation to the program:

(1) Collect, review and analyze all appropriate events and issues surrounding and related to homicides committed by those while under the supervision of the board.

(2) Identify compliance with applicable statutes, regulations, guidelines, best practices, protocols and other standards.

(3) Develop and recommend any appropriate changes in applicable statutes, regulations, guidelines, best practices, protocols and other standards.

(4) Review relevant and applicable issues related to the training of individuals who interact with those under the supervision of the board and develop and recommend any appropriate changes to such training.

(5) Review relevant and applicable issues related to collaboration with other criminal justice agencies and develop recommendations to address any systematic gaps in supervision and public safety.

(6) Review relevant and applicable issues related to treatment, counseling, services and reentry programs and develop recommendations to improve case management of individuals.

(7) Submit a report to the Governor and the chairperson and minority chairperson of the Judiciary Committee of the Senate and the chairperson and minority chairperson of the Judiciary Committee of the House of Representatives by September 30 of each year relating to the activities, review, findings, analysis and recommendations of the Parolee Homicide Review Team. The recommendations shall address all issues identified under paragraphs (1), (2), (3), (4), (5) and (6), as well as factors that are likely to improve supervision practices, identify deficiencies in the system and recommendations to address them in order to reduce recidivism and improve public safety and strengthen collaboration with criminal justice agencies.

(c) Nonhomicides.--The chair, in consultation with and approval of the other members of the Parolee Homicide Review Team, may include case reviews of nonhomicide cases if such cases resulted in a serious breach of public safety and review of such cases is necessary to maintain or improve the safety of the public.

(d) Meetings.--The Parolee Homicide Review Team shall meet no less than once per year, but as often as the chair deems necessary to fulfill the duties of the Parolee Homicide Review Team.

§ 6162. Members.

(a) Permanent members.--The Parolee Homicide Review Team shall consist of the following individuals or their designees:

(1) The Secretary of Corrections, who shall chair the Parolee Homicide Review Team.

(2) The chair of the Pennsylvania Board of Probation and Parole.

(3) The commissioner of the Pennsylvania State Police.

(4) Three district attorneys selected by the Pennsylvania District Attorneys Association. Each district attorney shall be from different regions of this Commonwealth.

(5) Three chief county probation officers selected by the County Probation Officers Association. Each chief county

probation officer shall be from different regions of this Commonwealth.

(6) The executive director of the Pennsylvania Commission on Sentencing.

(7) The Attorney General.

(8) The executive director of the Pennsylvania Chiefs of Police Association.

(9) The victim advocate.

(10) No more than two professors of law with expertise in criminal justice, appointed by the Governor.

(11) A representative from the Administrative Office of Pennsylvania Courts, appointed by the Chief Justice.

(12) A representative of a local victim services organization, appointed by the Governor.

(13) The executive director of the Pennsylvania Commission on Crime and Delinquency.

(b) Ad hoc members.--The chair, in consultation with and approval of the other members of the Parolee Homicide Review Team, may invite other relevant individuals to serve on an ad hoc basis and participate as full members of the review team for a particular review. These individuals may include individuals with particular expertise that would be helpful to the review panel or representatives of organizations or agencies that had contact with or provided services to the homicide victim or the alleged perpetrator.

§ 6163. Confidentiality.

(a) Maintenance.--Members of the Parolee Homicide Review Team shall maintain the confidentiality of any identifying information obtained relating to this section.

(b) Agreement.--Each member of the Parolee Homicide Review Team shall sign a confidentiality agreement applicable to all reviews conducted by the Parolee Homicide Review Team.

(c) Liability.--An individual, agency or entity that in good faith provides information or records to the Parolee Homicide Review Team shall not be subject to civil or criminal liability as a result of providing the information or record.

(d) Discovery.--The discussions, deliberations and records of the Parolee Homicide Review Team are privileged and confidential and shall not be subject to discovery, subpoena or introduction into evidence in any civil or criminal action.

(e) Right-to-Know Law.--The provisions of this chapter shall not be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(f) Meetings.--Meetings of the Parolee Homicide Review Team shall be closed to the public and shall not be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(g) Penalty.--A person who violates the provisions of this section commits a misdemeanor of the third degree.

§ 6164. Regulations.

The department shall promulgate regulations necessary to carry out the purposes of this subchapter.

SUBCHAPTER F
SUPERVISION OF OFFENDERS

Sec.

6171. Powers and duties of department.
6171.1. District offices.
6171.2. District directors.
6171.3. District office employees.
6172. Probation services.

6173. Investigation of circumstances of offense.
6174. Right of access to offenders.
6175. Investigations for the Board of Pardons.

Enactment. Subchapter F was added June 30, 2021, P.L.260, No.59, effective immediately.

Special Provisions in Appendix. See section 27 of Act 59 of 2021 in the appendix to this title for special provisions relating to applicability. See section 28 of Act 59 of 2021 in the appendix to this title for special provisions relating to reference in law.

§ 6171. Powers and duties of department.

(a) Powers and duties.--The department shall have the following powers and duties:

(1) To first and foremost seek to protect the safety of the public, to supervise any offender released on parole by order of the board and to arrest, to detain in a department facility and to report to the board for a determination whether to revoke parole and recommit an offender who fails to comply with the conditions of supervision, including, but not limited to, the alleged commission of a new crime.

(2) To enforce the conditions of supervision established by the board as well as the power to impose and enforce additional conditions of supervision on an offender and the power to, with the consent of the board, amend or terminate mandatory conditions of suspension established by the board. Conditions not designated as mandatory by the board do not require consent of the board.

(3) The imposition, modification or termination of a condition of supervision must be based on the risk presented by and the rehabilitative needs of the offender and the impact the termination or modification will have on public safety.

(4) To supervise any offender placed on parole, when sentenced to a maximum period of less than two years, by any judge of a court having criminal jurisdiction, when the court may by special order direct supervision by the department, in which case the parole case shall be known as a special case and the authority of the department with regard thereto shall be the same as provided in this chapter with regard to parole cases within one of the classifications set forth in this chapter.

(5) To furnish to the board no fewer than 90 days prior to a scheduled parole interview, or if such interview is scheduled to be held within fewer than 90 days, as quickly as possible after the department is informed of such interview, reports concerning the conduct of offenders under the department's supervision or in its custody together with any other facts deemed pertinent in aiding the board to determine whether such offenders shall be paroled.

(6) To pay the costs of preparole drug screening tests for offenders subject to the parole release jurisdiction of the board. The department shall establish rules and regulations for the payment of these costs and may limit the types and costs of these screening tests that would be subject to payment by the department.

(7) To determine when an offender, subject to random drug screening tests as a condition of supervision, shall be tested. The offender undergoing the tests shall be responsible for the costs of the tests. The money collected

for the tests shall be applied against the contract for such testing.

(8) To supervise and make presentence investigations and reports as provided by law.

(9) To collect and maintain copies of all presentence investigations and reports.

(10) To collect, compile and publish statistical and other information relating to probation and parole work in all courts and such other information the department may deem of value in probation service.

(11) To establish, by regulation, uniform Statewide standards for:

(i) Presentence investigations.

(ii) The supervision of probationers.

(iii) The qualifications for probation personnel.

(iv) Minimum salaries.

(v) Quality of probation service.

(vi) The standards for the qualifications of probation personnel shall only apply to probation personnel appointed after the date the standards are established. Should any probation personnel appointed prior to the date the standards were established fail to meet the standards, the court having jurisdiction of such personnel may request the department to establish in-service training for them in accordance with the standards.

(12) To adopt regulations establishing criteria for department acceptance of cases for supervision and presentence investigations from counties that on December 31, 1985, maintained adult probation offices and parole systems.

(13) To enter into contracts for purchasing community services to assist parolees, supplement existing programs and provide for the continuous electronic monitoring of offenders.

(14) To establish and provide for intensive supervision units and day reporting centers for the supervision of offenders.

(15) To provide information as required under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties of commission) as requested by the commission.

(16) To incorporate evidence-based practices into the supervision of offenders.

(17) To coordinate the reentry of offenders into the community using evidence-based practices that are effective in reducing recidivism.

(18) To conduct research to identify, to be informed of and to apply recognized evidence-based parole supervision practices that promote public safety and reduce recidivism.

(19) To conduct outcome and performance analyses on implemented department programs and practices to enhance public safety through reduced recidivism.

(20) To administer administrative parole.

(21) To adopt regulations establishing specific composition, functions and responsibilities for citizens advisory committees and to receive reports, recommendations or other input concerning parole policies and parole-related concerns from the committees on a regular basis.

(22) Designate community corrections centers or community corrections facilities where parolees are to be housed.

(23) Determine whether parolees are to be housed in a secured or unsecured portion of a community corrections center or community corrections facility.

(b) Administrative parole.--

(1) An eligible offender shall be placed on administrative parole one year after release on parole and until the maximum sentence date if the department's supervision staff determines that there is no substantial information indicating dangerousness or that placement on administrative parole would compromise public safety or that continued supervision would otherwise benefit the offender and:

(i) the eligible offender has not violated the terms and conditions of the eligible offender's parole; or

(ii) the eligible offender has not been subject to the extensive use of sanctions prior to the completion of one year from the date of release on parole.

(2) An eligible offender placed on administrative parole shall continue to be subject to recommitment at the board's discretion and shall be subject to the board's power to recommit and reparole, recommit and review or otherwise impose sanctions at its discretion until the eligible offender's maximum sentence date.

(3) An eligible offender placed on administrative parole shall do all of the following:

(i) Make supervision contact at least one time per year.

(ii) Provide updated contact information upon a change in residence or employment.

(iii) Continue to pay any restitution owed.

(iv) Comply with other requirements imposed by the department.

(c) Exception.--Except in special cases, the powers and duties conferred under this section shall not extend to offenders confined in a county correctional facility under 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement).

Cross References. Section 6171 is referred to in section 6132 of this title.

§ 6171.1. District offices.

(a) Principal office.--The department shall provide offices for the board. The board shall appoint and employ such number and character of officers, agents, clerks, stenographers and employees as may be necessary to carry out the purposes of this chapter. The salaries of persons so appointed and employed by the board shall be fixed by the board.

(b) District offices.--The department shall divide the Commonwealth for administrative purposes into a suitable number of districts, not to exceed 10, in each of which shall be a district office which shall have immediate charge of the supervision of cases of probation and parole arising in the courts of the judicial districts embraced within its territorial limits, but, as occasion may require, the supervision of particular parolees may be transferred by the department to other appropriate parole districts.

(c) Location of district offices.--

(1) The department shall fix and determine the location of the various district offices within their respective districts, having regard to local conditions in each district and to the most convenient and efficient functioning of the office established in each district.

(2) At each of the locations so fixed and determined, the department shall provide such office accommodations, furniture, equipment and supplies as may be reasonably suitable and adequate for the proper handling and dispatch of the parole business of the district.

(3) The department may enter into contracts on behalf of the Commonwealth for such office accommodations, furniture, equipment and supplies through the Department of General Services.

(d) Consideration for fixing compensation.--In fixing compensation for its officers, clerks and employees under the provisions of this chapter, the department shall have regard to the kind, grade or class of service to be rendered, and, whenever any standard compensation has been fixed by the Executive Board for any kind, grade or class of service or employment, the compensation of all persons appointed or employed by the department in the same kind, grade or class shall be fixed by it in accordance with such standard.

§ 6171.2. District directors.

(a) Establishment.--Each district office shall have a district director who:

(1) Shall be appointed by the department.

(2) Shall receive such annual salary as the department shall determine in conformity with the rules of the Executive Board.

(b) Status and role.--The district director shall be the executive head of the district office to which the district supervisor is appointed and shall have the control, management and direction of all employees of the department assigned to the district, subject to the supervision of the department.

§ 6171.3. District office employees.

(a) Department to appoint.--The department shall appoint in the various district offices a sufficient number of agents, clerks, stenographers and other employees to fully and efficiently administer the parole laws of this Commonwealth, but no employee of the department shall be appointed by the department except in the manner provided by this chapter.

(b) Salaries and qualifications.--The salaries of the appointees in subsection (a) shall be fixed by the department. The department shall from time to time by appropriate rule or regulation prescribe the qualifications to be possessed by its personnel. The qualifications shall be such as will best promote the efficient operation of probation and parole.

§ 6172. Probation services.

(a) General rule.--The department shall have exclusive power to supervise any offender placed on probation by any judge of a court having criminal jurisdiction when the court, by special order, consistent with the regulations of the department, directs supervision by the department.

(b) Presentence investigations.--The department shall make presentence investigations when requested to do so by the court in accordance with the regulations of the department.

(c) In-service training.--The department shall provide in-service training for personnel of county probation offices when requested to do so by the court having jurisdiction of the probation office.

Cross References. Section 6172 is referred to in section 6140 of this title; section 9718.5 of Title 42 (Judiciary and Judicial Procedure).

§ 6173. Investigation of circumstances of offense.

(a) Duty to investigate.--The department, upon the commitment to a correctional facility of any offender whom the board is given the power to parole, shall investigate and include in its report to the board:

(1) The nature and circumstances of the offense committed.

(2) Any recommendations made by the trial judge and prosecuting attorney.

(3) The general character and background of the offender.

(4) Participation by an offender sentenced after February 19, 1999, and who is serving a sentence for a crime of violence in a victim impact education program offered by the department.

(5) The written or personal statement of the testimony of the victim or the victim's family submitted under section 6140 (relating to victim statements, testimony and participation in hearing).

(6) The notes of testimony of the sentencing hearing, if any, together with such additional information regarding the nature and circumstances of the offense committed for which sentence was imposed as may be available.

(7) The conduct of the offender while in prison and the offender's physical, mental and behavioral condition and history, in addition to history of family violence and complete criminal record.

(b) Cooperation of public officials.--A public official who possesses offender records or information shall furnish the records or information to the department upon request and without charge so far as may be practicable while the case is recent.

(c) Duty to transmit.--A court sentencing any offender to a term as to which power to parole is given to the board in this chapter shall transmit to the department, within 30 days after the imposition of the sentence:

(1) A copy of the notes of testimony of the sentencing hearing that may have been filed or recorded in the case.

(2) Copies of any criminal identification records secured from the Federal Bureau of Investigation.

(3) Copies of presentence investigation reports and behavior clinic reports, if any were submitted to the court, the last two of which records, being confidential records of the court, shall be treated confidentially by the department, who shall not permit examination of the records by anyone other than its duly appointed officers and employees and the board and its officers and employees, except upon court order.

§ 6174. Right of access to offenders.

All prison officials shall:

(1) At all reasonable times grant to the properly accredited representatives of the department access to any detainee whom the board has power to parole.

(2) At all reasonable times provide for the board or its properly accredited representative facilities for communicating with and observing a detainee while imprisoned.

Cross References. Section 6174 is referred to in section 6137 of this title.

§ 6175. Investigations for the Board of Pardons.

The department shall make an investigation for the Board of Pardons in cases coming before it and upon its request. The investigation shall include all information set forth under

section 6135 (relating to investigation of circumstances of offense), including a risk assessment if the applicant is incarcerated.

SUBCHAPTER G
AGENTS

Sec.
6181. Status as peace officers.
6182. Supervisory relationship to offenders.

Enactment. Subchapter G was added June 30, 2021, P.L.260, No.59, effective immediately.

Special Provisions in Appendix. See section 28 of Act 59 of 2021 in the appendix to this title for special provisions relating to reference in law.

§ 6181. Status as peace officers.

An agent is declared to be a peace officer and is given police power and authority throughout this Commonwealth to arrest without warrant, writ, rule or process any department-supervised offender for failing to report as required or for any other violation of his conditions of supervision.

Cross References. Section 6181 is referred to in section 8332.7 of Title 42 (Judiciary and Judicial Procedure).

§ 6182. Supervisory relationship to offenders.

(a) General rule.--Agents are in a supervisory relationship with department-supervised offenders. The purpose of supervision is to assist department-supervised offenders in their rehabilitation and reassimilation into the community and to protect the public. Supervision practices shall reflect the balance of enforcement of the conditions of supervision and case management techniques to maximize successful parole completion through effective reentry to society.

(b) Searches and seizures authorized.--

(1) Agents may search the person and property of department-supervised offenders in accordance with the provisions of this section.

(2) Nothing in this section shall be construed to permit searches or seizures in violation of the Constitution of the United States or section 8 of Article I of the Constitution of Pennsylvania.

(c) Effect of violation.--No violation of this section shall constitute an independent ground for suppression of evidence in any probation, parole or criminal proceeding.

(d) Grounds for personal search of a department-supervised offender.--

(1) A personal search of an offender may be conducted by an agent:

(i) if there is a reasonable suspicion to believe that the department-supervised offender possesses contraband or other evidence of violations of the conditions of supervision;

(ii) when a department-supervised offender is transported or taken into custody; or

(iii) upon a department-supervised offender entering or leaving the secure enclosure of a correctional institution, jail or detention facility.

(2) A property search may be conducted by an agent if there is reasonable suspicion to believe that the real or other property in the possession of or under the control of

the department-supervised offender contains contraband or other evidence of violations of the conditions of supervision.

(3) The department-supervised offender may be detained if the department-supervised offender is present during a property search. If the department-supervised offender is not present during a property search, the agent in charge of the search shall make a reasonable effort to provide the department-supervised offender with notice of the search, including a list of the items seized, after the search is completed.

(4) The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. In accordance with such case law, the following factors, where applicable, may be taken into account:

(i) The observations of agents.

(ii) Information provided by others.

(iii) The activities of the department-supervised offender.

(iv) Information provided by the department-supervised offender.

(v) The experience of agents with the department-supervised offender.

(vi) The experience of agents in similar circumstances.

(vii) The prior criminal and supervisory history of the department-supervised offender.

(viii) The need to verify compliance with the conditions of supervision.

(e) Nonresident department-supervised offenders.--No agent shall conduct a personal or property search of a department-supervised offender who is residing in a foreign state except for the limited purposes permitted under the Interstate Compact for the Supervision of Offenders and Probationers. The department-supervised offender is held accountable to the rules of both the sending state and the receiving state. Any personal or property search of a department-supervised offender residing in another state shall be conducted by an agent of the receiving state.

(f) When authority is effective.--The authority granted to agents under this section shall be effective upon enactment of this section, without the necessity of any further regulation by the department.

CHAPTER 63
COUNTY PROBATION OFFICERS' FIREARM EDUCATION AND TRAINING

Sec.

6301. Short title of chapter.
6302. Definitions.
6303. County Probation Officers' Firearm Education and Training Commission.
6304. Commission and advisory subcommittee.
6305. Powers and duties of commission.
6306. Training mandatory.
6307. Requirements for program participation or waiver.
6308. County Probation Officers' Firearm Education and Training Fund.
6309. Applicability.

Enactment. Chapter 63 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Special Provisions in Appendix. See sections 12, 13 and 14 of Act 33 of 2009 in the appendix to this title for special provisions relating to references in text, continuation of commission and continuation of fund.

§ 6301. Short title of chapter.

This chapter shall be known and may be cited as the County Probation Officers' Firearm Education and Training Law.

§ 6302. Definitions.

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

"Board." (Deleted by amendment).

"Certification." The assignment of a certification number to a probation or parole officer after successful completion of a mandatory basic training course or receipt of a waiver of basic training from the County Probation Officers' Firearm Education and Training Commission and successful completion of mandatory training.

"Commission." The County Probation Officers' Firearm Education and Training Commission.

"Fund." The County Probation Officers' Firearm Education and Training Fund established under section 6308 (relating to County Probation Officers' Firearm Education and Training Fund).

"Officer." A county probation or parole officer of this Commonwealth.

"Program." The County Probation Officers' Firearm Education and Training Program established in this chapter.

"School." A school currently approved by the Municipal Police Officers' Education and Training Commission under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

"Weapon-carrying officer." A county probation or parole officer who is authorized to carry a weapon in connection with performance of the duties of the officer's employment.

(June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 deleted the def. of "board."

§ 6303. County Probation Officers' Firearm Education and Training Commission.

The County Adult Probation and Parole Advisory Committee established under the act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, shall serve as the County Probation Officers' Firearm Education and Training Commission under this chapter, including assuming all of its funding, powers, duties and responsibilities under this chapter.

(Dec. 18, 2019, P.L.776, No.115, eff. one year)

§ 6304. Commission and advisory subcommittee.

(a) Composition.--The chairperson of the County Adult Probation and Parole Advisory Committee shall appoint an advisory subcommittee to be composed of:

(1) Three county adult probation officers who are full members of the County Chief Adult Probation and Parole Officers' Association of Pennsylvania, one of whom is a chief adult probation officer from a county authorized to carry firearms and two of whom are firearms instructors certified as such by the National Rifle Association, the Pennsylvania State Police or the Federal Bureau of Investigation.

(2) One member of the Pennsylvania Council of Chief Juvenile Probation Officers.

(3) One representative of the Juvenile Court Judges' Commission.

(4) One judge of a court of common pleas of a county that employs officers who carry firearms.

(5) One director qualified under 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

(6) One county commissioner from a county which employs officers who carry firearms.

(b) Terms.--(Deleted by amendment).

(c) Vacancies.--(Deleted by amendment).

(d) Compensation.--The members of the commission and subcommittee shall serve without compensation but shall be reimbursed the necessary and actual expenses incurred in attending the meetings of the commission and in the performance of their duties under this chapter.

(e) Organization.--The chairperson of the County Adult Probation and Parole Advisory Committee shall serve as chairperson of the commission. The commission shall act only with the concurrence of the majority.

(f) Meetings and quorum.--The commission shall meet as may be necessary, but at least once annually. Special meetings may be called by the chairperson of the commission or upon written request of three members. A quorum shall consist of a majority of the members appointed.

(Dec. 18, 2019, P.L.776, No.115, eff. one year)

§ 6305. Powers and duties of commission.

The powers and duties of the commission shall be as follows:

(1) To develop, establish and administer the minimum courses of study and training and competency standards for firearm training for county probation officers, including an initial curriculum of at least 40 hours and including the firing of a qualification course.

(2) To revoke an officer's certification for failing to comply with educational and training requirements established by the commission.

(3) To approve or revoke the approval for the purposes of this chapter of any school that may be utilized to comply with the educational and training requirements as established by the commission.

(4) To establish the minimum qualifications for instructors, to approve or revoke the approval of any instructor and to develop the requirements for continued certification.

(5) To promote the most efficient and economical program for training by utilizing existing facilities, programs and qualified Federal, State and local police personnel.

(6) To make an annual report to the Governor and to the General Assembly concerning:

(i) The administration of the program.

(ii) The activities of the commission, together with any recommendations for executive or legislative actions.

(7) To require in accordance with this chapter county probation officers to attend a minimum number of hours in in-service training as provided for by regulation, unless the officer's employer files a show-cause document with the commission, requesting additional time for the officer to comply with the in-service training requirements. Approval

of the request shall be made by the commission on a case-by-case basis.

(8) To appoint an administrative officer who shall serve and be directly responsible to the commission.

(9) To consult and cooperate with universities, colleges, community colleges and institutes for the development of specialized courses for county probation and parole officers.

(10) To consult and cooperate with departments and agencies of this Commonwealth and other states and the Federal Government concerned with county probation officer training.

(11) To certify officers who have satisfactorily completed basic educational and training requirements as established by the commission and to issue appropriate certificates to these officers.

(12) To visit and inspect approved schools at least once every two years. This inspection requirement does not apply where training is conducted locally at a satellite center consisting of a classroom and shooting range.

(13) To make rules and regulations and to perform other duties as may be reasonably necessary or appropriate to implement the training program for county probation officers.

(14) To consider granting waivers of mandatory basic training to county probation officers who have successfully completed previous equivalent training.

(15) To maintain certifications and other records as necessary.

(16) To issue reports to the president judges of the courts of common pleas relating to compliance with this chapter.

§ 6306. Training mandatory.

Within two years of the establishment of the County Probation Officers' Firearm Education and Training Program and in accordance with the provisions of this chapter, a county shall provide for the training of any officer in its county probation and parole department who carries a firearm. Following this two-year period, a county shall provide that training and certification requirements of this chapter are met prior to a county probation officer being authorized to carry a firearm.

§ 6307. Requirements for program participation or waiver.

In order to participate in the training program or be granted a waiver of training requirements, at a minimum, the officer must:

(1) Be employed as a full-time county probation officer.

(2) Be a United States citizen.

(3) Not have been convicted of an offense graded a misdemeanor of the first degree or greater or punishable by a term of imprisonment of more than two years, unless in possession of a waiver from the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

(4) Have had the officer's fingerprints submitted by the officer's employer to the Pennsylvania State Police for the purposes of a background investigation. The officer shall have results of the investigation which indicate that the requirements of paragraph (3) are met.

§ 6308. County Probation Officers' Firearm Education and Training Fund.

(a) Fund established.--The County Probation Officers' Firearm Education and Training Fund is established as a restricted receipts account within the General Fund. Moneys

from the fund shall be used exclusively for the purposes described under this section.

(b) Costs imposed.--

(1) A person who accepts Accelerated Rehabilitative Disposition or pleads guilty or nolo contendere or is convicted of a felony or misdemeanor shall, in addition to any other court costs imposed under the laws of this Commonwealth, be sentenced to pay costs of $5. Costs collected by the clerk of courts under this subsection shall be paid into the fund.

(2) Moneys in the fund shall be used to offset or pay for:

(i) Training expenses.

(ii) Commission expenses.

(3) Disbursement and allocation of fund moneys shall be at the discretion of the commission.

(c) Other moneys to be used.--In addition to payment of training expenses as prescribed under subsection (b), training expenses may also be paid out of the county offender supervision fund under section 1102 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, or any other county fund.

(d) Juvenile probation officer participation.--In the event that sufficient funds are not generated under the provisions of subsection (b) to fully fund the costs of providing training to juvenile probation officers, a training fee representing the prorated share of the additional actual cost thereof shall be payable by a participating juvenile probation officer's county of employment.

Cross References. Section 6308 is referred to in section 6302 of this title.

§ 6309. Applicability.

This chapter shall apply to county juvenile probation, adult probation officers only, and only such officers shall be eligible for training under this chapter.

PART V
MISCELLANEOUS PROVISIONS

Chapter

71. Interstate Compacts

Enactment. Part V was added August 11, 2009, P.L.147, No.33, effective in 60 days.

Special Provisions in Appendix. See sections 8 and 10 of Act 33 of 2009 in the appendix to this title for special provisions relating to continuation of prior law and applicability.

CHAPTER 71
INTERSTATE COMPACTS

Subchapter

A. Interstate Corrections Compact

B. Interstate Compact for the Supervision of Adult Offenders

C. Administrative Provisions

Enactment. Chapter 71 was added August 11, 2009, P.L.147, No.33, effective in 60 days.

SUBCHAPTER A
INTERSTATE CORRECTIONS COMPACT

Sec.
7101. Short title of subchapter.
7102. Interstate Corrections Compact.
7103. Powers.

§ 7101. Short title of subchapter.

This subchapter may be cited as the Interstate Corrections Compact Act.

§ 7102. Interstate Corrections Compact.

The Interstate Corrections Compact is hereby enacted into law and entered into by this State with any other states legally joining therein in the form substantially as follows:

INTERSTATE CORRECTIONS COMPACT

ARTICLE I

Purpose and Policy

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

ARTICLE II

Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

(d) "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

(e) "Institution" means any penal or correctional facility, including, but not limited to, a facility for the mentally ill or mentally defective, in which inmates as defined in (d) above may lawfully be confined.

ARTICLE III

Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs

or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any, the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV
Procedures and Rights

(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V

Acts Not Reviewable in Receiving State: Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the

activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI

Federal Aid

Any state party to this compact may accept Federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such Federally aided program or activity for which the sending and receiving states have made contractual provisions, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII

Entry into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE VIII

Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§ 7103. Powers.

The secretary or his designee is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular except that no

contract for the confinement of inmates in the institutions of this State shall be entered into unless the secretary has first determined that the inmates are acceptable, notwithstanding the provisions of Article IX-B of the act of April 9, 1929 (P.L.177, No.175), known as the Administrative Code of 1929. The secretary or his designee shall not enter into a contract pursuant to Article III of the compact relating to inmates who are mentally ill or mentally retarded without consultation with the Secretary of Public Welfare.
(Oct. 27, 2010, P.L.931, No.95, eff. imd.)

References in Text. The Secretary of Public Welfare, referred to in this section, was redesignated as the Secretary of Human Services by Act 132 of 2014.

SUBCHAPTER B
INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS

Sec.
7111. Short title of subchapter.
7112. Authority to execute compact.
7113. When and how compact becomes operative.
7114. State council and compact administrator.
7115. Interstate Compact for the Supervision of Adult Offenders application fee.

Cross References. Subchapter B is referred to in section 6137 of this title.

§ 7111. Short title of subchapter.

This subchapter shall be known and may be cited as the Interstate Compact for the Supervision of Adult Offenders Act.

§ 7112. Authority to execute compact.

The Governor of Pennsylvania, on behalf of this State, is hereby authorized to execute a compact in substantially the following form with any one or more of the states of the United States, and the General Assembly hereby signifies in advance its approval and ratification of such compact:

ARTICLE I
PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the Bylaws and Rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. § 112 (relating to compacts between States for cooperation in prevention of crime; consent of Congress), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the compacting states: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the compact among the

compacting states. In addition, this compact will: create an Interstate Commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of Compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity. The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and Bylaws and Rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

"Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

"Bylaws" means those Bylaws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

"Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

"Compacting state" means any state which has enacted the enabling legislation for this compact.

"Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

"Interstate Commission" means the Interstate Commission for Adult Offender Supervision established by this compact.

"Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

"Non-compacting state" means any state which has not enacted the enabling legislation for this compact.

"Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

"Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

"Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the compacting states.

"State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States.

"State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

ARTICLE III
THE COMPACT COMMISSION

The compacting states hereby create the "Interstate Commission for Adult Offender Supervision." The Interstate Commission shall be a body corporate and joint agency of the compacting states. The Interstate Commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact. The Interstate Commission shall consist of Commissioners selected and appointed by resident members of a State Council for Interstate Adult Offender Supervision for each state.

In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners but who are members of interested organizations; such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (non-voting) members. The Interstate Commission may provide in its Bylaws for such additional, ex-officio, non-voting members as it deems necessary.

Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the Bylaws of the Interstate Commission.

The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

The Interstate Commission shall establish an Executive Committee which shall include commission officers, members and others as shall be determined by the Bylaws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the Compact. The Executive Committee oversees the day-to-day activities managed by the Executive Director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its Bylaws and as directed by the Interstate Commission and performs other duties as directed by Commission or set forth in the Bylaws.

ARTICLE IV
THE STATE COUNCIL

Each member state shall create a State Council for Interstate Adult Offender Supervision which shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups and compact administrators. Each compacting state retains the right to determine the qualifications of the Compact Administrator who shall be appointed by the Governor in consultation with the Legislature and the Judiciary. In addition to appointment of its commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE V
POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

To adopt a seal and suitable Bylaws governing the management and operation of the Interstate Commission.

To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any Bylaws adopted and rules promulgated by the compact commission.

To enforce compliance with compact provisions, Interstate Commission rules, and Bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.

To establish and maintain offices.

To purchase and maintain insurance and bonds.

To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.

To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

To establish a budget and make expenditures and levy dues as provided in Article X of this compact.

To sue and be sued.

To provide for dispute resolution among Compacting States.

To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.

To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE VI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws

The Interstate Commission shall, by a majority of the Members, within twelve months of the first Interstate Commission meeting, adopt Bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to: establishing the fiscal year of the Interstate Commission; establishing an executive committee and such other committees as may be necessary; providing reasonable standards and procedures:

(i) for the establishment of committees, and

(ii) governing any general or specific delegation of any authority or function of the Interstate Commission;

providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting; establishing the titles and responsibilities of the officers of the Interstate Commission; providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission; and providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations; providing transition rules for "start up" administration of the Compact; establishing standards and procedures for compliance and technical assistance in carrying out the Compact.

Section B. Officers and Staff

The Interstate Commission shall, by a majority of the Members, elect from among its Members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the Bylaws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The Officers so elected shall serve without compensation or remuneration from the Interstate Commission; PROVIDED THAT, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive

director shall serve as secretary to the Interstate Commission, and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a Member.

Section C. Corporate Records of the Interstate Commission

The Interstate Commission shall maintain its corporate books and records in accordance with the Bylaws.

Section D. Qualified Immunity, Defense and Indemnification

The Members, officers, executive director and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; PROVIDED, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss injury or liability caused by the intentional or willful and wanton misconduct of any such person.

The Interstate Commission shall defend the Commissioner of a Compacting State, or his or her representatives or employees, or the Interstate Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities; PROVIDED, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

The Interstate Commission shall indemnify and hold the Commissioner of a Compacting State, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities, PROVIDED, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII
ACTIVITIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall meet and take such actions as are consistent with the provisions of this Compact.

Except as otherwise provided in this Compact and unless a greater percentage is required by the Bylaws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the Members present.

Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The Bylaws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting

conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

The Interstate Commission's Bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such Rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate Rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. Section 552(b), as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

relate solely to the Interstate Commission's internal personnel practices and procedures;

disclose matters specifically exempted from disclosure by statute;

disclose trade secrets or commercial or financial information which is privileged or confidential;

involve accusing any person of a crime, or formally censuring any person;

disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

disclose investigatory records compiled for law enforcement purposes;

disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity;

specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each Member on the

question). All documents considered in connection with any action shall be identified in such minutes.

The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its Bylaws and Rules which shall specify the data to be collected and the means of collection and data exchange and reporting requirements.

ARTICLE VIII
RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

The Interstate Commission shall promulgate Rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the Compact during the period in which it is being considered and enacted by the states.

Rulemaking shall occur pursuant to the criteria set forth in this Article and the Bylaws and Rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the Federal Administrative Procedure Act, 5 U.S.C. Ch. 5 Subchs. II (relating to administrative procedure) and III (relating to negotiated rulemaking procedure), and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter "APA").

All Rules and amendments shall become binding as of the date specified in each Rule or amendment.

If a majority of the legislatures of the Compacting States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such Rule shall have no further force and effect in any Compacting State.

When promulgating a Rule, the Interstate Commission shall:

publish the proposed Rule stating with particularity the text of the Rule which is proposed and the reason for the proposed Rule;

allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

provide an opportunity for an informal hearing; and

promulgate a final Rule and its effective date, if appropriate, based on the rulemaking record.

Not later than sixty days after a Rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such Rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, (as defined in the APA), in the rulemaking record, the court shall hold the Rule unlawful and set it aside.

Subjects to be addressed within 12 months after the first meeting must at a minimum include:

notice to victims and opportunity to be heard;

offender registration and compliance;

violations/ returns;

transfer procedures and forms;

eligibility for transfer;

collection of restitution and fees from offenders;

data collection and reporting;

the level of supervision to be provided by the receiving state;

transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact;

mediation, arbitration and dispute resolution.

The existing rules governing the operation of the previous compact superseded by this Act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

ARTICLE IX
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

The Interstate Commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in Non-compacting States which may significantly affect Compacting States.

The courts and executive agencies in each Compacting State shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a Compacting State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

The Compacting States shall report to the Interstate Commission on issues or activities of concern to them, and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among Compacting States and Non-compacting States.

The Interstate Commission shall enact a Bylaw or promulgate a Rule providing for both mediation and binding dispute resolution for disputes among the Compacting States.

Section C. Enforcement

The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII, Section B, of this compact.

Section D. Extradition

The duly accredited officers of a sending state may at all times enter a receiving state, and there apprehend and retake any person on probation or parole. For that purpose, no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state. If at the time when a state seeks to retake a probationer or parolee, there should be pending against him within the receiving state any criminal charge, or he is suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until

discharged from prosecution or from imprisonment for such offense. The duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact without interference.

ARTICLE X

FINANCE

The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

The Interstate Commission shall levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each Compacting State and shall promulgate a Rule binding upon all Compacting States which governs said assessment.

The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the Compacting States, except by and with the authority of the Compacting State.

The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XI

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

Any state, as defined in Article II of this Compact, is eligible to become a Compacting State. The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 35 of the States. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding, as to any other Compacting State, upon enactment of the Compact into law by that State. The governors of Non-member states or their designees will be invited to participate in Interstate Commission activities on a non-voting basis prior to adoption of the Compact by all states and territories of the United States.

Amendments to the Compact may be proposed by the Interstate Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Interstate Commission and the Compacting States unless and until it is enacted into law by unanimous consent of the Compacting States.

ARTICLE XII

WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; PROVIDED, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law. The

effective date of withdrawal is the effective date of the repeal.

The Withdrawing State shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

The Interstate Commission shall notify the other Compacting States of the Withdrawing State's intent to withdraw within sixty days of its receipt thereof.

The Withdrawing State is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any Compacting State shall occur upon the Withdrawing State reenacting the Compact or upon such later date as determined by the Interstate Commission.

Section B. Default

If the Interstate Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or any duly promulgated Rules the Interstate Commission may impose any or all of the following penalties:

Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

Remedial training and technical assistance as directed by the Interstate Commission;

Suspension and termination of membership in the Compact.

Suspension shall be imposed only after all other reasonable means of securing compliance under the Bylaws and Rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or Chief Judicial Officer of the state; the majority and minority leaders of the defaulting state's legislature, and the State Council.

The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this compact, Interstate Commission Bylaws, or duly promulgated Rules. The Interstate Commission shall immediately notify the Defaulting State in writing of the penalty imposed by the Interstate Commission on the Defaulting State pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the Defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Compacting States and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a Defaulting State, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer and the Majority and Minority Leaders of the Defaulting State's legislature and the state council of such termination.

The Defaulting State is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the Defaulting State unless otherwise mutually agreed upon between the Interstate Commission and the Defaulting State.

Reinstatement following termination of any Compacting State requires both a reenactment of the Compact by the Defaulting State and the approval of the Interstate Commission pursuant to the Rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the Members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated Rules and Bylaws, against any Compacting State in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

ARTICLE XIII

SEVERABILITY AND CONSTRUCTION

The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable. The provisions of this Compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

Nothing herein prevents the enforcement of any other law of a Compacting State that is not inconsistent with this Compact. All Compacting States' laws conflicting with this Compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

All lawful actions of the Interstate Commission, including all Rules and Bylaws promulgated by the Interstate Commission, are binding upon the Compacting States.

All agreements between the Interstate Commission and the Compacting States are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the Compacting States, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

§ 7113. When and how compact becomes operative.

(a) General rule.--When the Governor executes the Interstate Compact for the Supervision of Adult Offenders on behalf of this State and files a verified copy thereof with the Secretary of the Commonwealth and when the compact is ratified by one or more other states, then the compact shall become operative and effective between this State and such other state or states. The Governor is hereby authorized and directed to take such action as may be necessary to complete the exchange of official documents between this State and any other state ratifying the compact.

(b) Notice in Pennsylvania Bulletin.--The Secretary of the Commonwealth shall publish a notice in the Pennsylvania Bulletin when the conditions set forth in subsection (a) are satisfied and shall include in the notice the date on which the compact became effective and operative between this State and any other state or states in accordance with this subchapter.

§ 7114. State council and compact administrator.

(a) State council.--Consistent with Article IV of the Interstate Compact for the Supervision of Adult Offenders, there is hereby established the State Council for Interstate Adult Offender Supervision. The council shall consist of nine members, seven of whom shall be appointed by the Governor. At least two members shall be judges of courts of record of this Commonwealth, and at least one shall be a county chief probation officer, a representative from the executive branch of government, a representative of victims groups and the compact administrator. The President pro tempore of the Senate and the Speaker of the House of Representatives shall each appoint a member of the General Assembly to serve as a member of the council. The term of a member of the council hereafter appointed, except to fill a vacancy, shall be for four years and until a successor has been appointed, but in no event more than 90 days beyond the expiration of the appointed term. The term of a member of the council who is appointed by virtue of serving as a member of the General Assembly, as a judge or as a county chief probation officer shall continue only as long as the individual remains in that office. A vacancy occurring in an office of a member of the council by expiration of term or for any other reason shall be filled by the appointing authority for the remainder of the term.

(b) Appointment of administrator.--The compact administrator shall be appointed by the Governor and shall serve as a member of the State Council for the Supervision of Adult Offenders and shall serve on the Interstate Commission for Adult Offender Supervision established pursuant to the Interstate Compact for the Supervision of Adult Offenders.

(c) Compensation and expenses of administrator.--The compact administrator who represents this State, as provided for in Article IV of the Interstate Compact for the Supervision of Adult Offenders, shall not be entitled to any additional compensation for his duties and responsibilities as compact administrator but shall be entitled to reimbursement for reasonable expenses actually incurred in connection with his duties and responsibilities as compact administrator in the same manner as for expenses incurred in connection with other duties and responsibilities of his office or employment.

§ 7115. Interstate Compact for the Supervision of Adult Offenders application fee.

(a) Duty to pay.--

(1) A person on county probation or parole who applies for a transfer of supervision to another state through the Interstate Compact for the Supervision of Adult Offenders

shall be required to pay an application fee with each application for transfer, unless the court finds that the application fee should be reduced, waived or deferred based upon the person's inability to pay. The application fees shall be collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge.

(2) A person on State probation or parole who applies for a transfer to another state through the Interstate Compact shall be required to pay an application fee to the department with each application for transfer, unless the board finds that the application fee should be reduced, waived or deferred based upon the person's inability to pay.

(b) Amount of application fee.--The State council shall establish the amount of the application fee which shall not exceed $150. The application fee shall be nonrefundable and shall be assessed for each application for transfer to another state.

(c) Application fee collected by county.--For administrative expenses, the county shall be entitled to retain a percentage of each application fee collected under this section which shall be deposited in the county's general fund. The percentage of the application fee that may be retained shall be determined by the State council 60 days prior to the beginning of each Commonwealth fiscal year commencing on July 1 and ending on June 30. The remaining portion of each application fee collected by the county shall be transmitted to the Commonwealth under subsection (d).

(d) Disposition.--Money received from the collection of the application fee shall be paid into the State Treasury and shall be credited to the general government operations of the department for expenses incurred in the administration of the Interstate Compact.

(e) Application fee.--The application fee as of the effective date of this subsection shall be $100, and the counties shall retain 100% of the fee collected until the application fee and county percentage are determined prior to the beginning of the next Commonwealth fiscal year in accordance with subsections (b) and (c).

(Oct. 27, 2010, P.L.931, No.95, eff. imd.; June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (a)(2) and (d).

2010 Amendment. Act 95 added section 7115, retroactive to November 9, 2009.

SUBCHAPTER C
ADMINISTRATIVE PROVISIONS

Sec.

7121. Deputization.
7122. Supervision of persons paroled by other states.
7123. Penalty.

§ 7121. Deputization.

(a) General rule.--The secretary may deputize any person to act as an officer and agent of the Commonwealth in effecting the return of any person who has violated the terms and conditions of parole or probation as granted by the Commonwealth. In any matter relating to the return of such person, an agent so deputized has all the powers of a police officer of this Commonwealth.

(b) Evidence of deputization.--A deputization under this section must be in writing and a person authorized to act as an agent of the Commonwealth under that authority shall carry formal evidence of the deputization and shall produce it on demand.

(c) Interstate contracts.--

(1) The secretary or a designee may, subject to the approval of the Auditor General, enter into contracts with similar officials of any other state for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole or probation as granted by the Commonwealth.

(2) All interstate contracts entered into prior to the effective date of this paragraph are ratified and shall continue in effect according to their respective terms.

(June 30, 2021, P.L.260, No.59, eff. imd.)

§ 7122. Supervision of persons paroled by other states.

(a) General rule.--In compliance with the Federal interstate compact laws and the provisions of this section, the department may supervise persons who are paroled by other states and reside in this Commonwealth, where such other states agree to perform similar services for the department.

(b) Witness Protection Program.--The department may relinquish jurisdiction over an offender to the proper Federal authorities where the offender is placed into the Witness Protection Program of the United States Department of Justice.

(c) Applicability.--The provisions of this section shall apply only to those persons under the supervision of the department.

(d) Contracting state obligations.--The contracting state must adhere to this Commonwealth's laws regarding the interstate compact, which are as follows:

(1) The contracting state solemnly agrees that it is competent for the duly constituted judicial and administrative authorities of a state party to the compact, referred to as the "sending state," to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state, referred to as the "receiving state," while on probation or parole if:

(i) A confirmed offer of viable employment or other verifiable means of support exists.

(ii) A residence approved by the sending state shall be available.

(2) The following information must be made available to the receiving state from the sending state at the time the application for acceptance to the receiving state shall be filed:

(i) Institutional adjustment information on parolees or probationers.

(ii) Current supervision history on parolees or probationers.

(iii) A psychological report or psychological update, completed no more than one year prior to the receiving state's consideration, for persons convicted of a violent offense.

(iv) The following information must be made available to the receiving state for those cases defined as a sexual offense:

(A) A summary of any type of treatment received and dates of completion.

(B) A description of behavioral characteristics that may have contributed to the parolee or probationer's conduct.

(3) Any parolee or probationer convicted of a sexual offense shall be required to:

(i) Submit to mandatory registration and public notification of all current addresses with the Pennsylvania State Police.

(ii) Provide a signed copy of the "Pennsylvania State Police Sexual Offender Registration Notification" form and the "Pennsylvania State Police Sexual Offender Registration" form to the receiving state.

(iii) Provide a signed copy of "Addendum to Application for Compact Services/Agreement to Return" form to the receiving state.

(4) Except as provided in this subsection, the receiving state shall not consider the acceptance of supervision if the parolee is already physically present in this Commonwealth. Investigation and consideration of a case shall occur only after the parolee returns to the sending state and proper application is filed. The receiving state may consider the acceptance of supervision if the probationer is already physically present in this Commonwealth, where the probationer has established domicile in the receiving state before adjudication on the criminal offense.

(5) Electronic monitoring or other special conditions, or both, of supervision shall be imposed as deemed necessary by the receiving state.

(6) At the request of the receiving state, the sending state shall agree to retake the parolee or probationer if that individual violates any condition of probation or parole.

(e) Definitions.--As used in this section, the following words and phrases shall have the meaning given to them in this subsection unless the context clearly indicates otherwise:

"Board." (Deleted by amendment).

"Other verifiable means of support." The term includes, but is not limited to, support by a parent, grandparent, sibling, spouse or adult child. The term does not include public assistance.

"Sexual offense."

(1) Any of the following offenses or an equivalent offense that is classified as a felony and involves a victim who is a minor:

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

18 Pa.C.S. § 5902(a) (relating to prostitution and related offenses).

18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to obscene and other sexual materials and performances).

(2) Any of the following offenses or an equivalent offense that is classified as a felony and involves a victim who is younger than 13 years of age:

18 Pa.C.S. § 3126 (relating to indecent assault).

(3) Any of the following offenses or an equivalent offense, regardless of the victim's age:

18 Pa.C.S. § 3121 (relating to rape).

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

18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

"Violent offense."

(1) Any of the following offenses or an equivalent offense:

18 Pa.C.S. § 2502 (relating to murder).

18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

18 Pa.C.S. § 2702 (relating to aggravated assault).

18 Pa.C.S. § 2703 (relating to assault by prisoner).

18 Pa.C.S. § 2704 (relating to assault by life prisoner).

18 Pa.C.S. § 2901 (relating to kidnapping) where the victim is a minor.

18 Pa.C.S. § 3121 (relating to rape).

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

18 Pa.C.S. § 3301 (relating to arson and related offenses).

18 Pa.C.S. § 3502 (relating to burglary).

18 Pa.C.S. § 3701 (relating to robbery).

18 Pa.C.S. § 3923 (relating to theft by extortion) where a threat of violence is made.

(2) A criminal attempt, criminal solicitation or criminal conspiracy to commit any offenses set forth in this definition.

"Other verifiable means of support." (Deleted by amendment).

(June 30, 2021, P.L.260, No.59, eff. imd.)

2021 Amendment. Act 59 amended subsecs. (a), (b), (c) and (e).

Cross References. Section 7122 is referred to in section 7123 of this title.

§ 7123. Penalty.

A person who is on parole or probation in another state and who resides in this Commonwealth in violation of section 7122 (relating to supervision of persons paroled by other states) commits a misdemeanor of the first degree and shall be sentenced to pay a fine of not more than $10,000 or to imprisonment for not more than five years, or both.

CHAPTER 73
BOARD OF PARDONS

Sec.

7301. Board of Pardons.

Enactment. Chapter 73 was added June 30, 2021, P.L.260, No.59, effective immediately.

§ 7301. Board of Pardons.

(a) Establishment.--The Board of Pardons is established for the purposes of:

(1) hearing applications for the remission of fines and forfeitures;

(2) granting of reprieves, commutations of sentence and pardons, except in cases of impeachment; and

(3) making recommendations in writing to the Governor thereon, in the manner provided under and subject to section 9 of Article IV of the Constitution of Pennsylvania.

(b) Composition.--The Board of Pardons shall consist of the following members:

(1) The Lieutenant Governor, who shall be chairperson.

(2) The Attorney General.

(3) Three members appointed by the Governor as provided under section 9 of Article IV of the Constitution of Pennsylvania.

(b.1) Terms.--Members shall serve a term of six years.

(c) Quorum.--Four members of the board shall constitute a quorum.

(d) Granting of hearings.--Hearings relating to the granting of reprieves, commutations of sentences and pardons for prisoners serving life sentences, sentences for crimes of violence or sentences for any other offense resulting in death or serious bodily injury may only be granted upon approval by a vote of a majority of the members of the Board of Pardons.

(e) Applicants under sentence of death.--In cases involving applicants under sentence of death, the application shall be filed within 10 days of the Governor's issuance of a warrant specifying a week for execution.

(f) Notice to victims.--The following apply:

(1) The Board of Pardons shall provide notice through the Office of Victim Advocate to victims or next of kin, including victims who are registered with the Department of Corrections, the Office of Victim Advocate, the Pennsylvania Parole Board, the Board of Pardons and those whose whereabouts are otherwise known.

(2) Individuals notified under this subsection shall be given the opportunity to offer prior comment on any application which has been granted a hearing by the Board of Pardons pertaining to the individual's case, which may be oral or written, and shall be considered by the Board of Pardons as to the advisability of any pardon or related release and any conditions of release.

(3) The Board of Pardons through the Office of Victim Advocate shall make all reasonable efforts to effectuate notice within 30 days of the date that a hearing is granted and at least 60 days prior to the hearing. The Board of Pardons and the Office of Victim Advocate shall certify in writing to each member of the Board of Pardons:

(i) the date and manner by which notice was effectuated; or

(ii) a detailed description of all means or measures employed to locate the victims or next of kin to furnish notice.

(4) During any hearing granted under this chapter, a victim or next of kin shall be permitted to offer testimony before the Board of Pardons in person, in writing or via videoconferencing or similar virtual presence technology at the sole discretion of the victim or next of kin.

(5) If the Board of Pardons fails to comply with any of the provisions of this subsection, any action by the Board of Pardons to which the failure to comply applies, including a vote or recommendation under this chapter, shall be null and void.

(g) Hearings.--Each member of the Board of Pardons shall interview an applicant in instances where the Board of Pardons chooses to have an application submitted by the following:

(1) an inmate serving a life sentence or a sentence of death;

(2) an inmate serving a sentence for murder of the third degree, voluntary manslaughter, attempt to commit murder of the third degree or attempt to commit voluntary manslaughter; or

(3) an inmate serving a sentence for a crime of violence.

(g.1) Interview.--An interview conducted under subsection (g) shall be in person, unless any requisite travel or transport of the applicant would cause an undue medical hardship.

(h) Rules and regulations.--The Board of Pardons shall adopt rules and regulations governing actions of the board and all hearings and recommendations shall be subject to the rules and regulations.

(i) Recordkeeping.--The Board of Pardons shall keep records of all actions, which shall, at all times, be open for public inspection.

(j) Offices.--Upon request, the Department of Corrections shall make available facilities, administrative support and other assistance to the board. The Secretary of the Board of Pardons shall employ staff as necessary to carry out the board's duties under this chapter.

(k) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Crime of violence." As defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses).

APPENDIX TO TITLE 61
PRISONS AND PAROLE

Supplementary Provisions of Amendatory Statutes

2009, AUGUST 11, P.L.147, NO.33

§ 8. Continuation of prior law.

Except as set forth in section 9 of this act, the addition of 61 Pa.C.S. Pts. I, II, III, IV and V is a continuation of the acts and parts of acts listed in section 11 of this act.

Explanatory Note. Act 33 added Parts I, II, III, IV and V of Title 61 and amended, added or repealed sections 102, 301, 1501, 1511, 1515, 1516, 1520, 2154.4, 2154.5, 2154.6, 9755.1, 9756, 9775, 9776 and 9777 and Chapter 99 of Title 42.

§ 10. Applicability.

The following shall apply:

(1) Except as otherwise provided in 61 Pa.C.S. Pts. I, II, III, IV and V, all activities initiated under any of the acts identified in section 8 of this act shall continue and remain in full force and effect and may be completed under 61 Pa.C.S. Pts. I, II, III, IV and V. Resolutions, orders, regulations, rules and decisions which were made under any of the acts identified in section 8 of this act and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 61 Pa.C.S. Pts. I, II, III, IV and V. Contracts, obligations and agreements entered into under any of the acts identified in section 8 of this act are not affected nor impaired by the continuation of the acts and parts of acts identified in section 8.

(2) Any difference in language between 61 Pa.C.S. Pts. I, II, III, IV and V and the acts identified in section 8 of this act is intended only to conform to the style of the

Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administrative interpretation and implementation of those acts, except as follows:

61 Pa.C.S. Part I.

61 Pa.C.S. § 3104(f).

The definition of "motivational boot camp" in 61 Pa.C.S. § 3903, by deleting an obsolete reference to ventilation therapy.

61 Pa.C.S. § 5903, by adding a reference to civilian clothing to conform to Department of Corrections policy.

61 Pa.C.S. § 6112(a)(5).

61 Pa.C.S. § 6138(a)(5)(ii) and (d) to conform to Department of Corrections policy.

§ 12. References in text.

A reference in any act or part of an act to:

(1) A parole agent of a county shall be deemed a reference to a probation officer.

(2) A parole officer of the State shall be deemed a reference to a parole agent.

(3) The County Probation and Parole Officers' Firearm Education and Training Program shall be deemed a reference to the County Probation Officers' Firearm Education and Training Program.

(4) The County Probation and Parole Officers' Firearm Education and Training Fund shall be deemed a reference to the County Probation Officers' Firearm Education and Training Fund.

§ 13. Continuation of commission.

The County Probation Officers' Firearm Education and Training Commission is a continuation of the County Probation and Parole Officers' Firearm Education and Training Commission.

§ 14. Continuation of fund.

The County Probation Officers' Firearm Education and Training Fund is a continuation of the County Probation and Parole Officers' Firearm Education and Training Fund.

2010, OCTOBER 7, P.L.476, NO.65

Preamble

The General Assembly finds and declares as follows:

(1) The purpose of this act is to require notice and a hearing relating to any request for proposal issued by the Department of Corrections for beds in a community corrections facility for inmates with prerelease status or individuals who are on parole.

(2) The hearing will provide concerned parties the opportunity to receive information regarding the beds requested at a community corrections facility and the impact on the community.

(3) The hearing will also provide individuals with the opportunity to ask questions and express concerns relative to the request for proposal.

Explanatory Note. Act 65 added Chapter 47 of Title 61.

2010, OCTOBER 27, P.L.931, NO.95

§ 23. Continuation of regulations adopted under prior law.

The regulations adopted under the former act of December 27, 1965 (P.L.1237, No.502), entitled "An act establishing regional correctional facilities administered by the Bureau of Correction as part of the State correctional system; establishing standards for county jails, and providing for inspection and classification of county jails and for commitment to State correctional facilities and county jails," and the former act of October 16, 1972 (P.L.913, No.218), entitled "An act establishing regional community treatment centers for women administered by the Bureau of Correction of the Department of Justice as part of the State Correctional System, providing for the commitment of females to such centers and their temporary release therefrom for certain purposes, restricting confinement of females in county jails and conferring powers and duties upon the Department of Justice and the Bureau of Correction," prior to the effective date of this section shall continue to have the force and effect of law and shall be construed to be consistent with the provisions of 61 Pa.C.S. § 1105.

Explanatory Note. Act 95 amended, added or repealed sections 102 and 1105, the heading of Subchapter B of Chapter 17, sections 1721, 1722 and 1723, the heading of Subchapter C of Chapter 17, section 1731, the heading of Subchapter A of Chapter 31, section 3102, Subchapter B of Chapter 31 and sections 3909, 4109, 4510, 5906, 6113, 6124, 6131, 6137, 6138, 6140, 6153, 7103 and 7115 of Title 61 and sections 2154, 2154.2, 2154.7, 9721 and 9774 of Title 42.

§ 24. Continuation of prior law.

The addition of 61 Pa.C.S. Ch. 31 Subch. B is a continuation of the act of June 1, 1915 (P.L.656, No.289), entitled "An act providing a system of employment and compensation for the inmates of the Eastern Penitentiary, Western Penitentiary, and the Pennsylvania Industrial Reformatory at Huntingdon, and for such other correctional institutions as shall be hereafter established by the Commonwealth, and making an appropriation therefor." The following apply:

(1) Except as otherwise provided in 61 Pa.C.S. Ch. 31 Subch. B, all activities initiated under the act of June 1, 1915 (P.L.656, No.289), shall continue and remain in full force and effect and may be completed under 61 Pa.C.S. Ch. 31 Subch. B. Resolutions, orders, regulations, rules and decisions which were made under the act of June 1, 1915 (P.L.656, No.289), and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 61 Pa.C.S. Ch. 31 Subch. B. Contracts, obligations and agreements entered into under the act of June 1, 1915 (P.L.656, No.289), are not affected nor impaired by the repeal of the act of June 1, 1915 (P.L.656, No.289).

(2) Any difference in language between 61 Pa.C.S. Ch. 31 Subch. B and the act of June 1, 1915 (P.L.656, No.289), is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administrative interpretation and implementation of the act of June 1, 1915 (P.L.656, No.289).

§ 2. Applicability.

The addition of 61 Pa.C.S. § 6139(a)(3.3) and (3.4) shall apply to all of the following:

(1) Individuals convicted of an offense set forth in 61 Pa.C.S. § 6139(a)(3.3) before the effective date of this section who remain under the jurisdiction of the Department of Corrections.

(2) Individuals who commit an offense set forth in 61 Pa.C.S. § 6139(a)(3.3) on or after the effective date of this section.

(3) Individuals who, before or after the effective date of this section:

(i) commit an offense subject to 42 Pa.C.S. Ch. 97 Subch. H or I;

(ii) are designated as sexually violent predators; and

(iii) are under the jurisdiction of the Department of Corrections.

Explanatory Note. Act 124 amended section 6139 of Title 61.

2021, JUNE 30, P.L.260, NO.59

§ 27. Applicability.

The following shall apply to transfers:

(1) The Pennsylvania Parole Board and the functions, powers and duties of the Pennsylvania Parole Board, including the powers and duties contained in 61 Pa.C.S. Ch. 61 Such. F and that formerly resided within the Pennsylvania Parole Board, are transferred to the Department of Corrections.

(2) Upon approval of the Governor, the following are transferred to the Department of Corrections, to be used, employed and expended in connection with the functions, powers and duties transferred under paragraph (1):

(i) Personnel, contract obligations, records, files, property, supplies and equipment being used or held on the effective date of this section in connection with the functions, powers and duties transferred under paragraph (1).

(ii) Personnel transferred under this section who on the effective date of this section hold civil service employment status shall retain such status and protections afforded under 71 Pa.C.S. Pt. III while they remain in their current position.

(iii) Unexpended balances of appropriations, allocations and other funds available or to be made available for use in connection with the functions, powers and duties transferred under paragraph (1).

(3) To the extent that any employee of the Pennsylvania Parole Board is transferred to the Department of Corrections as a result of this act, such action shall not require the department or the Pennsylvania Parole Board to engage in collective bargaining or impact bargaining with the collective bargaining representative of the employees under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, or any other laws of this Commonwealth.

Explanatory Note. Act 59 amended sections 2151.1, 2155, 5950, 5952, 6307, 8332.7, 8340, 9543.1, 9718.5, 9727, 9764,

9776, 9777, 9799.13, 9799.16, 9799.19, 9799.20, 9799.22, 9799.24, 9799.25, 9799.29, 9799.30, 9799.31, 9799.32, 9799.33, 9799.35, 9799.38, 9799.54, 9799.55, 9799.56, 9799.58, 9799.64, 9799.65, 9799.66, 9799.67, 9799.68, 9799.69, 9799.72 and 9912 of Title 42, amended, added or repealed sections 102, 1106, 5001, 5002, 5003, 5004, 5005, 5006, 5007, 5008 and Pt. IV heading and sections 6101, 6102, 6111, 6112, 6113, 6116, 6118, 6119, 6120, 6121, 6124, 6131, 6132, 6133, 6134, 6134.1, 6136, 6137, 6138, 6139, 6140, 6141, 6143 and Subchapters D, F and G and sections 6302, 7115, 7121, 7122 and Chapter 73 of Title 61 and section 5102 of Title 71.

§ 28. Reference in law.

Any reference in law to a parole agent or supervision staff shall be deemed a reference to an agent as defined in 61 Pa.C.S. § 6101. This act does not change the status of State parole agents for the purposes of the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, or cause State parole agents to be considered policemen for the purposes of the act of June 24, 1968 (P.L.237, No.111), referred to as the Policemen and Firemen Collective Bargaining Act.