

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 4

Session of  
2007

INTRODUCED BY D. O'BRIEN, MARSICO, MANDERINO, BAKER, BASTIAN, BENNINGHOFF, BRENNAN, CAPPELLI, CLYMER, DALLY, DENLINGER, EVERETT, FABRIZIO, FAIRCHILD, GIBBONS, HALUSKA, HARHAI, HARPER, HERSHEY, HICKERNELL, KENNEY, KIRKLAND, KOTIK, KULA, MAHONEY, MANN, MCGEEHAN, O'NEILL, RAPP, ROHRER, SABATINA, SCAVELLO, SCHRODER, SHAPIRO, SIPTROTH, SONNEY, STAIRS, THOMAS, TRUE, WANSACZ, WATSON, YUDICHAK, JAMES, WALKO AND CALTAGIRONE, AUGUST 21, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 2, 2008

## AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 44  
2 (Law and Justice) of the Pennsylvania Consolidated Statutes,  
3 providing for definitions of "board" and "department";  
4 further providing for composition of the Pennsylvania  
5 Commission on Sentencing ~~and~~, for powers and duties AND FOR <—  
6 ADOPTION OF GUIDELINES FOR SENTENCING; providing for adoption  
7 of guidelines for resentencing, adoption of guidelines for  
8 parole and adoption of recommitment ranges following  
9 revocation of parole by the Pennsylvania Board of Probation  
10 and Parole; further providing for publication of guidelines,  
11 for sentencing generally, for sentence of total confinement,  
12 for sentencing proceeding and place of confinement, for  
13 information required upon commitment and subsequent  
14 disposition and for referral to State intermediate punishment  
15 program; providing for WORK RELEASE OR OTHER COURT ORDER AND <—  
16 FOR recidivism risk reduction incentive; AND MAKING A RELATED <—  
17 REPEAL.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 Section 1. Section 2151.1 of Title 42 of the Pennsylvania  
21 Consolidated Statutes is amended by adding definitions to read:  
22 § 2151.1. Definitions.

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

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

5 \* \* \*

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

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

10 § 2152. Composition of commission.

11 \* \* \*

12 (a.1) Ex officio members.--The Secretary of Corrections, THE <—  
13 VICTIM ADVOCATE APPOINTED UNDER SECTION 301 OF THE ACT OF  
14 NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN AS THE CRIME VICTIMS  
15 ACT, and the chairman of the board, during their tenure in their  
16 respective positions, shall serve as ex officio nonvoting  
17 members of the commission.

18 \* \* \*

19 Section 3. Section 2153(a)(7), (9), (10), (11), (12), (13)  
20 and (14) of Title 42 are amended AND THE SUBSECTION IS AMENDED <—  
21 BY ADDING A PARAGRAPH to read:

22 § 2153. Powers and duties.

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

25 \* \* \*

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

28 (i) Serving as a clearinghouse and information  
29 center for the collection, preparation and dissemination  
30 of ~~appropriate~~ information on Commonwealth sentencing, <—

1        resentencing and parole practices.

2            (ii) Assisting and serving in a consulting capacity  
3        to the board, State courts, departments and agencies in  
4        the development, maintenance and coordination of sound  
5        sentencing [practices], resentencing and parole  
6        practices.

7        \* \* \*

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

10          (10) Collect systematically and disseminate information  
11        concerning parole dispositions and sentences actually  
12        imposed[.], INCLUDING INITIAL SENTENCES AND ANY SUBSEQUENT <—  
13        MODIFICATION OF SENTENCES OR RESENTENCES FOLLOWING REVOCATION  
14        OR REMAND, AND PAROLE AND REPAROLE DECISIONS BY THE BOARD AND  
15        ANY OTHER PAROLING AUTHORITY.

16          (11) Collect systematically and disseminate information  
17        regarding effectiveness of parole dispositions and sentences  
18        imposed.

19          (12) Make recommendations to the General Assembly  
20        concerning modification or enactment of sentencing, parole  
21        and correctional statutes which the commission finds to be  
22        necessary and advisable to carry out an effective, humane and  
23        rational sentencing, resentencing and parole policy.

24          (13) Establish a plan and timetable to collect and  
25        disseminate information relating to incapacitation,  
26        recidivism, deterrence and overall effectiveness of sentences  
27        and parole dispositions imposed.

28          (14) Establish a program to systematically monitor  
29        compliance with the guidelines, RECOMMITMENT RANGES and with <—  
30        mandatory sentencing laws TO DOCUMENT ELIGIBILITY FOR AND <—

1 RELEASES PURSUANT TO A COUNTY REENTRY PLAN, TO DOCUMENT  
2 ELIGIBILITY FOR AND IMPOSITION OF RECIDIVISM RISK REDUCTION  
3 INCENTIVE MINIMUM SENTENCES AND TO DOCUMENT ALL PAROLE AND  
4 REPAROLE DECISIONS BY THE BOARD AND ANY OTHER PAROLING  
5 AUTHORITY by:

6 (i) Promulgating forms which document the  
7 application of [the] sentencing, resentencing and parole  
8 guidelines ~~or~~, mandatory sentencing laws, [or both.] <—

9 RELEASES PURSUANT TO A COUNTY REENTRY PLAN, RECOMMITMENT <—  
10 RANGES AND RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM  
11 SENTENCES, AND COLLECTING INFORMATION ON ALL PAROLE AND  
12 REPAROLE DECISIONS BY THE BOARD AND ANY OTHER PAROLING  
13 AUTHORITY.

14 (ii) Requiring the timely completion and ELECTRONIC <—  
15 submission of such forms to the commission.

16 (15) PRIOR TO ADOPTION OF CHANGES TO GUIDELINES FOR <—  
17 SENTENCING, RESENTENCING AND PAROLE, AND RECOMMITMENT RANGES  
18 FOLLOWING REVOCATION, USE A CORRECTIONAL POPULATION  
19 SIMULATION MODEL TO DETERMINE:

20 (I) RESOURCES THAT ARE REQUIRED UNDER CURRENT  
21 GUIDELINES AND RANGES.

22 (II) RESOURCES THAT WOULD BE REQUIRED TO CARRY OUT  
23 ANY PROPOSED CHANGES TO THE GUIDELINES AND RANGES.

24 \* \* \*

25 SECTION 3.1. SECTION 2154(A) OF TITLE 42 IS AMENDED BY <—  
26 ADDING A PARAGRAPH TO READ:

27 § 2154. ADOPTION OF GUIDELINES FOR SENTENCING.

28 (A) GENERAL RULE.--THE COMMISSION SHALL ADOPT GUIDELINES FOR  
29 SENTENCING WITHIN THE LIMITS ESTABLISHED BY LAW WHICH SHALL BE  
30 CONSIDERED BY THE SENTENCING COURT IN DETERMINING THE

1 APPROPRIATE SENTENCE FOR DEFENDANTS WHO PLEAD GUILTY OR NOLO  
2 CONTENDERE TO, OR WHO WERE FOUND GUILTY OF, FELONIES AND  
3 MISDEMEANORS. THE GUIDELINES SHALL:

4 \* \* \*

5 (5) CONSIDER THE IMPACT OF ANY AMENDMENTS TO SECTION  
6 9756 (RELATING TO SENTENCE OF TOTAL CONFINEMENT).

7 \* \* \*

8 Section 4. Title 42 is amended by adding sections to read:

9 § ~~2154.3~~ 2154.4. Adoption of guidelines for resentencing. <—

10 The commission shall adopt guidelines that shall be  
11 considered by the court when resentencing an offender following  
12 revocation of probation, county intermediate punishment or State  
13 intermediate punishment. The guidelines shall take into account  
14 factors considered in adopting the sentencing guidelines, the  
15 seriousness of the violation and the rehabilitative needs of the  
16 defendant.

17 § ~~2154.4~~ 2154.5. Adoption of guidelines for parole. <—

18 (a) Adoption.--The commission shall adopt guidelines that  
19 shall be considered by the board and any other paroling entity  
20 when exercising its power to parole and reparole all persons  
21 sentenced by any court in this Commonwealth to imprisonment in  
22 any State or county penitentiary, prison or penal institution.  
23 The guidelines shall do all of the following:

24 (1) Give primary consideration to the protection of the  
25 public and to victim safety.

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

27 (3) Be designed to encourage inmates and parolees to  
28 conduct themselves in accordance with conditions and rules of  
29 conduct set forth by the department or other prison  
30 facilities and the board.

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

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

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

12      (b) Discretionary authority.--Notwithstanding any other  
13      provision of law, this section shall not remove the  
14      discretionary parole authority of the board and any other  
15      paroling entity when exercising its power to parole and  
16      reparole.

17      § ~~2154.5~~ 2154.6. Adoption of recommitment ranges following  
18      revocation of parole by board.

19      (a) Recommitment ranges.--The commission shall adopt  
20      recommitment ranges that shall be considered by the board when  
21      exercising its power to reparole, commit and recommit for  
22      violations of parole any person sentenced by a court in this  
23      Commonwealth to imprisonment in any prison or penal institution  
24      of this Commonwealth, including State or county penitentiaries,  
25      prisons or penal institutions. The recommitment ranges shall  
26      take into account the seriousness of the initial conviction  
27      offense, the level of seriousness of the violation and the  
28      rehabilitative needs of the defendant. At the end of the  
29      recommittal period, the parole violator shall be reviewed for  
30      parole or repared without further review.

<—

1     (b) Deviation.--In every case in which the board deviates  
2     from the recommitment ranges, the board shall provide A <—  
3     contemporaneous written reasons, consistent with board <—  
4     procedure, STATEMENT OF THE REASONS for the deviation from the <—  
5     recommitment ranges TO THE COMMISSION AS ESTABLISHED UNDER <—  
6     SECTION 2153(A)(14) (RELATING TO POWERS AND DUTIES).

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

10     "Recommitment range." A range of time within which a parole  
11     violinator may be recommitment to serve an additional part of the  
12     term the parole violinator would have been compelled to serve had  
13     the parole violinator not been paroled.

14     Section 5. Sections 2155 and 9721(b) of Title 42 are amended  
15     to read:

16     § 2155. Publication of guidelines for sentencing[.],  
17             resentencing AND PAROLE and recommitment ranges <—  
18             following revocation.

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

20             (1) Prior to adoption, publish in the Pennsylvania  
21     Bulletin all proposed sentencing guidelines, resentencing  
22     guidelines following revocation of probation, county  
23     intermediate punishment and State intermediate punishment, <—  
24     PAROLE GUIDELINES and recommitment ranges following  
25     revocation by the board of paroles granted, and hold public  
26     hearings not earlier than 30 days and not later than 60 days  
27     thereafter to afford an opportunity for the following persons  
28     and organizations to testify:

29             (i) Pennsylvania District Attorneys Association.

30             (ii) Chiefs of Police Associations.

(iii) Fraternal Order of Police.

(iv) Public Defenders Organization.

(v) Law school faculty members.

(vi) State Board of Probation and Parole.

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

(viii) Pennsylvania Bar Association.

(ix) Pennsylvania Wardens Association.

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

(xi) Pennsylvania Conference of State Trial Judges.

(xii) Any other interested person or organization.

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

(b) Rejection by General Assembly.--Subject to gubernatorial  
review pursuant to section 9 of Article III of the Constitution  
of Pennsylvania, the General Assembly may by concurrent  
resolution reject in their entirety any guidelines or  
recommitment ranges adopted by the commission within 90 days of  
their publication in the Pennsylvania Bulletin pursuant to  
subsection (a)(2).

(c) Effective date.--Sentencing guidelines, resentencing  
guidelines following revocation of probation, county  
intermediate punishment and State intermediate punishment,  
PAROLE GUIDELINES and recommitment ranges following revocation  
by the board of paroles granted, adopted by the commission shall  
become effective 90 days after publication in the Pennsylvania  
Bulletin pursuant to subsection (a)(2) unless disapproved  
pursuant to subsection (b) and shall apply to sentences and  
resentences and parole decisions made after the effective date

<—



1 of the guidelines. If not disapproved, the commissioners shall  
2 conduct training and orientation for trial court judges and  
3 board members prior to the effective date of the guidelines AND <—  
4 RECOMMITMENT RANGES.

5 § 9721. Sentencing generally.

6 \* \* \*

7 (b) General standards.--In selecting from the alternatives  
8 set forth in subsection (a) the court shall follow the general  
9 principle that the sentence imposed should call for confinement  
10 that is consistent with the protection of the public, the  
11 gravity of the offense as it relates to the impact on the life  
12 of the victim and on the community, and the rehabilitative needs  
13 of the defendant. The court shall also consider any guidelines  
14 for sentencing, ~~resentencing and recommitment~~ AND RESENTENCING <—  
15 adopted by the Pennsylvania Commission on Sentencing and taking  
16 effect [pursuant to] under section 2155 (relating to publication  
17 of guidelines for sentencing, ~~resentencing~~ AND PAROLE and <—  
18 recommitment ranges following revocation). In every case in  
19 which the court imposes a sentence for a felony or misdemeanor,  
20 MODIFIES A SENTENCE, RESENTENCES AN OFFENDER FOLLOWING <—  
21 REVOCATION OF PROBATION, COUNTY INTERMEDIATE PUNISHMENT OR STATE  
22 INTERMEDIATE PUNISHMENT OR RESENTENCES FOLLOWING REMAND, the  
23 court shall make as a part of the record, and disclose in open  
24 court at the time of sentencing, a statement of the reason or  
25 reasons for the sentence imposed. In every case where the court  
26 imposes a sentence, ~~resentence or recommitment~~ OR RESENTENCE <—  
27 outside the [sentencing] guidelines adopted by the Pennsylvania <—  
28 Commission on Sentencing [pursuant to section] under sections  
29 2154 (relating to adoption of guidelines for sentencing), 2154.1  
30 (relating to adoption of guidelines for county intermediate

1 punishment), 2154.3 2154.2 (RELATING TO ADOPTION OF GUIDELINES <—  
2 FOR STATE INTERMEDIATE PUNISHMENT), 2154.3 (RELATING TO ADOPTION  
3 OF GUIDELINES FOR FINES), 2154.4 (relating to adoption of  
4 guidelines for resentencing) and 2154.4 2154.5 (relating to <—  
5 adoption of guidelines for parole) and made effective [pursuant  
6 to] under section 2155, the court shall provide a  
7 contemporaneous written statement of the reason or reasons for  
8 the deviation from the guidelines TO THE COMMISSION, AS <—  
9 ESTABLISHED UNDER SECTION 2153(A)(14) (RELATING TO POWERS AND  
10 DUTIES). Failure to comply shall be grounds for vacating the  
11 sentence OR RESENTENCE and resentencing the defendant. <—

12 \* \* \*

13 ~~Section 6. Section 9756 of Title 42 is amended by adding a~~ <—  
14 ~~subsection to read:~~

15 SECTION 6. SECTION 9756(B) OF TITLE 42 IS AMENDED AND THE <—  
16 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

17 § 9756. Sentence of total confinement.

18 \* \* \*

19 (B) MINIMUM SENTENCE.-- <—

20 (1) THE COURT SHALL IMPOSE A MINIMUM SENTENCE OF  
21 CONFINEMENT WHICH SHALL NOT EXCEED ONE-HALF OF THE MAXIMUM  
22 SENTENCE IMPOSED.

23 (2) THE MINIMUM SENTENCE IMPOSED UNDER THIS SECTION MAY  
24 NOT BE REDUCED THROUGH PAROLE PRIOR TO THE EXPIRATION OF THE  
25 MINIMUM SENTENCE UNLESS OTHERWISE AUTHORIZED BY THIS SECTION  
26 OR OTHER LAW.

27 (3) EXCEPT WHERE THE MAXIMUM SENTENCE IMPOSED IS TWO  
28 YEARS OR MORE, AND EXCEPT WHERE A MANDATORY MINIMUM SENTENCE  
29 OF IMPRISONMENT OR TOTAL CONFINEMENT IS REQUIRED BY LAW, THE  
30 COURT SHALL, AT THE TIME OF SENTENCING, STATE WHETHER OR NOT

1 THE DEFENDANT IS ELIGIBLE TO PARTICIPATE IN A REENTRY PLAN AT  
2 ANY TIME PRIOR TO THE EXPIRATION OF THE MINIMUM SENTENCE OR  
3 AT THE EXPIRATION OF A SPECIFIED PORTION OF THE MINIMUM  
4 SENTENCE. FOR MAXIMUM SENTENCES OF LESS THAN TWO YEARS AS  
5 DEFINED UNDER SECTION 9762(F) (RELATING TO SENTENCING  
6 PROCEEDING; PLACE OF CONFINEMENT), A COURT MAY PAROLE A  
7 DEFENDANT PRIOR TO THE EXPIRATION OF THE MINIMUM SENTENCE  
8 ONLY IF THE DEFENDANT WAS MADE ELIGIBLE TO PARTICIPATE IN A  
9 REENTRY PLAN AT THE TIME OF SENTENCING. THE COURT SHALL  
10 PROVIDE AT LEAST TEN DAYS' WRITTEN NOTICE AND AN OPPORTUNITY  
11 TO BE HEARD, PURSUANT TO THE ACT OF JUNE 19, 1911 (P.L.1059,  
12 NO.813), REFERRED TO AS THE COUNTY JAIL AND WORKHOUSE PAROLE  
13 LAW, TO THE PROSECUTING ATTORNEY BEFORE GRANTING PAROLE  
14 PURSUANT TO THIS SUBSECTION. THE REENTRY PLAN ELIGIBILITY  
15 SHALL BE CONSIDERED A PART OF THE SENTENCE AND SUBJECT TO THE  
16 REQUIREMENTS RELATING TO THE ENTRY, RECORDING AND REPORTING  
17 OF SENTENCES.

18 (b.1) Recidivism risk reduction incentive minimum  
19 sentence.--The court shall determine if the defendant is  
20 eligible for a recidivism risk reduction incentive minimum  
21 sentence under 44 Pa.C.S. Ch. 53 (relating to recidivism risk  
22 reduction incentive). If the defendant is eligible, the court  
23 shall impose a recidivism risk reduction incentive minimum  
24 sentence in addition to a minimum sentence and maximum sentence  
25 EXCEPT, IF THE DEFENDANT WAS PREVIOUSLY SENTENCED TO TWO OR MORE <—  
26 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCES, THE COURT  
27 SHALL HAVE THE DISCRETION TO IMPOSE A SENTENCE WITH NO  
28 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM.

29 \* \* \*

30 (E) DEFINITIONS.--AS USED IN THIS SECTION, THE TERM "REENTRY <—

1 PLAN" IS A RELEASE PLAN THAT MAY INCLUDE DRUG AND ALCOHOL  
2 TREATMENT, BEHAVIORAL HEALTH TREATMENT, JOB TRAINING, SKILLS  
3 TRAINING, EDUCATION, LIFE SKILLS OR ANY OTHER CONDITIONS DEEMED  
4 RELEVANT BY THE COURT.

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

6 § 9762. Sentencing proceeding; place of confinement.

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

8 (1) maximum terms of five or more years shall be  
9 committed to the Bureau of Correction for confinement;

10 (2) maximum terms of two years or more but less than  
11 five years may be committed to the Bureau of Correction for  
12 confinement or may be committed to a county prison within the  
13 jurisdiction of the court;

14 (3) maximum terms of less than two years shall be  
15 committed to a county prison within the jurisdiction of the  
16 court except that as facilities become available on dates and  
17 in areas designated by the Governor in proclamations  
18 declaring the availability of State correctional facilities,  
19 such persons may be committed to the Bureau of Correction for  
20 confinement.] (a) Sentences or terms of incarceration

21 imposed before a certain date.--For the three-year period  
22 beginning on the effective date of this subsection, all  
23 persons sentenced to total or partial confinement for the  
24 following terms shall be committed as follows:

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

27 (2) Maximum terms of two years or more but less than  
28 five years may be committed to the Department of Corrections  
29 for confinement or may be committed to a county prison within  
30 the jurisdiction of the court.

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

4       (b) Sentences or terms of incarceration imposed after a  
5       certain date.--Beginning three years after the effective date of <—  
6       this subsection, all ALL persons sentenced THREE OR MORE YEARS <—  
7       AFTER THE EFFECTIVE DATE OF THIS SUBSECTION to total or partial  
8       confinement for the following terms shall be committed as <—  
9       follows:

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

12       (2) Maximum terms of two years or more but less than  
13       five years shall be committed to the Department of  
14       Corrections for confinement, except upon a finding of all of  
15       the following:

16               (i) The chief administrator of the county prison, or  
17               the administrator's designee, has certified that the  
18               county prison is available for the commitment of persons  
19               sentenced to maximum terms of two or more years but less  
20               than five years.

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

23               (iii) The sentencing court has approved the  
24               confinement of the person in the county prison within the  
25               jurisdiction of the court.

26       (3) Maximum terms of less than two years shall be  
27       committed to a county prison within the jurisdiction of the  
28       court.

29       (c) Certification.--The chief administrator of the county  
30       prison, or the administrator's designee, may issue a

1 certification under subsection (b)(2)(i) if the county prison  
2 population is less than 110% of the rated capacity of the county  
3 prison. The chief administrator shall revoke any previously  
4 issued certification if the prison population exceed 110% of the  
5 rated capacity. The president judge of the court, the district  
6 attorney and the chief public defender of the county shall be  
7 served with a written copy of any certification or revocation.

8 (d) County ~~restrictive~~ intermediate punishment.--Nothing in <—  
9 this section shall prevent a judge from sentencing an offender  
10 to county INTERMEDIATE punishment which does not require <—  
11 confinement within county prison if otherwise authorized by law.

12 (e) Reimbursement.--Beginning three years after the  
13 effective date of this subsection:

14 (1) The Department of Corrections shall reimburse to the  
15 counties the reasonable cost of confinement of ~~persons~~ <—  
16 ~~committed to a county prison who are participating in an~~  
17 ~~approved work release program. The reimbursement per prisoner~~  
18 ~~shall not exceed the average per prisoner cost of confinement~~  
19 ~~paid by the Commonwealth for the confinement of prisoners in~~  
20 ~~the Department of Corrections. No more than \$2,500,000 shall~~  
21 ~~be expended annually for this purpose. Reimbursement shall be~~  
22 ~~made on a pro rata basis if the total dollar amount of~~  
23 ~~eligible confinement costs exceeds \$2,500,000. EVERY LEVEL 4~~ <—  
24 OR 5 OFFENDER AS IDENTIFIED IN THE BASIC SENTENCING MATRIX  
25 PROMULGATED BY THE PENNSYLVANIA COMMISSION ON SENTENCING WHO  
26 IS PARTICIPATING IN AN APPROVED WORK RELEASE PROGRAM. THE  
27 REIMBURSEMENT PER PRISONER SHALL NOT EXCEED THE AVERAGE PER-  
28 PRISONER COST OF CONFINEMENT PAID BY THE COMMONWEALTH FOR THE  
29 CONFINEMENT OF PRISONERS IN THE DEPARTMENT OF CORRECTIONS. NO  
30 MORE THAN \$2,500,000 SHALL BE EXPENDED ANNUALLY FOR THIS

1 PURPOSE. REIMBURSEMENT SHALL BE MADE ON A PRO RATA BASIS IF  
2 THE TOTAL DOLLAR AMOUNT OF ELIGIBLE CONFINEMENT COSTS EXCEEDS  
3 \$2,500,000. NOTHING IN THIS PARAGRAPH SHALL PREVENT MORE THAN  
4 \$2,500,000 BEING APPROPRIATED FOR THIS PURPOSE. REIMBURSEMENT  
5 SHALL BE MADE ON A PRO RATA BASIS IF THE TOTAL DOLLAR AMOUNT  
6 OF ELIGIBLE CONFINEMENT COSTS EXCEEDS ANY ADDITIONAL  
7 APPROPRIATION. A COUNTY SHALL NOT BE REIMBURSED UNDER THIS  
8 SECTION FOR ANY OFFENDER PARTICIPATING IN AN APPROVED WORK  
9 RELEASE PROGRAM FOR WHOM THE COUNTY IS BEING OR HAS BEEN  
10 REIMBURSED FROM ANY OTHER STATE FUNDS REGARDLESS OF THEIR  
11 SOURCE.

12 (2) County prisons may require reimbursements from other  
13 county prisons or the Department of Corrections for inmates  
14 voluntarily accepted for incarceration at mutually agreeable  
15 rates. The Department of Corrections shall maintain a list of  
16 those counties willing to accept voluntary placement of out-  
17 of-county inmates.

18 (f) Aggregation.--For purposes of this section, the  
19 sentences or terms of incarceration shall mean the entire  
20 continuous term of incarceration to which a person is subject,  
21 notwithstanding whether the sentence is the result of any of the  
22 following:

23 (1) One or more sentences.

24 (2) Sentences imposed for violations of probation or  
25 intermediate punishment.

26 (3) Sentences to be served upon recommitment for  
27 violations of parole.

28 (4) Any other manner of sentence.

29 (g) Date of imposition.--For purposes of this section, if a  
30 person is subject to multiple sentences or terms of

1 incarceration or any combination of sentences or terms, the date  
2 of the last sentence imposed or the date of recommitment,  
3 whichever is later, shall determine the place of incarceration  
4 and whether reimbursement is required.

5 (h) Transfer of prisoners.--Nothing in this section shall  
6 prohibit the transfer of prisoners otherwise authorized by law  
7 or prevent a judge from changing the place of confinement  
8 between State and county facilities to the extent that the judge  
9 would have such discretion at the time of imposition of sentence  
10 or recommitment.

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

12 § 9764. Information required upon commitment and subsequent  
13 disposition.

14 (a) General rule.--Upon commitment of an [offender] inmate  
15 to the custody of the Department of Corrections, the sheriff or  
16 transporting official shall provide to the institution's records  
17 officer or duty officer, in addition to [the court commitment <—  
18 order] A COPY OF THE COURT COMMITMENT FORM DC-300B GENERATED <—  
19 FROM THE COMMON PLEAS CRIMINAL COURT CASE MANAGEMENT SYSTEM OF  
20 THE UNIFIED JUDICIAL SYSTEM, the following information:

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

24 (2) Any current medical or psychological condition  
25 requiring treatment, including, but not limited to, suicide  
26 attempts.

27 (3) [Any medical admission testing performed by the  
28 county and the results of those tests, including, but not  
29 limited to, hepatitis, HIV/AIDS, tuberculosis or other  
30 infectious disease testing. Any release of medical



1 information relating to HIV/AIDS shall be in accordance with  
2 the act of November 29, 1990 (P.L.585, No.148), known as the  
3 Confidentiality of HIV-Related Information Act.] All medical  
4 records of the county correctional institution relating to  
5 the inmate to the extent that those records may be disclosed  
6 under Federal and State law. The records shall include  
7 admission testing performed by the county and the results of  
8 those tests and any testing related to hepatitis, HIV/AIDS,  
9 tuberculosis or other infectious disease testing.

10 (4) Notice of current or previously administered  
11 medications.

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

13 (6) A written statement by the county correctional  
14 institution relating to any sentencing credit to which the  
15 inmate may be entitled.

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

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

19 (ii) The charges pending against the inmate with the  
20 offense tracking number.

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

23 ~~(8) Information provided to the county correctional~~ <—  
24 ~~institution by the court under subsection (b).~~

25 (8) A COPY OF THE SENTENCING ORDER AND ANY DETAINERS <—  
26 FILED AGAINST THE INMATE WHICH THE COUNTY HAS NOTICE AND THE  
27 COURT COMMITMENT FORM DC-300B GENERATED FROM THE COMMON PLEAS  
28 CRIMINAL COURT CASE MANAGEMENT SYSTEM OF THE UNIFIED JUDICIAL  
29 SYSTEM.

30 (b) Additional information.--Within ten days from the date

1 sentence is imposed, the court shall provide to the county  
2 correctional facility the following information pertaining to  
3 the [offender] inmate:

4 (1) A copy of the presentence investigation report.  
5 Where a presentence investigation report was not ordered by  
6 the court, the official version of the crime for which the  
7 [offender] inmate was convicted or a copy of the guilty plea  
8 transcript or preliminary hearing transcript.

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

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

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

15 (5) All of the following:

16 (i) A written, sealed sentencing order from the  
17 county.

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

19 (iii) Court commitment orders.

20 (iv) The completed Department of Correction's Court  
21 Commitment State or County Correctional Institution Form  
22 (DC 300B).

23 (v) Any detainers filed against the inmate of which  
24 the county has notice.

25 (c) [Transfer of offender.--Where an offender is transferred  
26 from a county correctional facility to a State correctional  
27 facility for any reason, the information specified in subsection  
28 (b) shall be transmitted to the State correctional facility  
29 within 20 calendar days from the date on which the offender is  
30 transferred.] Transmittal of additional inmate documentation.--

1 If a document provided by the court under subsection (b) is  
2 received by the county correctional institution after the inmate  
3 is transferred to the custody of the Department of Corrections,  
4 the document shall be transmitted to the Department of  
5 Corrections within 20 calendar days of its receipt.

6 (c.1) Implementation.--

7 (1) The Department of Corrections may refuse to accept  
8 custody of an inmate for whom the sheriff or transporting  
9 official does not provide the information under subsection  
10 (a) under the following circumstances:

11 (i) The county correctional facility has a pattern  
12 or practice of not providing the information mandated  
13 under this section.

14 (ii) The Department of Corrections has previously  
15 notified the chief administrator of the county  
16 correctional facility, the county commissioners, the  
17 county sheriff and the president judge of the county of  
18 the specific deficiencies that constitute a pattern or  
19 practice.

20 (iii) The Department of Corrections has provided the  
21 county with a reasonable period of time to provide the  
22 documentation.

23 (iv) The Department of Corrections has notified the  
24 officials designated under subparagraph (ii) of the  
25 intent to refuse to accept inmates without documentation  
26 as of a specified date that shall be no sooner than 30  
27 days after the service of the notification.

28 (2) In cases of a refusal to accept custody of an inmate  
29 under this subsection, the sheriff or transporting official  
30 shall return the inmate to the sending county correctional

1 institution, which shall accept custody of the inmate. The  
2 inmate may be recommitted to the custody of the Department of  
3 Corrections upon provision of the documentation required  
4 under subsection (a).

5 (3) THE DEPARTMENT OF CORRECTIONS, BOARD AND A COUNTY <—  
6 CORRECTIONAL FACILITY SHALL NOT BE LIABLE FOR COMPENSATORY,  
7 PUNITIVE OR OTHER DAMAGES FOR RELYING IN GOOD FAITH ON ANY  
8 SENTENCING ORDER OR COURT COMMITMENT FORM DC-300B GENERATED  
9 FROM THE COMMON PLEAS CRIMINAL COURT CASE MANAGEMENT SYSTEM  
10 OF THE UNIFIED JUDICIAL SYSTEM OR OTHERWISE TRANSMITTED TO  
11 THEM.

12 (c.2) Electronic transfer of information.--The county or <—  
13 other government officials required to provide documentation  
14 under this section may provide the documentation in electronic  
15 form. The Department of Corrections may establish guidelines  
16 relating to the type of electronic documentation that will be  
17 accepted. The Department of Correction's electronic  
18 documentation requirements shall reasonably accommodate the  
19 county practices and seek to reduce the requirement of paper  
20 transfers. The Department of Corrections, in its discretion, may  
21 require actual sealed court orders to the extent that they  
22 relate to the commitment, term of sentence, or other matter that  
23 may affect the fact or duration of confinement. This subsection <—  
24 shall not be construed to require the county to develop new  
25 information systems or data collection instruments.

26 (d) Transfer to county facility.--Upon transfer of an inmate  
27 from a State correctional institution to a county correctional  
28 facility, the Department of Corrections shall provide to the  
29 county facility, unless the facility prior to the time of  
30 transfer agrees to accept the inmate without the information,

1 the record of the inmate's institutional adjustment, including,  
2 but not limited to, misconducts and/or escape history, and  
3 written notice of any current medical or psychological condition  
4 requiring treatment, including, but not limited to, suicide  
5 attempts, notice of current or previously ordered medication and  
6 a 48-hour supply of current medication.

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

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

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

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

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

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

(a)(1) through (4) and (b).

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

(h) Record of inmate moneys.--Prior to the release of an inmate from the Department of Corrections to State parole supervision, the department shall provide to the Board of Probation and Parole a record of any moneys paid by the inmate and any balance remaining towards satisfaction of restitution or any other court-ordered financial obligations. Prior to the release of an inmate from a county correctional facility to State parole supervision, the county correctional facility shall provide to the Board of Probation and Parole a record of any moneys paid by the inmate and any balance remaining towards the satisfaction of restitution or any other court-ordered financial obligations. Prior to the release of an inmate from a county correctional facility to county parole supervision, the facility shall provide to the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county a record of any moneys paid by the inmate and any remaining balance towards the satisfaction of restitution and any other court-ordered financial obligations.

(i) Continuing payments.--The Board of Probation and Parole shall require as a condition of parole that any inmate released to their supervision shall make continuing payments on restitution or any other court-ordered financial obligations.

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

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

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

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

21 SECTION 8.1. TITLE 42 IS AMENDED BY ADDING A SECTION TO  
22 READ:

23 § 9813. WORK RELEASE OR OTHER COURT ORDER AND PURPOSES.

24 (A) GENERALLY.--NOTWITHSTANDING ANY PROVISION OF LAW, IF ANY  
25 OFFENDER HAS BEEN SENTENCED TO UNDERGO IMPRISONMENT IN A COUNTY  
26 JAIL FOR A TERM OF LESS THAN FIVE YEARS, THE COURT, AT THE TIME  
27 OF SENTENCE OR AT ANY TIME THEREAFTER UPON APPLICATION MADE IN  
28 ACCORDANCE WITH THIS SECTION, MAY ENTER AN ORDER MAKING THE  
29 OFFENDER ELIGIBLE TO LEAVE THE JAIL DURING NECESSARY AND  
30 REASONABLE HOURS FOR THE PURPOSE OF WORKING AT HIS EMPLOYMENT.

1 CONDUCTING HIS OWN BUSINESS OR OTHER SELF-EMPLOYED OCCUPATION,  
2 INCLUDING HOUSEKEEPING AND ATTENDING TO THE NEEDS OF FAMILY,  
3 SEEKING EMPLOYMENT, ATTENDING AN EDUCATIONAL INSTITUTION,  
4 SECURING MEDICAL TREATMENT OR FOR OTHER LAWFUL PURPOSES AS THE  
5 COURT SHALL CONSIDER NECESSARY AND APPROPRIATE.

6 (B) PROCEDURE.--AT THE TIME OF IMPOSITION OF A COUNTY JAIL  
7 SENTENCE, A CRIME VICTIM RECEIVING NOTICE OF THE SENTENCE  
8 IMPOSED SHALL BE INFORMED THAT THE OFFENDER MAY BE ELIGIBLE FOR  
9 AN ORDER UNDER THIS SECTION. AN APPLICATION FOR AN ORDER UNDER  
10 THIS SECTION SHALL BE SERVED ON THE ATTORNEY FOR THE  
11 COMMONWEALTH. PRIOR TO GRANTING ANY ORDER UNDER THIS SECTION,  
12 THE COURT SHALL ENSURE THAT THE ATTORNEY FOR THE COMMONWEALTH  
13 AND A REGISTERED CRIME VICTIM HAVE RECEIVED NOTICE OF THE  
14 APPLICATION AND HAD A REASONABLE OPPORTUNITY TO BE HEARD ON THE  
15 APPLICATION.

16 (C) REVOCATION OR MODIFICATION OF PREVIOUSLY ENTERED  
17 ORDER.--THE COUNTY JAIL OFFICIALS MAY DETAIN AND RECOMMIT THE  
18 OFFENDER OR PRECLUDE THE OFFENDER FROM LEAVING THE COUNTY JAIL  
19 IF THE OFFENDER VIOLATES THE CONDITIONS SET BY THE JAIL  
20 OFFICIALS OR THE COURT, OR IF ALLOWING THE OFFENDER TO LEAVE THE  
21 COUNTY JAIL POSES A RISK TO COMMUNITY SAFETY OR THE ORDERLY AND  
22 SAFE MANAGEMENT OF THE JAIL. THE JAIL OFFICIALS SHALL NOTIFY THE  
23 COURT OF SUCH ACTION. IN ADDITION, THE ORDER OF COURT MAY BE  
24 REVOKED OR MODIFIED AT ANY TIME WITH NOTICE TO THE PRISONER.

25 Section 9. Section 9904 of Title 42 is amended by adding a  
26 subsection to read:

27 § 9904. Referral to State intermediate punishment program.

28 \* \* \*

29 (d.1) Resentencing.--The department may make a written  
30 request to the sentencing court that an offender who is



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

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

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

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

12 (4) The resentencing has occurred within 180 days of the  
13 date of the defendant's admission to the custody of the  
14 department.

15 (5) The court has otherwise complied with all other  
16 requirements for the imposition of sentence INCLUDING VICTIM <—  
17 NOTIFICATION UNDER THE ACT OF NOVEMBER 24, 1998 (P.L.882,  
18 NO.111), KNOWN AS THE CRIME VICTIMS ACT.

19 \* \* \*

20 Section 10. Title 44 is amended by adding a part to read:

21 PART III

22 INCARCERATION

23 Chapter

24 51. Preliminary Provisions (Reserved)

25 53. Recidivism Risk Reduction Incentive

26 CHAPTER 51

27 PRELIMINARY PROVISIONS

28 (Reserved)

29 CHAPTER 53

30 RECIDIVISM RISK REDUCTION INCENTIVE

1 Sec.  
2 5301. Scope of chapter.  
3 5302. Purpose.  
4 5303. Definitions.  
5 5304. Recidivism risk reduction incentive programs.  
6 5305. Sentencing.  
7 5306. Recidivism risk reduction incentive minimum.  
8 5307. Authority of board.  
9 5308. Written guidelines and regulations.  
10 5309. Evaluation.  
11 5310. Reports.  
12 5311. Construction.  
13 5312. Applicability.  
14 § 5301. Scope of chapter.

15 This chapter relates to recidivism risk reduction incentive.  
16 § 5302. Purpose.

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

23 § 5303. Definitions.

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

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

28 "Commission." The Pennsylvania Commission on Sentencing.

29 "Court." The trial judge exercising sentencing jurisdiction  
30 over an eligible offender under this chapter or the president

1 judge or the president judge's designee if the original trial  
2 judge is no longer serving as a judge of the sentencing court.

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

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

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

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

11 (2) Has not been subject to a sentence the calculation  
12 of which includes an enhancement for the use of a deadly  
13 weapon as defined under law or the sentencing guidelines  
14 promulgated by the Pennsylvania Commission on Sentencing OR <—  
15 THE ATTORNEY FOR THE COMMONWEALTH HAS NOT DEMONSTRATED THAT  
16 THE DEFENDANT HAS BEEN FOUND GUILTY OF OR WAS CONVICTED OF AN  
17 OFFENSE INVOLVING A DEADLY WEAPON OR OFFENSE UNDER 18 PA.C.S.  
18 CH. 61 (RELATING TO FIREARMS AND OTHER DANGEROUS ARTICLES) OR  
19 THE EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED STATES OR  
20 ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE  
21 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A  
22 FOREIGN NATION.

23 (3) Has not been found guilty or previously convicted or  
24 adjudicated delinquent for or an attempt or conspiracy to  
25 commit a personal injury crime as defined under section 103  
26 of the act of November 24, 1998 (P.L.882, No.111), known as  
27 the Crime Victims Act, OR AN EQUIVALENT OFFENSE UNDER THE <—  
28 LAWS OF THE UNITED STATES OR ONE OF ITS TERRITORIES OR  
29 POSSESSIONS, ANOTHER STATE, THE DISTRICT OF COLUMBIA, THE  
30 COMMONWEALTH OF PUERTO RICO OR A FOREIGN NATION.

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

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

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

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

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

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

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

17              (VII) RECEIVED A CRIMINAL SENTENCE PURSUANT TO 42       <—  
18              PA.C.S. § 9712.1 (RELATING TO SENTENCES FOR CERTAIN DRUG  
19              OFFENSES COMMITTED WITH FIREARMS).

20              ~~(vii)~~ (VIII) Any offense listed under 42 Pa.C.S. §       <—  
21              9795.1 (relating to registration).

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

26       (6) HAS NOT BEEN FOUND GUILTY OR PREVIOUSLY CONVICTED OF       <—  
27       VIOLATING SECTION 13(A)(14), (30) OR (37) OF THE ACT OF APRIL  
28       14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED SUBSTANCE,  
29       DRUG, DEVICE AND COSMETIC ACT, WHERE THE SENTENCE WAS IMPOSED  
30       PURSUANT TO 18 PA.C.S. § 7508(A)(1)(III), (2)(III), (3)(III),

(4)(III), (7)(III) OR (8)(III) (RELATING TO DRUG TRAFFICKING SENTENCING AND PENALTIES).

"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 prisoner.

§ 5304. Recidivism risk reduction incentive programs.

(a) Authorization.--Subject to the provisions of this chapter, the department is authorized to 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 42 Pa.C.S. § 9903 (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 prisoners 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 offenders 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 and, 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.

§ 5305. 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

1 ELIGIBILITY REQUIREMENTS AND AN OPPORTUNITY TO BE HEARD ON THE  
2 ISSUE. THE COURT, AFTER CONSIDERING VICTIM INPUT, MAY REFUSE TO  
3 ACCEPT THE PROSECUTING ATTORNEY'S WAIVER OF THE ELIGIBILITY  
4 REQUIREMENTS.

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

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

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

27 (3) NOTWITHSTANDING PARAGRAPH (2), IF THE DEFENDANT WAS <—  
28 PREVIOUSLY SENTENCED TO TWO OR MORE RECIDIVISM RISK REDUCTION  
29 INCENTIVE MINIMUM SENTENCES, THE COURT SHALL HAVE THE  
30 DISCRETION TO IMPOSE A SENTENCE WITH NO RECIDIVISM RISK

1     REDUCTION INCENTIVE MINIMUM.

2           ~~(3)~~ (4) Complies with all other applicable sentencing     <—  
3     provisions, including provisions relating to victim  
4     notification and the opportunity to be heard.

5     § 5306. Recidivism risk reduction incentive minimum.

6           (a) Generally.--The board or its designee shall ~~parole~~ ISSUE     <—  
7     A DECISION TO PAROLE, WITHOUT FURTHER REVIEW BY THE BOARD, a  
8     prisoner who has been sentenced to a recidivism risk reduction  
9     incentive minimum sentence at the expiration of that recidivism  
10    risk reduction incentive minimum sentence upon a determination  
11    that all of the following apply:

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

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

22           (3) The department advised the prisoner that the  
23    prisoner is required to successfully complete the program  
24    plan.

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

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



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

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

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

9       (9) The department has certified that the prisoner  
10      continues to be an eligible offender. In the event that a  
11      recidivism risk reduction minimum sentence was imposed  
12      ~~pursuant to the prosecutor's waiver of eligibility~~ <—  
13      ~~requirements, the department has not received information~~  
14      ~~that the prisoner has a history of present or past violent~~  
15      ~~behavior~~ UNDER SECTION 5305(B) (RELATING TO SENTENCING), THE <—  
16      DEPARTMENT CERTIFIES THAT IT HAS NOT RECEIVED ADDITIONAL  
17      INFORMATION DEMONSTRATING A HISTORY OF PAST OR PRESENT  
18      VIOLENT BEHAVIOR WHICH WAS NOT AVAILABLE AT THE TIME OF  
19      SENTENCING and the prosecuting attorney was unaware of that  
20      information at the time of sentencing.

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

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

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

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

1 reduce recidivism for that particular prisoner.

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

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

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

16 § 5307. Authority of board.

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

24 § 5308. Written guidelines and regulations.

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

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

5 § 5309. Evaluation.

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

20 § 5310. Reports.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 § 5311. Construction.

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

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

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

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

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

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

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

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

21   § 5312. Applicability.

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

24       SECTION 11. REPEALS ARE AS FOLLOWS:

25               (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER  
26       PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 42  
27       PA.C.S. § 9813.

28               (2) SECTION 1 OF THE ACT OF AUGUST 13, 1963 (P.L.774,  
29       NO.390), REFERRED TO AS THE COUNTY JAIL PRISONER TEMPORARY  
30       RELEASE LAW, IS REPEALED.

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1       Section ~~11~~ 12.   This act shall take effect in 60 days.

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