

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1071 Session of 2018

INTRODUCED BY GREENLEAF, LEACH, HUGHES, SCHWANK, YUDICHAK, BROWNE AND STREET, MARCH 12, 2018

AS AMENDED ON THIRD CONSIDERATION, APRIL 24, 2018

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 61
2 (Prisons and Parole) of the Pennsylvania Consolidated
3 Statutes, in judicial boards and commissions, further
4 providing for powers and duties, for adoption of guidelines
5 for sentencing, for adoption of guidelines for county
6 intermediate punishment, for adoption of guidelines for
7 State intermediate punishment and for adoption of risk
8 assessment instrument; in sentencing, further providing for
9 sentencing generally, for order of probation, for sentence of
10 partial confinement, for sentence of total confinement, for
11 sentence of county intermediate punishment, for information
12 required upon commitment and subsequent disposition, for
13 modification or revocation of order of probation, for court-
14 imposed sanctions for offenders violating probation, for
15 modification or revocation of county intermediate punishment
16 sentence and for revocation of State intermediate punishment
17 sentence; in county intermediate punishment, further
18 providing for county intermediate punishment programs and for
19 continued eligibility; in motivational boot camp, further
20 providing for definitions, for selection of inmate
21 participants and for motivational boot camp program; in State
22 intermediate punishment, further providing scope of chapter,
23 for definitions, for referral to State intermediate
24 punishment program, for drug offender treatment program and
25 for reports; in recidivism risk reduction incentive, further
26 providing for definitions, for evaluation and for reports; in
27 Pennsylvania Board of Probation and Parole, further providing
28 for definitions, for advisory committee, for general powers
29 of board, for probation services, for parole power, providing
30 for short sentence parole, further providing for violation of
31 terms of parole and for parole procedure; and making
32 conforming amendments.

33 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 2153(a) of Title 42 of the Pennsylvania  
3 Consolidated Statutes is amended by adding a paragraph and the  
4 section is amended by adding a subsection to read:

5 § 2153. Powers and duties.

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

8 \* \* \*

9 (16) Report to the General Assembly on:

10 (i) implementation of revisions to the guidelines  
11 under sections 2154 (relating to adoption of guidelines  
12 for sentencing) and 2154.1 (relating to adoption of  
13 guidelines for restrictive conditions);

14 (ii) implementation and outcomes of justice  
15 reinvestment funding to county probation;

16 (iii) use of court-imposed sanctions for violating  
17 probation under section 9771.1 (relating to court-imposed  
18 sanctions for violating probation);

19 (iv) in consultation with the Office of the Budget  
20 and the Department of Corrections, the implementation of  
21 short sentence parole under 61 Pa.C.S. § 6137.5 (relating  
22 to short sentence parole), use of the State drug  
23 treatment program under 61 Pa.C.S. Ch. 41 (relating to  
24 State drug treatment program) and use of sanctions for  
25 technical parole violations under 61 Pa.C.S. § 6138(c)(8)  
26 (relating to violation of terms of parole); and

27 (v) evaluations of the effectiveness of various  
28 criminal justice interventions and programming, including  
29 restrictive conditions of probation, recidivism risk  
30 reduction incentive programs, State drug treatment

1 program, State motivational boot camp program, pretrial  
2 diversion programs, prisoner treatment programs and  
3 prisoner reentry programs. For any evaluations of the  
4 effectiveness of programs in reducing recidivism, the  
5 commission shall report on:

6 (A) The number of individuals eligible for the  
7 program, the number of individuals participating in  
8 the program and the number of individuals who  
9 successfully completed the program during the period  
10 under study.

11 (B) The recidivism rates for participants of the  
12 program and for a comparison group of individuals who  
13 did not participate in the program.

14 (C) Potential changes in the program that the  
15 commission believes would make the program more  
16 effective.

17 (D) Any other information the commission deems  
18 relevant.

19 \* \* \*

20 (d) Hearings.--The General Assembly shall convene hearings  
21 in the appropriate committees to hear and deliberate upon  
22 reports under subsection (a) (16).

23 Section 2. Sections 2154 and 2154.1 of Title 42 are amended  
24 to read:

25 § 2154. Adoption of guidelines for sentencing.

26 (a) General rule.--The commission shall adopt guidelines for  
27 sentencing within the limits established by law which shall be  
28 considered by the sentencing court in determining the  
29 appropriate sentence for defendants who plead guilty or nolo  
30 contendere to, or who were found guilty of, felonies and

1 misdemeanors. In adopting guidelines, the commission shall  
2 recommend confinement that is consistent with the protection of  
3 the public, the gravity of the offense as it relates to the  
4 impact on the life of the victim and the community and the  
5 rehabilitative needs of the offender. The guidelines shall  
6 address the following retributive factors:

7 (1) Seriousness of the offense, by specifying the range  
8 of sentences applicable to crimes of a given degree of  
9 gravity[, including incapacitation of serious violent  
10 offenders].

11 (2) Criminal history, by specifying a range of sentences  
12 of increased severity or intensity of intervention for  
13 offenders previously convicted of or adjudicated delinquent  
14 for one or more misdemeanor or felony offenses committed  
15 prior to the current offense. The commission may exclude or  
16 reduce the valuation of less serious offenses and increase  
17 the valuation of offenses committed while under supervision  
18 or in a temporal or offense pattern.

19 (3) Criminal behavior, by specifying a range of  
20 sentences of increased severity or intensity of intervention  
21 for offenders [who pose a substantial risk to public safety]  
22 with increased culpability, including those who possessed or  
23 used a deadly weapon or inflicted substantial harm during the  
24 commission of the current conviction offense.

25 (4) Aggravated and mitigated ranges, by specifying  
26 variations from the range of sentences applicable on account  
27 of aggravating or mitigating circumstances.

28 (5) The impact of any amendments to section 9756  
29 (relating to sentence of total confinement).

30 (b) Adjustments.--The guidelines shall include the following

1 risk-related adjustments:

2 (1) Incapacitation of serious violent offenders.

3 (2) Modifications to criminal history to reflect risk to  
4 reoffend and substantial risk to public safety to adjust the  
5 length of total confinement for more serious criminal  
6 history.

7 (3) Recommendations related to the use of county  
8 intermediate punishment programs as restrictive conditions of  
9 probation, the duration of terms of probation and maximum  
10 terms of total and partial confinement and the use of  
11 aggregate sentences.

12 (c) Interactive information.--The guidelines shall include  
13 interactive information to support decisions with risk,  
14 recidivism and cost information.

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

18 "Possessed." On a defendant's person or within the  
19 defendant's immediate physical control.

20 "Previously convicted of or adjudicated delinquent." Any  
21 finding of guilt or adjudication of delinquency, whether or not  
22 sentence has been imposed or disposition ordered prior to the  
23 commission of the current offense.

24 § 2154.1. Adoption of guidelines for [county intermediate  
25 punishment] restrictive conditions.

26 (a) General rule.--The commission shall adopt guidelines to  
27 identify offenders who would be eligible and appropriate for  
28 [participation in county intermediate punishment programs]  
29 restrictive conditions of probation. These guidelines shall be  
30 considered by the sentencing court in determining whether to

1 [sentence an offender] impose restrictive conditions pursuant to  
2 section 9763 (relating to [sentence of county intermediate  
3 punishment] conditions of probation). The guidelines shall[:

4 (1) Use the description of "eligible offender" provided  
5 in Chapter 98 (relating to county intermediate punishment).

6 (2) Give] give primary consideration to reducing  
7 recidivism for the protection of the public safety.

8 (b) Compliance.--The commission shall certify compliance  
9 with any guidelines adopted by the commission for county  
10 intermediate punishment or for imposing restrictive conditions  
11 of probation and with any related statutory requirements and  
12 report the results to the Pennsylvania Commission on Crime and  
13 Delinquency.

14 Section 3. Section 2154.2 of Title 42 is repealed:

15 [§ 2154.2. Adoption of guidelines for State intermediate  
16 punishment.

17 The commission shall adopt guidelines to identify offenders  
18 who would be appropriate for participation in State intermediate  
19 punishment programs. These guidelines shall be considered by the  
20 attorney for the Commonwealth and the sentencing court in  
21 determining whether to commit a defendant for evaluation and  
22 whether to sentence an eligible offender pursuant to 61 Pa.C.S.  
23 Ch. 41 (relating to State intermediate punishment). The  
24 guidelines shall:

25 (1) Use the description of "eligible offender" provided  
26 in 61 Pa.C.S. Ch. 41.

27 (2) Give primary consideration to protection of the  
28 public safety.]

29 Section 4. Sections 2154.7(d), 9721(a), (a.1) and (b), 9754,  
30 9755(d) and (h), 9756(c.1), 9763(a), (b)(14), (16) and (17), (c)

1 and (d), 9764(f), 9771(a) and (b) and 9771.1 of Title 42 are  
2 amended to read:

3 § 2154.7. Adoption of risk assessment instrument.

4 \* \* \*

5 (d) Alternative sentencing.--Subject to the eligibility  
6 requirements of each program, the risk assessment instrument may  
7 be an aide to help determine:

8 (1) for persons under supervision, intensity of  
9 intervention, use of restrictive conditions and duration of  
10 supervision; and

11 (2) appropriate candidates for alternative sentencing,  
12 including the recidivism risk reduction incentive, State [and  
13 county intermediate punishment programs] drug treatment  
14 program and State motivational boot camps.

15 \* \* \*

16 § 9721. Sentencing generally.

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

- 21 (1) An order of probation.  
22 (2) A determination of guilt without further penalty.  
23 (3) Partial confinement.  
24 (4) Total confinement.  
25 (5) A fine.  
26 [(6) County intermediate punishment.  
27 (7) State intermediate punishment.]

28 (a.1) Exception.--

29 (1) Unless specifically authorized under section 9763  
30 (relating to [a sentence of county intermediate punishment])

1 or 61 Pa.C.S. Ch. 41 (relating to State intermediate  
2 punishment)] conditions of probation), subsection (a) shall  
3 not apply where a mandatory minimum sentence is otherwise  
4 provided by law.

5 (2) [An eligible offender may be sentenced to State  
6 intermediate punishment pursuant to subsection (a)(7) and as  
7 described in 61 Pa.C.S. Ch. 41 or to] A person may be  
8 eligible for the State drug treatment program as described in  
9 61 Pa.C.S. Ch. 41 or State motivational boot camp as  
10 described in 61 Pa.C.S. Ch. 39 (relating to motivational boot  
11 camp), even if a mandatory minimum sentence would otherwise  
12 be provided by law.

13 (3) An eligible [offender] person may be sentenced to  
14 total confinement pursuant to subsection (a)(4) and a  
15 recidivism risk reduction incentive minimum sentence pursuant  
16 to section 9756(b.1) (relating to sentence of total  
17 confinement), even if a mandatory minimum sentence would  
18 otherwise be provided by law.

19 (b) General standards.--In selecting from the alternatives  
20 set forth in subsection (a), the court shall follow the general  
21 principle that the sentence imposed should call for total  
22 confinement that is consistent with section 9725 (relating to  
23 total confinement) and the protection of the public, the gravity  
24 of the offense as it relates to the impact on the life of the  
25 victim and on the community, and the rehabilitative needs of the  
26 defendant. The court shall also consider any guidelines for  
27 sentencing and resentencing adopted by the Pennsylvania  
28 Commission on Sentencing and taking effect under section 2155  
29 (relating to publication of guidelines for sentencing,  
30 resentencing and parole, risk assessment instrument and

1 recommitment ranges following revocation). In every case in  
2 which the court imposes a sentence for a felony or misdemeanor,  
3 modifies a sentence, resentences [an offender] a person  
4 following revocation of probation[, county intermediate  
5 punishment or State intermediate punishment] or resentences  
6 following remand, the court shall make as a part of the record,  
7 and disclose in open court at the time of sentencing, a  
8 statement of the reason or reasons for the sentence imposed. In  
9 every case where the court imposes a sentence or resentence  
10 outside the guidelines adopted by the Pennsylvania Commission on  
11 Sentencing under sections 2154 (relating to adoption of  
12 guidelines for sentencing), 2154.1 (relating to adoption of  
13 guidelines for [county intermediate punishment), 2154.2  
14 (relating to adoption of guidelines for State intermediate  
15 punishment)] restrictive conditions), 2154.3 (relating to  
16 adoption of guidelines for fines), 2154.4 (relating to adoption  
17 of guidelines for resentencing) and 2154.5 (relating to adoption  
18 of guidelines for parole) and made effective under section 2155,  
19 the court shall provide a contemporaneous written statement of  
20 the reason or reasons for the deviation from the guidelines to  
21 the commission, as established under section 2153(a)(14)  
22 (relating to powers and duties). Failure to comply shall be  
23 grounds for vacating the sentence or resentence and resentencing  
24 the defendant.

25 \* \* \*

26 § 9754. Order of probation.

27 (a) General rule.--In imposing an order of probation the  
28 court shall specify at the time of sentencing the length of any  
29 term during which the defendant is to be supervised, which term  
30 may not exceed the maximum term for which the defendant could be

1 confined, and the authority that shall conduct the supervision.  
2 The court shall consider probation guidelines adopted by the  
3 Pennsylvania Commission on Sentencing under sections 2154  
4 (relating to adoption of guidelines for sentencing) and 2154.1  
5 (relating to adoption of guidelines for restrictive conditions).

6 (b) Conditions generally.--The court shall attach [such of  
7 the reasonable conditions authorized by subsection (c) of this  
8 section as it deems necessary to insure or assist the defendant  
9 in leading a law-abiding life.

10 (c) Specific conditions.--The court may as a condition of  
11 its order require the defendant:

12 (1) To meet his family responsibilities.

13 (2) To devote himself to a specific occupation or  
14 employment.

15 (2.1) To participate in a public or nonprofit community  
16 service program unless the defendant was convicted of murder,  
17 rape, aggravated assault, arson, theft by extortion,  
18 terroristic threats, robbery or kidnapping.

19 (3) To undergo available medical or psychiatric  
20 treatment and to enter and remain in a specified institution,  
21 when required for that purpose.

22 (4) To pursue a prescribed secular course of study or  
23 vocational training.

24 (5) To attend or reside in a facility established for  
25 the instruction, recreation, or residence of persons on  
26 probation.

27 (6) To refrain from frequenting unlawful or disreputable  
28 places or consorting with disreputable persons.

29 (7) To have in his possession no firearm or other  
30 dangerous weapon unless granted written permission.

1 (8) To make restitution of the fruits of his crime or to  
2 make reparations, in an amount he can afford to pay, for the  
3 loss or damage caused thereby.

4 (9) To remain within the jurisdiction of the court and  
5 to notify the court or the probation officer of any change in  
6 his address or his employment.

7 (10) To report as directed to the court or the probation  
8 officer and to permit the probation officer to visit his  
9 home.

10 (11) To pay such fine as has been imposed.

11 (12) To participate in drug or alcohol treatment  
12 programs.

13 (13) To satisfy any other conditions reasonably related  
14 to the rehabilitation of the defendant and not unduly  
15 restrictive of his liberty or incompatible with his freedom  
16 of conscience.

17 (14) To remain within the premises of his residence  
18 during the hours designated by the court.] reasonable  
19 conditions authorized by section 9763 (relating to conditions  
20 of probation).

21 (d) Sentence following violation of probation.--The sentence  
22 to be imposed in the event of the violation of a condition shall  
23 not be fixed prior to a finding on the record that a violation  
24 has occurred.

25 § 9755. Sentence of partial confinement.

26 \* \* \*

27 (d) Conditions to release.--The court may in addition  
28 include in its order such of the conditions as are enumerated in  
29 section [9754 (relating to order of probation)] 9763 (relating  
30 to conditions of probation) as may be reasonably related to the

1 sentence.

2 \* \* \*

3 (h) Sentence of partial confinement combined with [sentence  
4 of county intermediate punishment] probation.--The court may  
5 impose a sentence of partial confinement without parole under  
6 this subsection only when:

7 (1) the period of partial confinement is followed  
8 immediately by [a sentence] restrictive conditions of  
9 probation imposed pursuant to section 9763 (relating to  
10 [sentence of county intermediate punishment]) conditions of  
11 probation) in which case the sentence of partial confinement  
12 shall specify the number of days of partial confinement to be  
13 served; and

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

17 § 9756. Sentence of total confinement.

18 \* \* \*

19 (c.1) Sentence of total confinement combined with [sentence  
20 of county intermediate punishment] probation.--The court may  
21 impose a sentence of imprisonment without parole under this  
22 subsection only when:

23 (1) the period of total confinement is followed  
24 immediately by [a sentence] restrictive conditions of  
25 probation imposed pursuant to section 9763 (c) or (d)  
26 (relating to [sentence of county intermediate punishment])  
27 conditions of probation) in which case the sentence of total  
28 confinement shall specify the number of days of total  
29 confinement also to be served; and

30 (2) the maximum sentence of total confinement imposed on

1 one or more indictments to run consecutively or concurrently  
2 total 90 days or less.

3 \* \* \*

4 § 9763. [Sentence of county intermediate punishment] Conditions  
5 of probation.

6 (a) General rule.--In imposing [a sentence of county  
7 intermediate punishment] probation, the court shall consider  
8 guidelines adopted by the Pennsylvania Commission on Sentencing  
9 under section 2154 (relating to adoption of guidelines for  
10 sentencing) or 2154.1 (relating to adoption of guidelines for  
11 restrictive conditions) and specify at the time of sentencing  
12 the conditions of probation, including the length of the term  
13 [for which the defendant is to be in a county intermediate  
14 punishment program established under Chapter 98 (relating to  
15 county intermediate punishment) or a combination of county  
16 intermediate punishment programs. The term may not exceed the  
17 maximum term for which the defendant could be confined and the  
18 program to which the defendant is sentenced. The court may order  
19 a defendant to serve a portion of the sentence under section  
20 9755 (relating to sentence of partial confinement) or 9756  
21 (relating to sentence of total confinement) and to serve a  
22 portion in a county intermediate punishment program or a  
23 combination of county intermediate punishment programs.] of  
24 restrictive conditions under subsection (c) or (d). The term of  
25 restrictive conditions under subsection (c) shall be equal to or  
26 greater than the mandatory minimum term of imprisonment required  
27 by statute.

28 (b) Conditions generally.--The court may attach any of the  
29 following conditions upon the defendant as it deems necessary:

30 \* \* \*

1 (14) To participate in drug or alcohol screening and  
2 treatment programs, including outpatient [and inpatient]  
3 programs.

4 \* \* \*

5 [(16) To remain within the premises of the defendant's  
6 residence during the hours designated by the court.

7 (17) To be subject to electronic monitoring.]

8 (c) [Restriction] Restrictive DUI probation conditions.--

9 (1) Any person receiving a penalty imposed pursuant to  
10 75 Pa.C.S. § 1543(b) (relating to driving while operating  
11 privilege is suspended or revoked), former 75 Pa.C.S. § 3731  
12 (relating to driving under influence of alcohol or controlled  
13 substance) or 75 Pa.C.S. § 3804 (relating to penalties) for a  
14 first, second or third offense under 75 Pa.C.S. Ch. 38  
15 (relating to driving after imbibing alcohol or utilizing  
16 drugs) may only [be sentenced to county intermediate  
17 punishment] have probation imposed after undergoing an  
18 assessment under 75 Pa.C.S. § 3814 (relating to drug and  
19 alcohol assessments).

20 (2) If the defendant is determined to be in need of drug  
21 and alcohol treatment, the defendant may only [be sentenced  
22 to county intermediate punishment which] have probation that  
23 includes participation in drug and alcohol treatment under 75  
24 Pa.C.S. § 3815(c) (relating to mandatory sentencing). The  
25 defendant [may only be sentenced to county intermediate  
26 punishment in] shall have restrictive DUI probation  
27 conditions of:

28 (i) a residential inpatient program or a residential  
29 rehabilitative center;

30 (ii) house arrest with electronic surveillance;

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

3 (iv) any combination of the programs set forth in  
4 this paragraph.

5 (3) If the defendant is determined not to be in need of  
6 drug and alcohol treatment, the defendant [may only be  
7 sentenced to county intermediate punishment in] shall have  
8 restrictive DUI probation conditions of:

9 (i) house arrest with electronic surveillance;

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

12 (iii) any combination of the programs set forth in  
13 this paragraph.

14 (4) If the defendant is determined to be in need of  
15 additional treatment under 75 Pa.C.S. § 3814(2), the judge  
16 shall impose a minimum sentence as provided by law and a  
17 maximum sentence equal to the statutorily available maximum.  
18 A sentence to the statutorily available maximum imposed under  
19 this subsection may, in the discretion of the sentencing  
20 court, be ordered to be served in a county prison,  
21 notwithstanding the provisions of section 9762 (relating to  
22 sentencing proceeding; place of confinement).

23 (d) [Sentence following violation of condition.--The  
24 sentence to be imposed in the event of the violation of a  
25 condition under subsection (b) shall not be imposed prior to a  
26 finding on the record that a violation has occurred.  
27 Notwithstanding any other provision of law requiring notice  
28 prior to sentencing, in the event of a violation of a condition  
29 under subsection (b), the attorney for the Commonwealth may file  
30 notice at any time prior to resentencing of the Commonwealth's

1 intention to proceed under an applicable provision of law  
2 requiring a mandatory minimum sentence.] Restrictive conditions  
3 of probation.--Probation may include restrictive conditions  
4 that:

5 (1) house the person full time or part time, including  
6 inpatient treatment; or

7 (2) significantly restrict the person's movement and  
8 monitor the person's compliance with the program, including  
9 electronic monitoring or home confinement.

10 § 9764. Information required upon commitment and subsequent  
11 disposition.

12 \* \* \*

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

15 (1) Prior to the release of an inmate from a county  
16 correctional facility to State probation or parole  
17 supervision, the facility shall provide to the Department of  
18 Corrections and the Pennsylvania Board of Probation and  
19 Parole the information contained in subsections [(a)(1)  
20 through (4)] (a) and (b) with the exception of subsection (a)  
21 (5).

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

28 \* \* \*

29 § 9771. Modification or revocation of order of probation.

30 (a) General rule.--The court [may] has inherent power to at

1 any time terminate continued supervision or lessen [or increase]  
2 the conditions upon which an order of probation has been  
3 imposed.

4 (b) Revocation.--The court may increase the conditions,  
5 impose a brief sanction under section 9771.1 (relating to court-  
6 imposed sanctions for violating probation) or revoke an order of  
7 probation upon proof of the violation of specified conditions of  
8 the probation. Upon revocation the sentencing alternatives  
9 available to the court shall be the same as were available at  
10 the time of initial sentencing, due consideration being given to  
11 the time spent serving the order of probation. The attorney for  
12 the Commonwealth may file notice at any time prior to  
13 resentencing of the Commonwealth's intention to proceed under an  
14 applicable provision of law requiring a mandatory minimum  
15 sentence.

16 \* \* \*

17 § 9771.1. Court-imposed sanctions for [offenders] violating  
18 probation.

19 (a) Program.--Notwithstanding the provisions of section 9771  
20 (relating to modification or revocation of order of probation),  
21 the court of common pleas of a judicial district may establish a  
22 program to impose swift, predictable and [immediate] brief  
23 sanctions on [offenders] persons who violate their probation.

24 [(b) Coordination with other officials.--The court shall  
25 work with probation administrators and officers, jail  
26 administrators, prosecutors, public defenders and law  
27 enforcement in the judicial district to develop and implement  
28 the program.]

29 (c) Eligibility.--

30 (1) The court shall determine which offenders are

1 eligible for and admitted into the program. The program shall  
2 focus on, but not be limited to, offenders who have committed  
3 drug-related crimes.

4 (2) An offender shall be ineligible for the program if  
5 the offender has been convicted or adjudicated delinquent of  
6 a crime of violence as defined in section 9714 (relating to  
7 sentences for second and subsequent offenses) or of a crime  
8 requiring registration under Subchapter H (relating to  
9 registration of sexual offenders).

10 (d) Warning hearing.--

11 (1) At the time of sentencing, the court shall hold a  
12 warning hearing for each participant in the program to  
13 clearly communicate program expectations and consequences and  
14 to encourage the participant's compliance and success.

15 (2) The court shall emphasize the expectations that the  
16 participant remain drug free and comply with any treatment or  
17 services ordered by the court as a condition of the  
18 participant's probation.

19 (3) The court shall put the participant on notice that  
20 each probation violation, including missed appointments and  
21 positive drug tests, will result in jail time as provided for  
22 under subsection (g).

23 (e) Drug testing.--The program shall require, when  
24 applicable, randomized drug testing.]

25 (f) Violation hearing.--If a participant commits a probation  
26 violation, the participant shall promptly be arrested, and a  
27 hearing shall be held no later than two business days after the  
28 arrest date.

29 (g) Sanctions.--

30 (1) The court shall impose a term of imprisonment of up

1 to:

- 2 (i) three days for a first violation;
- 3 (ii) seven days for a second violation;
- 4 (iii) fourteen days for a third violation; and
- 5 (iv) twenty-one days for a fourth or subsequent
- 6 violation of probation.

7 (2) The court may allow the term of imprisonment to be  
8 served on weekends or other nonwork days for employed  
9 probationers who have committed a first or second violation.

10 (3) The court may increase the conditions of probation,  
11 including additional substance abuse treatment for a  
12 participant who has failed one or more drug tests.

13 (h) Exceptions.--If the participant is able to provide a  
14 compelling reason for the probation violation, the court may  
15 grant an exception to the sanctions authorized under subsection  
16 (g).

17 (i) Revocation of probation.--

18 (1) After a third violation, the court may revoke the  
19 order of probation.

20 (2) Upon revocation, the sentencing alternatives shall  
21 be the same as were available at the time of initial  
22 sentencing, due consideration being given to the time spent  
23 serving the order of probation.

24 (j) Local rules.--

25 (1) The court may adopt local rules for the  
26 administration of this program. Except as provided for under  
27 paragraph (2), the local rules may not be inconsistent with  
28 this section or any rules adopted by the Supreme Court.

29 (2) The court may adopt local rules that are  
30 inconsistent with subsection (g) regarding the terms of

1 imprisonment or other sanctions or conditions provided for  
2 under subsection (g).

3 Section 5. Sections 9773 and 9774 of Title 42 are repealed:

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

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

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

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

29 § 9774. Revocation of State intermediate punishment sentence.

30 (a) General rule.--The court may at any time terminate a

1 sentence of State intermediate punishment pursuant to 61 Pa.C.S.  
2 Ch. 41 (relating to State intermediate punishment).

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

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

15 Section 6. Sections 9804 and 9810(a) of Title 42 are amended  
16 to read:

17 § 9804. County intermediate punishment programs.

18 (a) Description.--County intermediate punishment [program  
19 options shall include the following:

20 (1) Restrictive intermediate punishments providing for  
21 the strict supervision of the offender, including programs  
22 that:

23 (i) house the offender full or part time;

24 (ii) significantly restrict the offender's movement  
25 and monitor the offender's compliance with the program;  
26 or

27 (iii) involve a combination of programs that meet  
28 the standards set forth under subparagraphs (i) and (ii).

29 (2) When utilized in combination with restrictive  
30 intermediate punishments, restorative sanctions providing for

1 nonconfinement sentencing options that:

2 (i) Are the least restrictive in terms of the  
3 constraint of the offender's liberties.

4 (ii) Do not involve the housing of the offender,  
5 either full or part time.

6 (iii) Focus on restoring the victim to pre-offense  
7 status.] programs are restrictive conditions of probation  
8 imposed under section 9763(c) or (d) (relating to  
9 conditions of probation), which may be subject to  
10 guidelines adopted under section 2154.1 (relating to  
11 adoption of guidelines for restrictive conditions).

12 (b) Eligibility.--

13 (1) (i) [No person other than the eligible offender  
14 shall be sentenced to a county intermediate punishment  
15 program.] Upon adoption of guidelines for imposing  
16 restrictive conditions adopted by the Pennsylvania  
17 Commission on Sentencing under section 2154.1, only  
18 eligible persons may have restrictive conditions imposed.

19 (ii) The prosecuting attorney, in the prosecuting  
20 attorney's sole discretion, may advise the court that the  
21 Commonwealth has elected to waive the eligibility  
22 requirements [of this chapter] if the victim has been  
23 given notice of the prosecuting attorney's intent to  
24 waive the eligibility requirements and an opportunity to  
25 be heard on the issue.

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

29 (2) [The Pennsylvania Commission on Sentencing shall  
30 employ the term "eligible offender" to further identify

1 offenders who would be appropriate for participation in  
2 county intermediate punishment programs. In developing the  
3 guidelines, the commission shall give primary consideration  
4 to protection of the public safety.] Only programs that meet  
5 the requirements of restrictive conditions of probation under  
6 section 9763(c) or (d) and are certified in accordance with  
7 section 2154.1(b) shall be eligible for county intermediate  
8 punishment program funding.

9 [(4) (i) Any person receiving a penalty imposed  
10 pursuant to 75 Pa.C.S. § 1543(b) (relating to driving  
11 while operating privilege is suspended or revoked), 3804  
12 (relating to penalties) or 3808(a)(2) (relating to  
13 illegally operating a motor vehicle not equipped with  
14 ignition interlock) shall undergo an assessment under 75  
15 Pa.C.S. § 3814 (relating to drug and alcohol  
16 assessments).

17 (ii) If the defendant is determined to be in need of  
18 drug and alcohol treatment, a sentence to county  
19 intermediate punishment shall include participation in  
20 drug and alcohol treatment under 75 Pa.C.S. § 3815(c)  
21 (relating to mandatory sentencing). The defendant may  
22 only be sentenced to county intermediate punishment in:

23 (A) a residential inpatient program or a  
24 residential rehabilitative center;

25 (B) house arrest with electronic surveillance;

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

28 (D) any combination of the programs set forth in  
29 this subparagraph.

30 (iii) If the defendant is determined not to be in

1 need of drug and alcohol treatment or if the defendant  
2 receives a penalty imposed under 30 Pa.C.S. § 5502(c.1)  
3 (relating to operating watercraft under influence of  
4 alcohol or controlled substance), the defendant may only  
5 be sentenced to a county intermediate punishment program  
6 in:

7 (A) house arrest with electronic surveillance;

8 (B) partial confinement programs such as work  
9 release, work camps and halfway facilities; or

10 (C) any combination of the programs set forth in  
11 this paragraph.

12 (5) A defendant subject to 75 Pa.C.S. § 3804 (relating  
13 to penalties) or 30 Pa.C.S. § 5502(c.1) may only be sentenced  
14 to county intermediate punishment for a first, second or  
15 third offense under 75 Pa.C.S. Ch. 38 (relating to driving  
16 after imbibing alcohol or utilizing drugs) or 30 Pa.C.S. §  
17 5502.]

18 § 9810. Continued eligibility.

19 (a) Evaluation.--In order to remain eligible for [continued  
20 grant] county intermediate punishment funding, a county shall  
21 comply with commission standards and regulations and participate  
22 in an evaluation to determine program effectiveness. The form of  
23 the evaluation shall be determined by the commission[.] and  
24 shall include certification by the Pennsylvania Commission on  
25 Sentencing under section 2154.1(b) (relating to adoption of  
26 guidelines for restrictive conditions).

27 \* \* \*

28 Section 7. The definition of "eligible inmate" in section  
29 3903 of Title 61 is amended to read:

30 § 3903. Definitions.

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

4 \* \* \*

5 "Eligible inmate." A person sentenced to a term of  
6 confinement under the jurisdiction of the Department of  
7 Corrections who is serving a term of confinement, the minimum of  
8 which is not more than two years and the maximum of which is  
9 five years or less, or an inmate who is serving a term of  
10 confinement, the minimum of which is not more than three years  
11 where that inmate is within two years of completing his minimum  
12 term, and who has not reached 40 years of age at the time he is  
13 approved for participation in the motivational boot camp  
14 program. The term shall not include any inmate who is subject to  
15 a sentence the calculation of which included an enhancement for  
16 the use of a deadly weapon as defined pursuant to the sentencing  
17 guidelines promulgated by the Pennsylvania Commission on  
18 Sentencing, any inmate who has been convicted or adjudicated  
19 delinquent of any crime requiring registration under 42 Pa.C.S.  
20 Ch. 97 Subch. H (relating to registration of sexual offenders)  
21 or any inmate with a current conviction or a prior conviction  
22 within the past ten years for [any of the following offenses:

23 18 Pa.C.S. § 2502 (relating to murder).

24 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

25 18 Pa.C.S. § 2506 (relating to drug delivery resulting in  
26 death).

27 18 Pa.C.S. § 2901(a) (relating to kidnapping).

28 18 Pa.C.S. § 3301(a)(1)(i) (relating to arson and related  
29 offenses).

30 18 Pa.C.S. § 3502 (relating to burglary) in the case of

1 burglary of a structure adapted for overnight accommodation  
2 in which at the time of the offense any person is present.

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

5 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

6 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3)(iii) or (4)  
7 (iii) (relating to drug trafficking sentencing and

8 penalties).] drug trafficking as defined in section 4103

9 (relating to definitions) or a crime of violence as defined

10 in 42 Pa.C.S. § 9714(g) (relating to sentences for second or  
11 subsequent offenses).

12 \* \* \*

13 Section 8. Sections 3904(b) and 3905(e) of Title 61 are  
14 amended to read:

15 § 3904. Selection of inmate participants.

16 \* \* \*

17 (b) Duties of sentencing judge.--The sentencing judge shall  
18 employ the sentencing guidelines to identify those defendants  
19 who are eligible for participation in a motivational boot camp.  
20 The judge shall have the discretion to exclude a defendant from  
21 eligibility if the judge determines that the defendant would be  
22 inappropriate for placement in a motivational boot camp. The  
23 judge shall note on the sentencing order whether the defendant  
24 has been [identified as eligible] excluded from eligibility for  
25 a motivational boot camp program.

26 \* \* \*

27 § 3905. Motivational boot camp program.

28 \* \* \*

29 [(e) Evaluation.--The department and the commission shall  
30 monitor and evaluate the motivational boot camp programs to

1 ensure that the programmatic objectives are met. Both shall  
2 present biennial reports of the evaluations to the Judiciary  
3 Committee of the Senate and the Judiciary Committee of the House  
4 of Representatives no later than February 1 in alternate years.]

5 Section 9. The heading of Chapter 41 of Title 61 is amended  
6 to read:

7 CHAPTER 41

8 STATE [INTERMEDIATE PUNISHMENT] DRUG TREATMENT PROGRAM

9 Section 10. Section 4101 of Title 61 is amended to read:

10 § 4101. Scope of chapter.

11 This chapter relates to the State [intermediate punishment]  
12 drug treatment program.

13 Section 11. The definitions of "eligible offender" and  
14 "participant" in section 4103 of Title 61 are amended and the  
15 section is amended by adding a definition to read:

16 § 4103. Definitions.

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

20 \* \* \*

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

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

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

1 grams.

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

5 (i) Coca leaves.

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

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

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

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

18 (i) Methamphetamine.

19 (ii) Phencyclidine.

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

22 (iv) A mixture containing:

23 (A) Methamphetamine or phencyclidine.

24 (B) A salt of methamphetamine or phencyclidine.

25 (C) An isomer of methamphetamine or  
26 phencyclidine.

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

29 "Eligible [offender." Subject to 42 Pa.C.S. § 9721(a.1)  
30 (relating to sentencing generally), a defendant] person."

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

4           [(1)] (i) Has undergone an assessment performed by  
5 the Department of Corrections, which assessment has  
6 concluded that the [defendant] person is in need of drug  
7 and alcohol addiction treatment and would benefit from  
8 commitment to [a drug offender] the State drug treatment  
9 program and that placement in [a drug offender] the State  
10 drug treatment program would be appropriate.

11           [(2)] (ii) Does not demonstrate a history of present  
12 or past violent behavior.

13           [(3) Would be placed in the custody of the  
14 department if not sentenced to State intermediate  
15 punishment.] (iii) Is a person sentenced to a term of  
16 confinement under the jurisdiction of the department, the  
17 minimum of which is not more than two years, or a person  
18 who is serving a term of confinement, the minimum of  
19 which is not more than five years where the person is  
20 within two years of completing the person's minimum term.

21           [(4)] (iv) Provides written consent permitting  
22 release of information pertaining to the [defendant's]  
23 person's participation in [a drug offender] the State  
24 drug treatment program.

25           (2) The term shall not include a [defendant] person who  
26 is subject to a sentence the calculation of which includes an  
27 enhancement for the use of a deadly weapon, as defined  
28 pursuant to law or the sentencing guidelines promulgated by  
29 the Pennsylvania Commission on Sentencing, a [defendant]  
30 person who has been convicted or adjudicated delinquent of

1 any crime requiring registration under 42 Pa.C.S. Ch. 97  
2 Subch. H (relating to registration of sexual offenders) or a  
3 [defendant] person with a current conviction or a prior  
4 conviction within the past ten years for [any of the  
5 following offenses:

6 18 Pa.C.S. § 2502 (relating to murder).

7 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

8 18 Pa.C.S. § 2506 (relating to drug delivery resulting in  
9 death).

10 18 Pa.C.S. § 2901(a) (relating to kidnapping).

11 18 Pa.C.S. § 3301(a)(1)(i) (relating to arson and related  
12 offenses).

13 18 Pa.C.S. § 3502 (relating to burglary), in the case of  
14 burglary of a structure adapted for overnight accommodation  
15 in which at the time of the offense any person is present.

16 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to  
17 robbery).

18 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

19 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3)(iii) or (4)  
20 (iii) (relating to drug trafficking sentencing and  
21 penalties).] drug trafficking as defined in 42 Pa.C.S. § 4103  
22 (relating to definitions) or a crime of violence as defined  
23 in 42 Pa.C.S. § 9714(g) (relating to sentences for second or  
24 subsequent offenses).

25 \* \* \*

26 "Participant." An eligible [offender actually sentenced to  
27 State intermediate punishment pursuant to 42 Pa.C.S. § 9721(a)  
28 (7) (relating to sentencing generally).] person placed in the  
29 State drug treatment program.

30 \* \* \*

1 Section 12. Sections 4104, 4105 and 4107 of Title 61 are  
2 amended to read:

3 § 4104. [Referral to State intermediate punishment] Selection  
4 for the State drug treatment program.

5 (a) [Referral for evaluation.--

6 (1) Prior to imposing a sentence, the court may, upon  
7 motion of the Commonwealth, commit a defendant to the custody  
8 of the department for the purpose of evaluating whether the  
9 defendant would benefit from a drug offender treatment  
10 program and whether placement in the drug offender treatment  
11 program is appropriate.

12 (1.1) Duties of commission and sentencing judge.--

13 (1) Through the use of sentencing guidelines, the  
14 commission shall employ the term "eligible person" as defined  
15 in this chapter to further identify persons who would be  
16 potentially appropriate for participation in the State drug  
17 treatment program. The sentencing judge shall employ the  
18 sentencing guidelines to identify persons who are eligible  
19 for participation in the State drug treatment program. The  
20 judge shall consider the position of a victim of the crime,  
21 as advised by the prosecuting attorney, on whether to exclude  
22 the person from eligibility for placement in the State drug  
23 treatment program. The judge shall exclude the person from  
24 eligibility if the prosecuting attorney opposes eligibility.  
25 The judge shall note on the sentencing order if a person has  
26 been excluded from eligibility for the State drug treatment  
27 program. If the person is not excluded from eligibility, the  
28 minimum sentence imposed shall operate as the minimum for  
29 parole eligibility purposes if the person is not placed in  
30 the program by the department under subsection (c) or if the

1 person is expelled from the program under section 4105(f)  
2 (relating to State drug treatment program).

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

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

14 [(2) Upon committing a defendant to the department, the  
15 court shall forward to the department:

16 (i) A summary of the offense for which the defendant  
17 has been convicted.

18 (ii) Information relating to the defendant's history  
19 of delinquency or criminality, including the information  
20 maintained by the court under 42 Pa.C.S. Ch. 63 (relating  
21 to juvenile matters), when available.

22 (iii) Information relating to the defendant's  
23 history of drug or alcohol abuse or addiction, when  
24 available.

25 (iv) A presentence investigation report, when  
26 available.

27 (v) Any other information the court deems relevant  
28 to assist the department with its assessment of the  
29 defendant.]

30 (b) Assessment of [addiction.--

1           (1) ~~The~~] addiction.--The department shall conduct an  
2 assessment of the addiction and other treatment needs of [a  
3 defendant] an eligible person and determine whether the  
4 [defendant] person would benefit from [a drug offender] the  
5 State drug treatment program. The assessment shall be  
6 conducted using a nationally recognized assessment instrument  
7 or an instrument that has been normed and validated on the  
8 department's inmate population by a recognized expert in such  
9 matters. The assessment instrument shall be administered by  
10 persons skilled in the treatment of drug and alcohol  
11 addiction and trained to conduct assessments. The assessments  
12 shall be reviewed and approved by a supervisor with at least  
13 three years of experience providing drug and alcohol  
14 counseling services.

15           [(2) The department shall conduct risk and other  
16 assessments it deems appropriate and shall provide a report  
17 of its assessments to the court, the defendant, the attorney  
18 for the Commonwealth and the commission within 60 days of the  
19 court's commitment of the defendant to the custody of the  
20 department.]

21           (c) [Proposed drug offender] Placement in the State drug  
22 treatment program.--If the department in its discretion believes  
23 [a defendant] an eligible person would benefit from [a drug  
24 offender] the State drug treatment program and placement in the  
25 [drug offender treatment] program is appropriate, the department  
26 shall [provide] make the placement and notify the court, counsel  
27 for the defendant[, ] and the attorney for the Commonwealth [and  
28 the commission with a proposed drug offender treatment program  
29 detailing the type of treatment proposed] of the placement.

30           [(d) Prerequisites for commitment.--Upon receipt of a

1 recommendation for placement in a drug offender treatment  
2 program from the department and agreement of the attorney for  
3 the Commonwealth, the court may sentence an eligible offender to  
4 a period of 24 months of State intermediate punishment if the  
5 court finds that:

6 (1) The eligible offender is likely to benefit from  
7 State intermediate punishment.

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

10 (3) Sentencing the eligible offender to State  
11 intermediate punishment would not depreciate the seriousness  
12 of the offense.

13 (e) Resentencing.--The department may make a written request  
14 to the sentencing court that an offender who is otherwise  
15 eligible but has not been referred for evaluation or originally  
16 sentenced to State intermediate punishment be sentenced to State  
17 intermediate punishment. The court may resentence the offender  
18 to State intermediate punishment if all of the following apply:

19 (1) The department has recommended placement in a drug  
20 offender treatment program.

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

23 (3) The court makes the findings set forth under  
24 subsection (d).

25 (4) The resentencing has occurred within 365 days of the  
26 date of the defendant's admission to the custody of the  
27 department.

28 (5) The court has otherwise complied with all other  
29 requirements for the imposition of sentence including victim  
30 notification under the act of November 24, 1998 (P.L.882,

1 No.111), known as the Crime Victims Act.]

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

7 [(g) Applicability and program limitations.--The court may  
8 not modify or alter the terms of the department's proposed  
9 individualized drug offender treatment plan without the  
10 agreement of the department and the attorney for the  
11 Commonwealth.

12 (h) Videoconferencing.--The department shall make  
13 videoconferencing facilities available to allow the court to  
14 conduct proceedings necessary under this section when the  
15 eligible offender has been committed to the custody of the  
16 department pursuant to subsection (b).

17 (i) Victims.--Victims of personal injury crimes shall be  
18 given the opportunity to receive notice of and to provide prior  
19 comment on any recommendation by the department under subsection  
20 (b) or (d) that the offender participate in the State  
21 Intermediate Punishment Program.

22 (j) Definitions.--As used in this section, the term  
23 "personal injury crime" shall be defined as in section 103 of  
24 the act of November 24, 1998 (P.L.882, No.111), known as the  
25 Crime Victims Act.]

26 § 4105. [Drug offender] State drug treatment program.

27 (a) Establishment.--The department shall establish and  
28 administer [a drug offender] the State drug treatment program  
29 [as a State intermediate punishment]. The program shall be  
30 designed to address the individually assessed drug and alcohol

1 abuse and addiction needs of a participant and shall address  
2 other issues essential to the participant's successful  
3 reintegration into the community, including, but not limited to,  
4 educational and employment issues.

5 (b) Duration and components.--Notwithstanding any credit to  
6 which the defendant may be entitled under 42 Pa.C.S. § 9760  
7 (relating to credit for time served), the duration of the State  
8 drug [offender] treatment program [shall be] is 24 months [and],  
9 but if the participant is unable to complete the program within  
10 24 months and is otherwise compliant with the program, subject  
11 to the discretion of the department, the program duration may be  
12 extended up to 30 months total in order for the participant to  
13 successfully complete the program. The program shall include the  
14 following:

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

17 (i) The time during which the [defendants are]  
18 eligible person is being evaluated by the department  
19 under section 4104(b) (relating to [referral to State  
20 intermediate punishment] selection for the State drug  
21 treatment program).

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

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

27 (3) A period of at least six-months' treatment through  
28 an outpatient addiction treatment facility. During the  
29 outpatient addiction treatment period of the [drug offender  
30 treatment] program, the participant may be housed in a

1 community corrections center or group home or placed in an  
2 approved transitional residence. The participant must comply  
3 with any conditions established by the department regardless  
4 of where the participant resides during the outpatient  
5 addiction treatment portion of the [drug offender treatment]  
6 program.

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

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

17 (c) Program management.--

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

29 (2) This subsection shall be construed to provide the  
30 department with the maximum flexibility to administer the

1        State drug [offender] treatment program both as a whole and  
2        for individual participants.

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

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

16       (f) Expulsion from program.--

17            (1) A participant may be expelled from the State drug  
18        [offender] treatment program at any time in accordance with  
19        guidelines established by the department, including failure  
20        to comply with administrative or disciplinary procedures or  
21        requirements set forth by the department. An expelled  
22        participant shall be housed in a State correctional  
23        institution to serve the remainder of the participant's  
24        sentence. The expelled participant shall be eligible for  
25        parole at the minimum sentence but may not be eligible for  
26        short sentence parole under section 6137.5 (relating to short  
27        sentence parole).

28            (2) The department shall promptly notify the court, the  
29        [defendant] participant, the attorney for the Commonwealth  
30        and the commission of the expulsion of a participant from the

1     State drug [offender] treatment program and the reason for  
2     such expulsion. [The participant shall be housed in a State  
3     correctional institution or county jail pending action by the  
4     court.

5           (3) The court shall schedule a prompt State intermediate  
6     punishment revocation hearing pursuant to 42 Pa.C.S. § 9774  
7     (relating to revocation of State intermediate punishment  
8     sentence).]

9     § 4107. [Reports] Evaluation.

10     [(a) Final report.--The department shall provide a final  
11     report to the court, the defendant, the attorney for the  
12     Commonwealth and the commission on a participant's progress in  
13     the drug offender treatment program.]

14     (b) Evaluation and report to General Assembly.--The  
15     department [and the commission] shall monitor and evaluate the  
16     State drug [offender] treatment program to ensure that the  
17     programmatic objectives are met. [In odd-numbered years, the]  
18     Every three years, the department shall present a report of its  
19     evaluation to the Judiciary Committee of the Senate and the  
20     Judiciary Committee of the House of Representatives no later  
21     than February 1. [In even-numbered years, the commission shall  
22     present a report of its evaluation to the Judiciary Committee of  
23     the Senate and the Judiciary Committee of the House of  
24     Representatives no later than February 1.] The General Assembly  
25     shall convene hearings in the appropriate committees to hear and  
26     deliberate upon reports under this section. The report shall  
27     include:

28           (1) The number of [offenders] persons evaluated for the  
29     State drug [offender] treatment program.

30           (2) The number of [offenders sentenced to] persons

1 placed into the State drug [offender] treatment program.

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

5 (4) The number of [offenders] persons successfully  
6 completing the State drug [offender] treatment program.

7 (5) The six-month, one-year, three-year and five-year  
8 recidivism rates for [offenders] persons who have completed  
9 the State drug [offender] treatment program and for a  
10 comparison group of [offenders] persons who were not placed  
11 in the State drug [offender] treatment program.

12 (6) Any changes the department [or the commission]  
13 believes will make the State drug [offender] treatment  
14 program more effective.

15 Section 13. The definition of "eligible offender" in section  
16 4503 of Title 61 is amended to read:

17 § 4503. Definitions.

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

21 \* \* \*

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

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

28 (2) Has not been subject to a sentence the calculation  
29 of which includes an enhancement for the use of a deadly  
30 weapon as defined under law or the sentencing guidelines

1 promulgated by the Pennsylvania Commission on Sentencing or  
2 the attorney for the Commonwealth has not demonstrated that  
3 the defendant has been found guilty of or was convicted of an  
4 offense involving a deadly weapon or offense under 18 Pa.C.S.  
5 Ch. 61 (relating to firearms and other dangerous articles) or  
6 the equivalent offense under the laws of the United States or  
7 one of its territories or possessions, another state, the  
8 District of Columbia, the Commonwealth of Puerto Rico or a  
9 foreign nation.

10 (3) Has not been found guilty of or previously convicted  
11 of or adjudicated delinquent for or an attempt or conspiracy  
12 to commit a personal injury crime as defined under section  
13 103 of the act of November 24, 1998 (P.L.882, No.111), known  
14 as the Crime Victims Act, except for an offense under 18  
15 Pa.C.S. § 2701 (relating to simple assault) when the offense  
16 is a misdemeanor of the third degree, or an equivalent  
17 offense under the laws of the United States or one of its  
18 territories or possessions, another state, the District of  
19 Columbia, the Commonwealth of Puerto Rico or a foreign  
20 nation.

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

27 18 Pa.C.S. § 4302(a) (relating to incest).

28 18 Pa.C.S. § 5901 (relating to open lewdness).

29 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet  
30 child pornography).

1 Received a criminal sentence pursuant to 42 Pa.C.S. §  
2 9712.1 (relating to sentences for certain drug offenses  
3 committed with firearms).

4 Any offense for which registration is required under  
5 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
6 sexual offenders).

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

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

13 [(6) Has not been found guilty or previously convicted  
14 of violating section 13(a)(14), (30) or (37) of the act of  
15 April 14, 1972 (P.L.233, No.64), known as The Controlled  
16 Substance, Drug, Device and Cosmetic Act, where the sentence  
17 was imposed pursuant to 18 Pa.C.S. § 7508(a)(1)(iii), (2)  
18 (iii), (3)(iii), (4)(iii), (7)(iii) or (8)(iii) (relating to  
19 drug trafficking sentencing and penalties).]

20 \* \* \*

21 Section 14. Sections 4509 and 4510 of Title 61 are repealed:

22 [§ 4509. Evaluation.

23 (a) General rule.--The department, the board and the  
24 commission shall monitor and evaluate the recidivism risk  
25 reduction incentive programs. Evaluations under this section  
26 should be scientifically rigorous and seek to determine the  
27 effectiveness of the programs, including whether specific  
28 recidivism risk reduction incentive programs have reduced the  
29 recidivism rates of the program participants as compared to  
30 previously incarcerated and similarly situated inmates.

1 (b) Publication.--The department, the board and the  
2 commission shall make evaluations conducted under this section  
3 and underlying data available to the public. The publicly  
4 available data and evaluations shall comply with generally  
5 accepted practices of the research community, including  
6 expectations relating to subject privacy and identifying  
7 information.

8 § 4510. Reports.

9 (a) Recidivism risk reduction.--The department, the board  
10 and the commission shall monitor and evaluate the recidivism  
11 risk reduction incentive programs to ensure that the goals and  
12 objectives of this chapter are met and shall report to the  
13 General Assembly as follows:

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

19 (i) The number of inmates determined by the  
20 department to be eligible offenders under this chapter  
21 and the offenses for which the eligible offenders were  
22 committed to the custody of the department.

23 (ii) The number of inmates committed to the custody  
24 of the department who were subject to a recidivism risk  
25 reduction incentive minimum sentence.

26 (iii) The number of inmates paroled at the  
27 recidivism risk reduction incentive minimum date.

28 (iv) Any potential changes that would make the  
29 program more effective.

30 (v) The six-month, one-year, three-year and five-

1 year recidivism rates for inmates released at the  
2 recidivism risk reduction incentive minimum sentence.

3 (vi) Any other information the department deems  
4 relevant.

5 (2) In odd-numbered years, the commission shall present  
6 a report of its evaluation to the Judiciary Committee of the  
7 Senate and the Judiciary Committee of the House of  
8 Representatives no later than February 1. The report shall  
9 include all of the following:

10 (i) Whether the goals of this chapter could be  
11 achieved through amendments to parole or sentencing  
12 guidelines.

13 (ii) The various options for parole or sentencing  
14 guidelines under subparagraph (i).

15 (iii) The status of any proposed or implemented  
16 guidelines designed to implement the provisions of this  
17 chapter.

18 (iv) Any potential changes to the program that would  
19 be likely to reduce the risk of recidivism of inmates and  
20 improve public safety.

21 (v) Any other information the commission deems  
22 relevant.

23 (b) Educational plan.--

24 (1) The Pennsylvania Commission on Crime and Delinquency  
25 shall publish a report of a proposed educational program plan  
26 within one year of the effective date of this section. The  
27 proposed educational program plan shall be developed in  
28 consultation with the department, the commission, the board,  
29 the Pennsylvania District Attorneys Association, the victim  
30 advocate and representatives of the judiciary and the

1 criminal defense bar and other criminal justice stakeholders.

2 (2) The plan shall seek to provide cost-effective  
3 training or information through electronic means,  
4 publications or continuing educational programs that address  
5 the following topics:

6 (i) The treatment programs available through the  
7 board and the department.

8 (ii) The availability of programs and eligibility  
9 requirements that can reduce recidivism risk, including  
10 State intermediate punishment, motivational boot camp and  
11 recidivism risk reduction incentive programs.

12 (iii) The calculation of sentencing credit and  
13 practices that could inadvertently prevent an inmate from  
14 receiving sentence credit.

15 (iv) Recent statutory changes relating to  
16 sentencing, place of confinement, medical releases,  
17 transfer of inmates and parole.]

18 Section 15. The heading of Subchapter B of Chapter 61 of  
19 Title 61 is amended to read:

20 SUBCHAPTER B

21 ADMINISTRATION OF THE PENNSYLVANIA PAROLE BOARD

22 Section 16. Section 6101 and 6111 heading and (a) of Title  
23 61 are amended to read:

24 § 6101. Definitions.

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

28 "Board." The Pennsylvania [Board of Probation and] Parole  
29 Board.

30 § 6111. Pennsylvania [Board of Probation and] Parole Board.

1 (a) Establishment.--The Pennsylvania [Board of Probation  
2 and] Parole Board is an independent administrative board for the  
3 administration of the [probation and] parole laws of this  
4 Commonwealth.

5 \* \* \*

6 Section 17. Section 6123 of Title 61 is repealed:

7 [~~§ 6123. Advisory committee.~~

8 (a) Establishment.--An advisory committee on probation is  
9 reestablished to assist the board.

10 (b) Composition.--The advisory committee shall consist of  
11 nine members, seven of whom shall be appointed by the Governor,  
12 with the consent of a majority of the members of the Senate. At  
13 least two shall be judges of courts of record of this  
14 Commonwealth, at least one shall be a county commissioner, at  
15 least one shall be a chief county probation officer, and the  
16 remaining members shall be qualified in the field of probation  
17 and parole either by training or experience. The President pro  
18 tempore of the Senate and the Speaker of the House of  
19 Representatives shall each appoint a member of their respective  
20 houses to serve as members of the committee.

21 (c) Terms.--

22 (1) The term of a member hereafter appointed, except to  
23 fill a vacancy, shall be for four years and until their  
24 successors have been appointed and qualified, but in no event  
25 more than 90 days beyond the expiration of their appointed  
26 term.

27 (2) The terms of members of the committee who are  
28 appointed by virtue of holding an office as a member of the  
29 General Assembly, judge, chief county probation officer or  
30 county commissioner shall continue only so long as that

1 person remains in that office.

2 (3) Vacancies occurring in an office of a member of the  
3 advisory committee by expiration of term, death, resignation,  
4 removal or for any other reason shall be filled in the manner  
5 provided by section 8 of Article IV of the Constitution of  
6 Pennsylvania for the remainder of the term.

7 (4) Whenever the term of an advisory committee member,  
8 other than one who is a member of the General Assembly,  
9 expires, that member's position shall be immediately deemed a  
10 vacancy, and the Governor shall nominate a person to fill  
11 that membership position on the committee within 90 days of  
12 the date of expiration, even if the member continues to  
13 remain on the committee. The Governor shall designate one of  
14 the members of the committee as its chairperson.

15 (d) Reimbursement of expenses.--Each member of the advisory  
16 committee shall be paid all reasonable and necessary travel and  
17 other expenses incurred by him in the performance of his duties.

18 (e) Assistance to be provided.--The advisory committee shall  
19 aid the chairperson and the board in formulating and reviewing  
20 standards for probation personnel and probation services in the  
21 counties.]

22 Section 18. Sections 6131(a)(3), (4) and (5), 6133(c) and  
23 (d) and 6137(a)(1) of Title 61 are amended to read:

24 § 6131. General powers of board.

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

27 \* \* \*

28 (3) To collect and maintain a record of all persons who  
29 are placed on [probation and] parole.

30 [(4) To collect, compile and publish statistical and

1 other information relating to probation and parole work in  
2 all courts and such other information the board may deem of  
3 value in probation service.

4 (5) To establish, by regulation, uniform Statewide  
5 standards for:

6 (i) Presentence investigations.

7 (ii) The supervision of probationers.

8 (iii) The qualifications for probation personnel.

9 (iv) Minimum salaries.

10 (v) Quality of probation service.

11 The standards for the qualifications of probation personnel  
12 shall only apply to probation personnel appointed after the  
13 date the standards are established. Should any probation  
14 personnel appointed prior to the date the standards were  
15 established fail to meet the standards, the court having  
16 jurisdiction of such personnel may request the board to  
17 establish in-service training for them in accordance with the  
18 standards.]

19 \* \* \*

20 § 6133. Probation services.

21 \* \* \*

22 (c) [Grant-in-aid.--

23 (1) A county that provides additional probation staff  
24 for presentence investigations and improved probation  
25 supervision and programs shall receive a grant-in-aid from  
26 the Commonwealth through the board for additional costs  
27 incurred thereby but only to the extent that the additional  
28 staff and program meet the qualifications and standards  
29 established by the board.

30 (2) The grant-in-aid shall provide 80% of the personnel

1 salary costs incurred by a county to administer these  
2 additional services and programs.

3 (3) If insufficient funds are appropriated, each county  
4 shall receive a prorated reduction in the grant-in-aid.

5 (4) The board shall establish rules and regulations for  
6 the allocation of funds available for such grants-in-aid.]

7 Supervision and investigation.--Supervision and presentence  
8 investigations by court order or request shall be provided in  
9 accordance with board regulations.

10 (d) In-service training.--The board shall provide in-service  
11 training for personnel of county probation offices when  
12 requested to do so by the court having jurisdiction of the  
13 probation office[.] as provided by memorandum of understanding  
14 with the Pennsylvania Commission on Crime and Delinquency and  
15 contingent upon the availability of money.

16 § 6137. Parole power.

17 (a) General criteria for parole.--

18 (1) The board may parole subject to consideration of  
19 guidelines established under 42 Pa.C.S. § 2154.5 (relating to  
20 adoption of guidelines for parole) or subject to section  
21 6137.5 (relating to short sentence parole) and may release on  
22 parole any inmate to whom the power to parole is granted to  
23 the board by this chapter, except an inmate condemned to  
24 death or serving life imprisonment, whenever in its opinion:

25 (i) The best interests of the inmate justify or  
26 require that the inmate be paroled.

27 (ii) It does not appear that the interests of the  
28 Commonwealth will be injured by the inmate's parole.

29 \* \* \*

30 Section 19. Title 61 is amended by adding a section to read:

1 § 6137.5. Short sentence parole.

2 (a) General rule.--This section applies to persons committed  
3 to the department with a minimum sentence of confinement under  
4 42 Pa.C.S. § 9756(b) (relating to sentence of total confinement)  
5 of two years or less or a recidivism risk reduction incentive  
6 minimum sentence under 42 Pa.C.S. § 9756(b.1) of two years or  
7 less, whichever is shorter. Regardless of sentence imposed, this  
8 section does not apply to:

9 (1) persons committed for or with an aggregate sentence  
10 containing a personal injury crime, OR ANY CRIMINAL ATTEMPT, <--  
11 CRIMINAL SOLICITATION, OR CRIMINAL CONSPIRACY TO COMMIT A  
12 PERSONAL INJURY CRIME, as defined in section 103 of the act  
13 of November 24, 1998 (P.L.882, No.111), known as the Crime  
14 Victims Act;

15 (2) persons committed for or with an aggregate sentence  
16 containing an offense under 18 Pa.C.S. § 6105 (relating to  
17 persons not to possess, use, manufacture, control, sell or  
18 transfer firearms);-or <--

19 (3) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE <--  
20 CONTAINING AN ENHANCEMENT FOR THE USE OF A DEADLY WEAPON AS  
21 DEFINED UNDER LAW OR THE SENTENCING GUIDELINES PROMULGATED BY  
22 THE PENNSYLVANIA COMMISSION ON SENTENCING OR WHERE THE  
23 ATTORNEY FOR THE COMMONWEALTH HAS DEMONSTRATED THAT THE  
24 DEFENDANT HAS BEEN FOUND GUILTY OF OR WAS CONVICTED OF AN  
25 OFFENSE INVOLVING A DEADLY WEAPON OR OFFENSE UNDER 18 PA.C.S.  
26 CH. 61 (RELATING TO FIREARMS AND OTHER DANGEROUS ARTICLES) OR  
27 AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED STATES OR  
28 ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE  
29 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A  
30 FOREIGN NATION;

1           (4) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE  
2 CONTAINING A VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OR  
3 AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED STATES OR  
4 ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE  
5 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A  
6 FOREIGN NATION:

7           18 PA.C.S. § 4302(A) (RELATING TO INCEST).

8           18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS).

9           18 PA.C.S. CH. 76 SUBCH. C (RELATING TO INTERNET CHILD  
10 PORNOGRAPHY).

11           A CRIMINAL SENTENCE PURSUANT TO 42 PA.C.S. § 9712.1  
12 (RELATING TO SENTENCES FOR CERTAIN DRUG OFFENSES COMMITTED  
13 WITH FIREARMS).

14           AN OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER 42  
15 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF SEXUAL  
16 OFFENDERS).

17           AN OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER 42  
18 PA.C.S. CH. 97 SUBCH. I (RELATING TO CONTINUED REGISTRATION  
19 OF SEXUAL OFFENDERS).

20           (5) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE  
21 CONTAINING AN OFFENSE UNDER SECTION 13(A) (14), (30) OR (37)  
22 OF THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE  
23 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, WHERE  
24 THE SENTENCE WAS IMPOSED UPON A FINDING OF AN AMOUNT OR  
25 AGGREGATE WEIGHT UNDER 18 PA.C.S. § 7508(A) (1) (III), (2)  
26 (III), (3) (III), (4) (III), (7) (III) OR (8) (III) (RELATING TO  
27 DRUG TRAFFICKING SENTENCING AND PENALTIES);

28           (6) PERSONS AWAITING TRIAL OR SENTENCING FOR ADDITIONAL  
29 CRIMINAL CHARGES, IF A CONVICTION OR SENTENCE ON THE  
30 ADDITIONAL CHARGES WOULD CAUSE THE PERSON TO BECOME

1 INELIGIBLE UNDER THIS SUBSECTION; OR

2 ~~(3)~~ (7) persons who are currently serving a sentence to <--  
3 State prison and have been denied parole on that sentence  
4 prior to the effective date of this section.

5 (b) Approval of parole.--The board shall, without requiring  
6 an interview, approve for parole at the expiration of the  
7 eligible person's minimum date or recidivism risk reduction  
8 incentive minimum date, whichever is shorter, unless the person  
9 has:

10 (1) been found guilty of a major disciplinary infraction  
11 while confined in a county correctional institution or State  
12 correctional institution; or

13 (2) a pending felony charge or outstanding felony arrest  
14 warrant or detainer, except that this section may be applied  
15 to allow a person to be paroled to a detainer related to an  
16 underlying felony charge.

17 (c) Nonapplicability.--The requirements of sections 6135  
18 (relating to investigation of circumstances of offense), 6137(a)  
19 (3.1), (e) (1), (f) and (g) (relating to parole power) and 6139  
20 (relating to parole procedure) and section 1101(e) of the Crime  
21 Victims Act do not apply to paroles under this section.

22 (d) Assessment.--The department shall provide a risk and  
23 needs assessment to the board and the board shall establish  
24 initial conditions of parole based on the assessment.

25 (E) APPLICABILITY.--THIS SECTION SHALL ONLY APPLY TO <--  
26 INDIVIDUALS SENTENCED AFTER THE EFFECTIVE DATE OF THIS SECTION.

27 (F) REPORTS.--THE PENNSYLVANIA COMMISSION ON SENTENCING  
28 SHALL PROVIDE A REPORT TO THE GENERAL ASSEMBLY ON COST SAVINGS  
29 AND RECIDIVISM ATTRIBUTED TO THIS SECTION AS FOLLOWS:

30 (1) NO LATER THAN TWO YEARS AFTER THE EFFECTIVE DATE OF

1 THIS SECTION.

2 (2) NO LATER THAN TWO YEARS AFTER THE REPORT ISSUED  
3 UNDER PARAGRAPH (1).

4 ~~(e)~~ (G) Procedures.--The chairman of the board shall adopt <--  
5 procedures to carry out this section.

6 ~~(f)~~ (H) Definition.--As used in this section, the term <--  
7 "major disciplinary infraction" means:

8 (1) committing a violation equivalent to an incident  
9 that could lead to a conviction under 18 Pa.C.S. (relating to  
10 crimes and offenses);

11 (2) wearing a disguise;

12 (3) tattooing;

13 (4) gambling;

14 (5) Threatening harm to another person upon or following  
15 release; or

16 (6) possessing dangerous contraband while incarcerated.

17 Section 20. Section 6138(c) of Title 61 is amended by adding  
18 a paragraph to read:

19 § 6138. Violation of terms of parole.

20 \* \* \*

21 (c) Technical violators.--

22 \* \* \*

23 (8) A parolee under the board's supervision who is  
24 alleged to have committed a technical parole violation may be  
25 arrested and detained for a period not to exceed seven days,  
26 provided that either the parolee is detained on a 48-hour  
27 warrant or the parolee is brought before a hearing examiner  
28 within 48 hours to determine if the parolee shall be released  
29 or held for the remainder of the seven days or a shorter  
30 period. The chairman of the board shall adopt procedures

1 governing the appropriate use of brief detention under this  
2 section so that technical violations enumerated under  
3 paragraph (1) are not resolved with brief detention.

4 \* \* \*

5 Section 21. Section 6139(a)(6) and (b) of Title 61 are  
6 amended to read:

7 § 6139. Parole procedure.

8 (a) Specific requirements.--

9 \* \* \*

10 (6) In no case shall a parole be granted, or an  
11 application for parole be dismissed, unless a board member,  
12 hearing examiner or other person so designated by the board  
13 shall have seen and heard the parolee in person in regard  
14 thereto within six months prior to the granting or dismissal  
15 thereof. This requirement does not apply to paroles under  
16 section 6137.5 (relating to short sentence parole) or to  
17 persons scored as low probability to parole or high  
18 probability to parole under parole guidelines adopted under  
19 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for  
20 parole).

21 \* \* \*

22 (b) Reliance on reports.--In granting and revoking paroles  
23 and in discharging from parole, the members of the board acting  
24 thereon shall not be required to personally hear or see all the  
25 witnesses and evidence submitted to them for their action, but  
26 they may act on the report submitted to them by their agents and  
27 employees, together with any pertinent and adequate information  
28 furnished to them by fellow members of the board or by others.  
29 In granting or revoking parole or bringing an alleged parole  
30 violator before a hearing examiner, the appearance may be

1 conducted via videoconferencing or similar virtual presence  
2 technology.

3 \* \* \*

4 Section 22. This act shall take effect as follows:

5 (1) The following shall take effect in 60 days:

6 (i) The amendment of 42 Pa.C.S. §§ 2154, 2154.1 and  
7 2154.7.

8 (ii) The repeal of 42 Pa.C.S. § 2154.2.

9 (iii) The amendment of 61 Pa.C.S. Ch. 61 Subch. B  
10 heading.

11 (iv) The amendment of 61 Pa.C.S. §§ 6101, 6111,  
12 6131(a)(3), (4) and (5) and 6133(c) and (d).

13 (v) The repeal of 61 Pa.C.S. § 6123.

14 (2) The following shall take effect in 120 days:

15 (i) The amendment of 61 Pa.C.S. §§ 6137(a)(1),  
16 6138(c) and 6139(a)(6) and (b).

17 (ii) The addition of 61 Pa.C.S. § 6137.5.

18 (3) The remainder of this act shall take effect  
19 immediately.