
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,
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SCAVELLO, SCHRODER, SHAPIRO, SIPTROTH, SONNEY, STAIRS,
THOMAS, TRUE, WANSACZ, WATSON, YUDICHAK, JAMES, WALKO AND
CALTAGIRONE, AUGUST 21, 2007

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JULY 3, 2008

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 44
2 (Law and Justice) of the Pennsylvania Consolidated Statutes,
3 IMPOSING A CENTRAL OR REGIONAL BOOKING FEE ON CRIMINAL <—
4 CONVICTIONS TO FUND THE START-UP, OPERATION OR MAINTENANCE OF
5 A CENTRAL OR REGIONAL BOOKING CENTER; PROVIDING FOR A
6 COUNTYWIDE BOOKING CENTER PLAN; providing for definitions of
7 "board" and "department"; further providing for composition
8 of the Pennsylvania Commission on Sentencing, for powers and
9 duties and for adoption of guidelines for sentencing;
10 providing for adoption of guidelines for resentencing,
11 adoption of guidelines for parole and adoption of
12 recommitment ranges following revocation of parole by the
13 Pennsylvania Board of Probation and Parole; further providing
14 for publication of guidelines, for sentencing generally, for
15 sentence of total confinement, for sentencing proceeding and
16 place of confinement AND for information required upon <—
17 commitment and subsequent disposition and for referral to <—
18 ~~State intermediate punishment program~~; providing for work
19 release or other court order and for recidivism risk
20 reduction incentive; and making a related repeal.

21 The General Assembly of the Commonwealth of Pennsylvania

22 hereby enacts as follows:

23 ~~Section 1. Section 2151.1 of Title 42 of the Pennsylvania~~ <—

~~Consolidated Statutes is amended by adding definitions to read:~~

SECTION 1. TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED
STATUTES IS AMENDED BY ADDING SECTIONS TO READ:

§ 1725.5. BOOKING CENTER FEE.

(A) IMPOSITION.--FOLLOWING THE ADOPTION OF A COUNTYWIDE
BOOKING CENTER PLAN, A PERSON MAY, IN ADDITION TO ANY OTHER
FINES, PENALTIES OR COSTS IMPOSED BY LAW, BE REQUIRED BY THE
COURT TO PAY A BOOKING CENTER FUND FEE OF NO MORE THAN \$200 IF
THE PERSON:

(1) IS PLACED ON PROBATION WITHOUT VERDICT PURSUANT TO
SECTION 17 OF THE ACT OF APRIL 14, 1972 (P.L.233, NO.64),
KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC
ACT.

(2) RECEIVES ACCELERATED REHABILITATIVE DISPOSITION FOR,
PLEADS GUILTY TO OR NOLO CONTENDERE TO OR IS CONVICTED OF A
CRIME UNDER THE FOLLOWING:

(I) 18 PA.C.S. § 106(A) (RELATING TO CLASSES OF
OFFENSES).

(II) 75 PA.C.S. § 3735 (RELATING TO HOMICIDE BY
VEHICLE WHILE DRIVING UNDER INFLUENCE).

(III) 75 PA.C.S. § 3802 (RELATING TO DRIVING UNDER
INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE).

(IV) A VIOLATION OF THE CONTROLLED SUBSTANCE, DRUG,
DEVICE AND COSMETIC ACT.

(B) DISPOSITION.--THE FEE UNDER SUBSECTION (A) SHALL BE PAID
TO THE COUNTY AND DEPOSITED INTO A SPECIAL CENTRAL OR REGIONAL
BOOKING CENTER FUND ESTABLISHED IN THE COUNTY. MONEYS IN THE
SPECIAL FUND SHALL BE USED SOLELY FOR THE IMPLEMENTATION OF A
COUNTYWIDE BOOKING CENTER PLAN UNDER SECTION 1725.6 (RELATING TO
COUNTYWIDE BOOKING CENTER PLAN) AND THE START-UP, OPERATION OR

1 MAINTENANCE OF A BOOKING CENTER.

2 (C) OTHER LAWS.--THE BOOKING CENTER FEE SHALL BE IMPOSED
3 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY.

4 § 1725.6. COUNTYWIDE BOOKING CENTER PLAN.

5 (A) DEVELOPMENT.--

6 (1) A COURT IN A COUNTY THAT HAS DEVELOPED AND ADOPTED A
7 COUNTYWIDE BOOKING CENTER PLAN MAY IMPOSE THE FEE ESTABLISHED
8 UNDER SECTION 1725.5 (RELATING TO BOOKING CENTER FEE).

9 (2) A COUNTY WITH A CRIMINAL JUSTICE ADVISORY BOARD
10 SHALL DEVELOP THE PLAN IN CONJUNCTION WITH THE CRIMINAL
11 JUSTICE ADVISORY BOARD.

12 (3) A COUNTY THAT DOES NOT HAVE A CRIMINAL JUSTICE
13 ADVISORY BOARD SHALL DEVELOP THE PLAN IN CONJUNCTION WITH THE
14 DISTRICT ATTORNEY, LOCAL POLICE DEPARTMENTS AND
15 MUNICIPALITIES WITHIN THE COUNTY.

16 (B) REQUIREMENTS.--THE PLAN ADOPTED UNDER SUBSECTION (A)
17 SHALL DO ALL OF THE FOLLOWING:

18 (1) ENSURE COORDINATION AND COLLABORATION OF ALL
19 CRIMINAL JUSTICE AGENCIES WITHIN THE COUNTY.

20 (2) COMPLY WITH ALL APPLICABLE FEDERAL AND STATE
21 TECHNOLOGY STANDARDS FOR THE COLLECTION AND TRANSMISSION OF
22 OFFENDER IDENTIFICATION INFORMATION.

23 (3) MAKE RECOMMENDATIONS REGARDING THE NUMBER, FUNDING
24 AND OPERATIONS OF BOOKING CENTERS WITHIN THE COUNTY. THE PLAN
25 SHALL PRIORITIZE THE RECOMMENDATIONS.

26 (C) SUBMISSION.--THE PLAN SHALL BE SUBMITTED TO THE
27 PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY FOR REVIEW AND
28 CERTIFICATION THAT THE PLAN COMPLIES WITH THE REQUIREMENTS OF
29 SUBSECTION (B)(2).

30 (D) DUTIES OF COMMISSION.--THE PENNSYLVANIA COMMISSION ON

1 CRIME AND DELINQUENCY SHALL DO ALL OF THE FOLLOWING:

2 (1) DETERMINE AND CERTIFY IF A COUNTYWIDE BOOKING CENTER
3 PLAN SUBMITTED BY A COUNTY CRIMINAL JUSTICE ADVISORY BOARD OR
4 THE COUNTY COMMISSIONERS COMPLIES WITH SUBSECTION (B)(2).

5 (2) ADOPT GUIDELINES WITHIN 90 DAYS OF THE EFFECTIVE
6 DATE OF THIS SECTION RELATING TO TECHNOLOGY STANDARDS FOR THE
7 COLLECTION AND TRANSMISSION OF OFFENDERS' IDENTIFICATION. THE
8 GUIDELINES SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN.

9 (E) IMPLEMENTATION.--FOLLOWING CERTIFICATION BY THE
10 PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY UNDER
11 SUBSECTION (D), THE COUNTY MAY APPROPRIATE MONEYS IN THE SPECIAL
12 CENTRAL OR REGIONAL BOOKING CENTER FUND TO IMPLEMENT THE PLAN TO
13 THE GREATEST EXTENT POSSIBLE.

14 (F) LIMITATION.--NO MORE THAN 5% OF MONEYS IN THE SPECIAL
15 CENTRAL OR REGIONAL BOOKING CENTER FUND MAY BE APPROPRIATED BY
16 THE COUNTY FOR THE COUNTY'S ADMINISTRATIVE COSTS RELATED TO THE
17 COLLECTION OF THE FEE UNDER SECTION 1725.5.

18 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
19 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
20 SUBSECTION:

21 "BOOKING CENTER." A FACILITY UTILIZED FOR THE PROCESSING AND
22 IDENTIFICATION OF INDIVIDUALS ARRESTED, CHARGED OR ACCUSED OF A
23 CRIME.

24 "COUNTY CRIMINAL JUSTICE ADVISORY BOARD." A COUNTY CRIMINAL
25 JUSTICE PLANNING BOARD WHICH MEETS THE MINIMUM STANDARD FOR
26 THOSE BOARDS ESTABLISHED BY THE PENNSYLVANIA COMMISSION ON CRIME
27 AND DELINQUENCY.

28 "COUNTYWIDE BOOKING CENTER PLAN." A WRITTEN PLAN THAT
29 INCLUDES A COMPREHENSIVE STRATEGY TO IMPROVE THE COLLECTION,
30 TRANSFER AND MAINTENANCE OF ELECTRONIC OFFENDER IDENTIFICATION

1 INFORMATION.

2 SECTION 1.1. SECTION 2151.1 OF TITLE 42 IS AMENDED BY ADDING
3 DEFINITIONS TO READ:

4 § 2151.1. Definitions.

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

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

9 * * *

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

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

14 § 2152. Composition of commission.

15 * * *

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

22 * * *

23 Section 3. Section 2153(a)(7), (9), (10), (11), (12), (13)
24 and (14) of Title 42 are amended and the subsection is amended
25 by adding a paragraph to read:

26 § 2153. Powers and duties.

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

29 * * *

30 (7) Establish a research and development program within

1 the commission for the purpose of:

2 (i) Serving as a clearinghouse and information
3 center for the collection, preparation and dissemination
4 of information on Commonwealth sentencing, resentencing
5 and parole practices.

6 (ii) Assisting and serving in a consulting capacity
7 to the board, State courts, departments and agencies in
8 the development, maintenance and coordination of sound
9 sentencing [practices], resentencing and parole
10 practices.

11 * * *

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

14 (10) Collect systematically and disseminate information
15 concerning parole dispositions and sentences actually
16 imposed[.], including initial sentences and any subsequent
17 modification of sentences or resences following revocation
18 or remand, and parole and reparole decisions by the board and
19 any other paroling authority.

20 (11) Collect systematically and disseminate information
21 regarding effectiveness of parole dispositions and sentences
22 imposed.

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

28 (13) Establish a plan and timetable to collect and
29 disseminate information relating to incapacitation,
30 recidivism, deterrence and overall effectiveness of sentences

1 and parole dispositions imposed.

2 (14) Establish a program to systematically monitor
3 compliance with the guidelines, recommitment ranges and with
4 mandatory sentencing laws to document eligibility for and
5 releases pursuant to a county reentry plan, to document
6 eligibility for and imposition of recidivism risk reduction
7 incentive minimum sentences and to document all parole and
8 reparole decisions by the board and any other paroling
9 authority by:

10 (i) Promulgating forms which document the
11 application of [the] sentencing, resentencing and parole
12 guidelines, mandatory sentencing laws, [or both.]
13 releases pursuant to a county reentry plan, recommitment
14 ranges and recidivism risk reduction incentive minimum
15 sentences, and collecting information on all parole and
16 reparole decisions by the board and any other paroling
17 authority.

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

20 (15) Prior to adoption of changes to guidelines for
21 sentencing, resentencing and parole, and recommitment ranges
22 following revocation, use a correctional population
23 simulation model to determine:

24 (i) Resources that are required under current
25 guidelines and ranges.

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

28 * * *

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

1 § 2154. Adoption of guidelines for sentencing.

2 (a) General rule.--The commission shall adopt guidelines for
3 sentencing within the limits established by law which shall be
4 considered by the sentencing court in determining the
5 appropriate sentence for defendants who plead guilty or nolo
6 contendere to, or who were found guilty of, felonies and
7 misdemeanors. The guidelines shall:

8 * * *

9 (5) Consider the impact of any amendments to section
10 9756 (relating to sentence of total confinement).

11 * * *

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

13 § 2154.4. Adoption of guidelines for resentencing.

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

21 § 2154.5. Adoption of guidelines for parole.

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

28 (1) Give primary consideration to the protection of the
29 public and to victim safety.

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

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

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

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

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

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

21 § 2154.6. Adoption of recommitment ranges following revocation
22 of parole by board.

23 (a) Recommitment ranges.--The commission shall adopt
24 recommitment ranges that shall be considered by the board when
25 exercising its power to reparole, commit and recommit for
26 violations of parole any person sentenced by a court in this
27 Commonwealth to imprisonment in any prison or penal institution
28 of this Commonwealth, including State or county penitentiaries,
29 prisons or penal institutions. The recommitment ranges shall
30 take into account the seriousness of the initial conviction

1 offense, the level of seriousness of the violation and the
2 rehabilitative needs of the defendant. At the end of the
3 recommittal period, the parole violator shall be reviewed for
4 parole or ~~reparoled without further review.~~, WITHOUT FURTHER <—
5 REVIEW, SHALL BE REPAROLED.

6 (b) Deviation.--In every case in which the board deviates
7 from the recommitment ranges, the board shall provide a
8 contemporaneous written statement of the reasons for the
9 deviation from the recommitment ranges to the commission as
10 established under section 2153(a)(14) (relating to powers and
11 duties).

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

15 "Recommitment range." A range of time within which a parole
16 violator may be recommitted to serve an additional part of the
17 term the parole violator would have been compelled to serve had
18 the parole violator not been paroled.

19 Section 5. Sections 2155, 9718.3(A)(2)(I) and 9721(b) of <—
20 Title 42 are amended to read:

21 § 2155. Publication of guidelines for sentencing[.],
22 resentencing and parole and recommitment ranges
23 following revocation.

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

25 (1) Prior to adoption, publish in the Pennsylvania
26 Bulletin all proposed sentencing guidelines, resentencing
27 guidelines following revocation of probation, county
28 intermediate punishment and State intermediate punishment,
29 parole guidelines and recommitment ranges following
30 revocation by the board of paroles granted, and hold public

1 hearings not earlier than 30 days and not later than 60 days
2 thereafter to afford an opportunity for the following persons
3 and organizations to testify:

4 (i) Pennsylvania District Attorneys Association.

5 (ii) Chiefs of Police Associations.

6 (iii) Fraternal Order of Police.

7 (iv) Public Defenders Organization.

8 (v) Law school faculty members.

9 (vi) State Board of Probation and Parole.

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

12 (viii) Pennsylvania Bar Association.

13 (ix) Pennsylvania Wardens Association.

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

16 (xi) Pennsylvania Conference of State Trial Judges.

17 (xii) Any other interested person or organization.

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

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

27 (c) Effective date.--Sentencing guidelines, resentencing
28 guidelines following revocation of probation, county
29 intermediate punishment and State intermediate punishment,
30 parole guidelines and recommitment ranges following revocation

1 by the board of paroles granted, adopted by the commission shall
2 become effective 90 days after publication in the Pennsylvania
3 Bulletin pursuant to subsection (a)(2) unless disapproved
4 pursuant to subsection (b) and shall apply to sentences and
5 resentences and parole decisions made after the effective date
6 of the guidelines. If not disapproved, the commissioners shall
7 conduct training and orientation for trial court judges and
8 board members prior to the effective date of the guidelines and
9 recommitment ranges.

10 § 9718.3. SENTENCE FOR FAILURE TO COMPLY WITH REGISTRATION OF
11 SEXUAL OFFENDERS. <—

12 (A) MANDATORY SENTENCE.--MANDATORY SENTENCING SHALL BE AS
13 FOLLOWS:

14 * * *

15 (2) SENTENCING UPON CONVICTION FOR A SECOND OR
16 SUBSEQUENT OFFENSE SHALL BE AS FOLLOWS:

17 (I) NOT LESS THAN FIVE YEARS FOR AN INDIVIDUAL WHO:

18 (A) WAS SUBJECT TO SECTION [9795.1(A)] 9795.1 OR
19 A SIMILAR PROVISION FROM ANOTHER JURISDICTION; AND

20 (B) VIOLATED 18 PA.C.S. § 4915(A)(1) OR (2).

21 * * *

22 § 9721. Sentencing generally.

23 * * *

24 (b) General standards.--In selecting from the alternatives
25 set forth in subsection (a) the court shall follow the general
26 principle that the sentence imposed should call for confinement
27 that is consistent with the protection of the public, the
28 gravity of the offense as it relates to the impact on the life
29 of the victim and on the community, and the rehabilitative needs
30 of the defendant. The court shall also consider any guidelines

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

28 * * *

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

§ 9756. Sentence of total confinement.

* * *

(b) Minimum sentence.--

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

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

(3) Except where the maximum sentence imposed is two years or more, and except where a mandatory minimum sentence of imprisonment or total confinement is required by law, the court shall, at the time of sentencing, state whether or not the defendant is eligible to participate in a reentry plan at any time prior to the expiration of the minimum sentence or at the expiration of a specified portion of the minimum sentence. For maximum sentences of less than two years as defined under section 9762(f) (relating to sentencing proceeding; place of confinement), a court may parole a defendant prior to the expiration of the minimum sentence only if the defendant was made eligible to participate in a reentry plan at the time of sentencing. The court shall provide at least ten days' written notice and an opportunity to be heard, pursuant to the act of June 19, 1911 (P.L.1059, No.813), referred to as the County Jail and Workhouse Parole Law, to the prosecuting attorney before granting parole pursuant to this subsection. The reentry plan eligibility shall be considered a part of the sentence and subject to the requirements relating to the entry, recording and reporting

1 of sentences.

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

13 * * *

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

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

20 § 9762. Sentencing proceeding; place of confinement.

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

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

24 (2) maximum terms of two years or more but less than
25 five years may be committed to the Bureau of Correction for
26 confinement or may be committed to a county prison within the
27 jurisdiction of the court;

28 (3) maximum terms of less than two years shall be
29 committed to a county prison within the jurisdiction of the
30 court except that as facilities become available on dates and

1 in areas designated by the Governor in proclamations
2 declaring the availability of State correctional facilities,
3 such persons may be committed to the Bureau of Correction for
4 confinement.] (a) Sentences or terms of incarceration
5 imposed before a certain date.--For the three-year period
6 beginning on the effective date of this subsection, all
7 persons sentenced to total or partial confinement for the
8 following terms shall be committed as follows:

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

11 (2) Maximum terms of two years or more but less than
12 five years may be committed to the Department of Corrections
13 for confinement or may be committed to a county prison within
14 the jurisdiction of the court.

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

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

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

24 (2) Maximum terms of two years or more but less than
25 five years shall be committed to the Department of
26 Corrections for confinement, except upon a finding of all of
27 the following:

28 (i) The chief administrator of the county prison, or
29 the administrator's designee, has certified that the
30 county prison is available for the commitment of persons

1 sentenced to maximum terms of two or more years but less
2 than five years.

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

5 (iii) The sentencing court has approved the
6 confinement of the person in the county prison within the
7 jurisdiction of the court.

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

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

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

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

26 (1) The Department of Corrections shall reimburse to the
27 counties the reasonable cost of confinement of every Level 4
28 or 5 offender as identified in the Basic Sentencing Matrix
29 promulgated by the Pennsylvania Commission on Sentencing who
30 is participating in an approved work release program. The

1 reimbursement per prisoner shall not exceed the average per-
2 prisoner cost of confinement paid by the Commonwealth for the
3 confinement of prisoners in the Department of Corrections. No
4 more than \$2,500,000 shall be expended annually for this
5 purpose. Reimbursement shall be made on a pro rata basis if
6 the total dollar amount of eligible confinement costs exceeds
7 \$2,500,000. Nothing in this paragraph shall prevent more than
8 \$2,500,000 being appropriated for this purpose. Reimbursement
9 shall be made on a pro rata basis if the total dollar amount
10 of eligible confinement costs exceeds any additional
11 appropriation. A county shall not be reimbursed under this
12 section for any offender participating in an approved work
13 release program for whom the county is being or has been
14 reimbursed from any other State funds regardless of their
15 source.

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

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

- 27 (1) One or more sentences.
28 (2) Sentences imposed for violations of probation or
29 intermediate punishment.
30 (3) Sentences to be served upon recommitment for

1 violations of parole.

2 (4) Any other manner of sentence.

3 (g) Date of imposition.--For purposes of this section, if a
4 person is subject to multiple sentences or terms of
5 incarceration or any combination of sentences or terms, the date
6 of the last sentence imposed or the date of recommitment,
7 whichever is later, shall determine the place of incarceration
8 and whether reimbursement is required.

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

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

16 § 9764. Information required upon commitment and subsequent
17 disposition.

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

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

28 (2) Any current medical or psychological condition
29 requiring treatment, including, but not limited to, suicide
30 attempts.

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

14 (4) Notice of current or previously administered
15 medications.

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

17 (6) A written statement by the county correctional
18 institution relating to any sentencing credit to which the
19 inmate may be entitled.

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

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

23 (ii) The charges pending against the inmate with the
24 offense tracking number.

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

27 (8) A copy of the sentencing order and any detainers
28 filed against the inmate which the county has notice. and the <—
29 court commitment form DC 300B generated from the Common Pleas
30 Criminal Court Case Management System of the Unified Judicial

1 System.

2 (b) Additional information.--Within ten days from the date
3 sentence is imposed, the court shall provide to the county
4 correctional facility the following information pertaining to
5 the [offender] inmate:

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

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

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

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

17 (5) All of the following:

18 (i) A written, sealed sentencing order from the
19 county.

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

21 (iii) Court commitment orders.

22 ~~(iv) The completed Department of Correction's Court~~ <—
23 ~~Commitment State or County Correctional Institution Form~~
24 ~~(DC-300B).~~

25 (IV) THE COURT COMMITMENT FORM DC-300B GENERATED <—
26 FROM THE COMMON PLEAS CRIMINAL COURT CASE MANAGEMENT
27 SYSTEM OF THE UNIFIED JUDICIAL SYSTEM.

28 (v) Any detainers filed against the inmate of which
29 the county has notice.

30 (c) [Transfer of offender.--Where an offender is transferred

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

11 (c.1) Implementation.--

12 (1) The Department of Corrections may refuse to accept
13 custody of an inmate for whom the sheriff or transporting
14 official does not provide the information under subsection
15 (a) under the following circumstances:

16 (i) The county correctional facility has a pattern
17 or practice of not providing the information mandated
18 under this section.

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

25 (iii) The Department of Corrections has provided the
26 county with a reasonable period of time to provide the
27 documentation.

28 (iv) The Department of Corrections has notified the
29 officials designated under subparagraph (ii) of the
30 intent to refuse to accept inmates without documentation

1 as of a specified date that shall be no sooner than 30
2 days after the service of the notification.

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

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

17 (c.2) ~~Electronic~~ EFFECT OF ELECTRONIC transfer of <—
18 information.--The NOTWITHSTANDING ANY ELECTRONIC TRANSFER OF <—
19 INFORMATION WHICH MAY OCCUR, THE Department of Corrections, in
20 its discretion, may require actual sealed court orders to the
21 extent that they relate to the commitment, term of sentence, or
22 other matter that may affect the fact or duration of
23 confinement.

24 (d) Transfer to county facility.--Upon transfer of an inmate
25 from a State correctional institution to a county correctional
26 facility, the Department of Corrections shall provide to the
27 county facility, unless the facility prior to the time of
28 transfer agrees to accept the inmate without the information,
29 the record of the inmate's institutional adjustment, including,
30 but not limited to, misconducts and/or escape history, and

1 written notice of any current medical or psychological condition
2 requiring treatment, including, but not limited to, suicide
3 attempts, notice of current or previously ordered medication and
4 a 48-hour supply of current medication.

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

10 (f) Release from county correctional facility to State
11 probation or parole.--

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

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

23 (g) Release from county correctional facility to county
24 probation or parole.--

25 (1) Prior to the release of an inmate from a county
26 correctional facility to county probation or parole
27 supervision, the facility shall provide to the county
28 probation department the information contained in subsections
29 (a)(1) through (4) and (b).

30 (2) Prior to the release of an inmate from a county

1 correctional facility to county probation or parole
2 supervision, the facility shall provide to the inmate his
3 current medications as prescribed and any customary and
4 necessary medical supplies as determined by the prescribing
5 physician.

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

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

1 probation department shall make continuing payments of
2 restitution or any other court-ordered financial obligations.

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

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

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

19 Section 8.1. Title 42 is amended by adding a section to
20 read:

21 § 9813. Work release or other court order and purposes.

22 (a) Generally.--Notwithstanding any provision of law, if any
23 offender has been sentenced to undergo imprisonment in a county
24 jail for a term of less than five years, the court, at the time
25 of sentence or at any time thereafter upon application made in
26 accordance with this section, may enter an order making the
27 offender eligible to leave the jail during necessary and
28 reasonable hours for the purpose of working at his employment,
29 conducting his own business or other self-employed occupation,
30 including housekeeping and attending to the needs of family,

1 seeking employment, attending an educational institution,
2 securing medical treatment or for other lawful purposes as the
3 court shall consider necessary and appropriate.

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

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

23 ~~Section 9. Section 9904 of Title 42 is amended by adding a~~ <—
24 ~~subsection to read:~~

25 ~~§ 9904. Referral to State intermediate punishment program.~~

26 ~~* * *~~

27 ~~(d.1) Resentencing. The department may make a written~~
28 ~~request to the sentencing court that an offender who is~~
29 ~~otherwise eligible but has not been referred for evaluation or~~
30 ~~originally sentenced to State intermediate punishment be~~

~~sentenced to State intermediate punishment. The court may
resentence the offender to State intermediate punishment if all
of the following apply:~~

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

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

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

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

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

~~* * *~~

Section 40 9. Title 44 is amended by adding a part to read: <—

PART III

INCARCERATION

Chapter

51. Preliminary Provisions (Reserved)

53. Recidivism Risk Reduction Incentive

CHAPTER 51

PRELIMINARY PROVISIONS

(Reserved)

CHAPTER 53

RECIDIVISM RISK REDUCTION INCENTIVE

Sec.

5301. Scope of chapter.

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

12 § 5301. Scope of chapter.

13 This chapter relates to recidivism risk reduction incentive.

14 § 5302. Purpose.

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

21 § 5303. Definitions.

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

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

26 "Commission." The Pennsylvania Commission on Sentencing.

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

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

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

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

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

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

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

30 (4) Has not been found guilty or previously convicted or

1 adjudicated delinquent for violating any of the following
2 provisions or an equivalent offense under the laws of the
3 United States or one of its territories or possessions,
4 another state, the District of Columbia, the Commonwealth of
5 Puerto Rico or a foreign nation:

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

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

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

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

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

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

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

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

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

25 (6) Has not been found guilty or previously convicted of
26 violating section 13(a)(14), (30) or (37) of the act of April
27 14, 1972 (P.L.233, No.64), known as The Controlled Substance,
28 Drug, Device and Cosmetic Act, where the sentence was imposed
29 pursuant to 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii),
30 (4)(iii), (7)(iii) or (8)(iii) (relating to drug trafficking

1 sentencing and penalties).

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

6 § 5304. Recidivism risk reduction incentive programs.

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

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

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

27 (d) Consultation.--The department shall consult with
28 appropriate research and technical assistance organizations,
29 such as the National Institute of Justice, the National
30 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, 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
eligibility requirements and an opportunity to be heard on the

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

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

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

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

26 (3) Notwithstanding paragraph (2), if the defendant was
27 previously sentenced to two or more recidivism risk reduction
28 incentive minimum sentences, the court shall have the <—
29 discretion to impose a sentence with no recidivism risk
30 reduction incentive minimum. THE COURT SHALL HAVE THE <—

1 DISCRETION, WITH THE APPROVAL OF THE PROSECUTING ATTORNEY, TO
2 IMPOSE THE RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM
3 SENTENCE AS PROVIDED FOR IN PARAGRAPH (2).

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

7 § 5306. Recidivism risk reduction incentive minimum.

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

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

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

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

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

30 (5) The prisoner has maintained a good conduct record

1 following the imposition of the recidivism risk reduction
2 incentive minimum sentence.

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

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

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

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

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

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

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

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

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

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

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

15 § 5307. Authority of board.

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

23 § 5308. Written guidelines and regulations.

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

guidelines shall be replaced by regulations promulgated by the department consistent with the Regulatory Review Act on or before the date of expiration of the interim guidelines.

§ 5309. Evaluation.

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

§ 5310. Reports.

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

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

(i) The number of offenders determined by the

1 department to be eligible offenders under this chapter
2 and the offenses for which the offenders were committed
3 to the custody of the department.

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

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

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

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

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

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

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

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

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

29 (iv) Any potential changes to the program that would
30 be likely to reduce the risk of recidivism of prisoners

1 and improve public safety.

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

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

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

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

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

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

27 § 5311. Construction.

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

30 (1) Confer any legal right upon any individual,

1 including an individual participating in or seeking to
2 participate in a recidivism risk reduction incentive program,
3 to do any of the following:

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

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

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

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

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

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

20 § 5312. Applicability.

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

23 Section ~~11~~ 10. Repeals are as follows:

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

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

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

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