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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 4

Session of  
2007

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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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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

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AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,  
JULY 4, 2008

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AN ACT

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

21 The General Assembly of the Commonwealth of Pennsylvania

22 hereby enacts as follows:

23 Section 1. Title 42 of the Pennsylvania Consolidated

1 Statutes is amended by adding sections to read:

2 § 1725.5. Booking center fee.

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

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

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

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

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

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

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

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

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

1 notwithstanding any other provision of law to the contrary.

2 § 1725.6. Countywide booking center plan.

3 (a) Development.--

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

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

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

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

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

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

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

24 (c) Submission.--The plan shall be submitted to the  
25 Pennsylvania Commission on Crime and Delinquency for review and  
26 certification that the plan complies with the requirements of  
27 subsection (b)(2).

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

30 (1) Determine and certify if a countywide booking center

1 plan submitted by a county criminal justice advisory board or  
2 the county commissioners complies with subsection (b)(2).

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

7 (e) Implementation.--Following certification by the  
8 Pennsylvania Commission on Crime and Delinquency under  
9 subsection (d), the county may appropriate moneys in the special  
10 central or regional booking center fund to implement the plan to  
11 the greatest extent possible.

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

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

19 "Booking center." A facility utilized for the processing and  
20 identification of individuals arrested, charged or accused of a  
21 crime.

22 "County criminal justice advisory board." A county criminal  
23 justice planning board which meets the minimum standard for  
24 those boards established by the Pennsylvania Commission on Crime  
25 and Delinquency.

26 "Countywide booking center plan." A written plan that  
27 includes a comprehensive strategy to improve the collection,  
28 transfer and maintenance of electronic offender identification  
29 information.

30 Section 1.1. Section 2151.1 of Title 42 is amended by adding

1 definitions to read:

2 § 2151.1. Definitions.

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

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

7 \* \* \*

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

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

12 § 2152. Composition of commission.

13 \* \* \*

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

20 \* \* \*

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

24 § 2153. Powers and duties.

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

27 \* \* \*

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

30 (i) Serving as a clearinghouse and information

center for the collection, preparation and dissemination of information on Commonwealth sentencing, resentencing and parole practices.

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

\* \* \*

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

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

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

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

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

(14) Establish a program to systematically monitor

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

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

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

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

22 (i) Resources that are required under current  
23 guidelines and ranges.

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

26 \* \* \*

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

29 § 2154. Adoption of guidelines for sentencing.

30 (a) General rule.--The commission shall adopt guidelines for

1 sentencing within the limits established by law which shall be  
2 considered by the sentencing court in determining the  
3 appropriate sentence for defendants who plead guilty or nolo  
4 contendere to, or who were found guilty of, felonies and  
5 misdemeanors. The guidelines shall:

6 \* \* \*

7 (5) Consider the impact of any amendments to section  
8 9756 (relating to sentence of total confinement).

9 \* \* \*

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

11 § 2154.4. Adoption of guidelines for resentencing.

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

19 § 2154.5. Adoption of guidelines for parole.

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

26 (1) Give primary consideration to the protection of the  
27 public and to victim safety.

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

29 (3) Be designed to encourage inmates and parolees to  
30 conduct themselves in accordance with conditions and rules of



1 conduct set forth by the department or other prison  
2 facilities and the board.

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

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

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

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

19 § 2154.6. Adoption of recommitment ranges following revocation  
20 of parole by board.

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

1 recommitment period, the parole violator shall be reviewed for  
2 parole or, without further review, shall be reparaoled.

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

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

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

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

18 § 2155. Publication of guidelines for sentencing[.],  
19 resentencing and parole and recommitment ranges  
20 following revocation.

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

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

(i) Pennsylvania District Attorneys Association.

(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  
of the guidelines. If not disapproved, the commissioners shall  
conduct training and orientation for trial court judges and  
board members prior to the effective date of the guidelines and  
recommitment ranges.

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

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

\* \* \*

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

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

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

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

\* \* \*

§ 9721. Sentencing generally.

\* \* \*

(b) General standards.--In selecting from the alternatives  
set forth in subsection (a) the court shall follow the general  
principle that the sentence imposed should call for confinement  
that is consistent with the protection of the public, the  
gravity of the offense as it relates to the impact on the life  
of the victim and on the community, and the rehabilitative needs  
of the defendant. The court shall also consider any guidelines  
for sentencing and resentencing adopted by the Pennsylvania  
Commission on Sentencing and taking effect [pursuant to] under  
section 2155 (relating to publication of guidelines for

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

25 \* \* \*

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

28 § 9756. Sentence of total confinement.

29 \* \* \*

30 (b) Minimum sentence.--

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

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

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

29       (b.1) Recidivism risk reduction incentive minimum  
30       sentence.--The court shall determine if the defendant is

eligible for a recidivism risk reduction incentive minimum sentence under 44 Pa.C.S. Ch. 53 (relating to recidivism risk reduction incentive). If the defendant is eligible, the court shall impose a recidivism risk reduction incentive minimum sentence in addition to a minimum sentence and maximum sentence except, if the defendant was previously sentenced to two or more recidivism risk reduction incentive minimum sentences, the court shall have the discretion to impose a sentence with no recidivism risk reduction incentive minimum.

\* \* \*

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

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

§ 9762. Sentencing proceeding; place of confinement.

[All persons sentenced to total or partial confinement for:

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

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

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

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

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

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

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

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

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

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

25             (i) The chief administrator of the county prison, or  
26             the administrator's designee, has certified that the  
27             county prison is available for the commitment of persons  
28             sentenced to maximum terms of two or more years but less  
29             than five years.

30             (ii) The attorney for the Commonwealth has consented



1 to the confinement of the person in the county prison.

2 (iii) The sentencing court has approved the  
3 confinement of the person in the county prison within the  
4 jurisdiction of the court.

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

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

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

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

23 (1) The Department of Corrections shall reimburse to the  
24 counties the reasonable cost of confinement of every Level 4  
25 or 5 offender as identified in the Basic Sentencing Matrix  
26 promulgated by the Pennsylvania Commission on Sentencing who  
27 is participating in an approved work release program. The  
28 reimbursement per prisoner shall not exceed the average per-  
29 prisoner cost of confinement paid by the Commonwealth for the  
30 confinement of prisoners in the Department of Corrections. No

1 more than \$2,500,000 shall be expended annually for this  
2 purpose. Reimbursement shall be made on a pro rata basis if  
3 the total dollar amount of eligible confinement costs exceeds  
4 \$2,500,000. Nothing in this paragraph shall prevent more than  
5 \$2,500,000 being appropriated for this purpose. Reimbursement  
6 shall be made on a pro rata basis if the total dollar amount  
7 of eligible confinement costs exceeds any additional  
8 appropriation. A county shall not be reimbursed under this  
9 section for any offender participating in an approved work  
10 release program for whom the county is being or has been  
11 reimbursed from any other State funds regardless of their  
12 source.

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

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

24 (1) One or more sentences.

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

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

29 (4) Any other manner of sentence.

30 (g) Date of imposition.--For purposes of this section, if a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (b) Additional information.--Within ten days from the date  
27 sentence is imposed, the court shall provide to the county  
28 correctional facility the following information pertaining to  
29 the [offender] inmate:

30 (1) A copy of the presentence investigation report.

1 Where a presentence investigation report was not ordered by  
2 the court, the official version of the crime for which the  
3 [offender] inmate was convicted or a copy of the guilty plea  
4 transcript or preliminary hearing transcript.

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

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

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

11 (5) All of the following:

12 (i) A written, sealed sentencing order from the  
13 county.

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

15 (iii) Court commitment orders.

16 (iv) The Court Commitment Form DC-300B generated  
17 from the Common Pleas Criminal Court Case Management  
18 System of the Unified Judicial System.

19 (v) Any detainers filed against the inmate of which  
20 the county has notice.

21 (c) [Transfer of offender.--Where an offender is transferred  
22 from a county correctional facility to a State correctional  
23 facility for any reason, the information specified in subsection  
24 (b) shall be transmitted to the State correctional facility  
25 within 20 calendar days from the date on which the offender is  
26 transferred.] Transmittal of additional inmate documentation.--  
27 If a document provided by the court under subsection (b) is  
28 received by the county correctional institution after the inmate  
29 is transferred to the custody of the Department of Corrections,  
30 the document shall be transmitted to the Department of

1 Corrections within 20 calendar days of its receipt.

2 (c.1) Implementation.--

3 (1) The Department of Corrections may refuse to accept  
4 custody of an inmate for whom the sheriff or transporting  
5 official does not provide the information under subsection  
6 (a) under the following circumstances:

7 (i) The county correctional facility has a pattern  
8 or practice of not providing the information mandated  
9 under this section.

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

16 (iii) The Department of Corrections has provided the  
17 county with a reasonable period of time to provide the  
18 documentation.

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

24 (2) In cases of a refusal to accept custody of an inmate  
25 under this subsection, the sheriff or transporting official  
26 shall return the inmate to the sending county correctional  
27 institution, which shall accept custody of the inmate. The  
28 inmate may be recommitted to the custody of the Department of  
29 Corrections upon provision of the documentation required  
30 under subsection (a).

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

8       (c.2) Effect of electronic transfer of information.--

9       Notwithstanding any electronic transfer of information which may  
10      occur, the Department of Corrections, in its discretion, may  
11      require actual sealed court orders to the extent that they  
12      relate to the commitment, term of sentence, or other matter that  
13      may affect the fact or duration of confinement.

14      (d) Transfer to county facility.--Upon transfer of an inmate  
15 from a State correctional institution to a county correctional  
16 facility, the Department of Corrections shall provide to the  
17 county facility, unless the facility prior to the time of  
18 transfer agrees to accept the inmate without the information,  
19 the record of the inmate's institutional adjustment, including,  
20 but not limited to, misconducts and/or escape history, and  
21 written notice of any current medical or psychological condition  
22 requiring treatment, including, but not limited to, suicide  
23 attempts, notice of current or previously ordered medication and  
24 a 48-hour supply of current medication.

25      (e) Release by Department of Corrections.--Prior to the  
26 release of an inmate from the Department of Corrections to State  
27 parole supervision, the Department of Corrections shall provide  
28 to the Board of Probation and Parole the information contained  
29 in subsections (a)(1) and (2) and (b).

30      (f) Release from county correctional facility to State

1 probation or parole.--

2 (1) Prior to the release of an inmate from a county  
3 correctional facility to State probation or parole  
4 supervision, the facility shall provide to the Board of  
5 Probation and Parole the information contained in subsections  
6 (a)(1) through (4) and (b).

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

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

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

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

26 (h) Record of inmate moneys.--Prior to the release of an  
27 inmate from the Department of Corrections to State parole  
28 supervision, the department shall provide to the Board of  
29 Probation and Parole a record of any moneys paid by the inmate  
30 and any balance remaining towards satisfaction of restitution or



1 any other court-ordered financial obligations. Prior to the  
2 release of an inmate from a county correctional facility to  
3 State parole supervision, the county correctional facility shall  
4 provide to the Board of Probation and Parole a record of any  
5 moneys paid by the inmate and any balance remaining towards the  
6 satisfaction of restitution or any other court-ordered financial  
7 obligations. Prior to the release of an inmate from a county  
8 correctional facility to county parole supervision, the facility  
9 shall provide to the county probation department or other agent  
10 designated by the county commissioners of the county with the  
11 approval of the president judge of the county a record of any  
12 moneys paid by the inmate and any remaining balance towards the  
13 satisfaction of restitution and any other court-ordered  
14 financial obligations.

15 (i) Continuing payments.--The Board of Probation and Parole  
16 shall require as a condition of parole that any inmate released  
17 to their supervision shall make continuing payments on  
18 restitution or any other court-ordered financial obligations.  
19 The sentencing court shall require as a condition of county  
20 parole that any inmate released to the supervision of the county  
21 probation department shall make continuing payments of  
22 restitution or any other court-ordered financial obligations.

23 (j) Release after maximum sentence.--Upon release of an  
24 inmate from the Department of Corrections at the expiration of  
25 his maximum sentence, the Department of Corrections shall  
26 transmit to the county probation department or other agent  
27 designated by the county commissioners of the county with the  
28 approval of the president judge of the county in which the  
29 inmate was convicted a record of any moneys paid by the inmate  
30 and any outstanding amounts owed by the inmate towards

1 satisfaction of restitution or any other court-ordered financial  
2 obligations.

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

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

9 Section 8.1. Title 42 is amended by adding a section to  
10 read:

11 § 9813. Work release or other court order and purposes.

12 (a) Generally.--Notwithstanding any provision of law, if any  
13 offender has been sentenced to undergo imprisonment in a county  
14 jail for a term of less than five years, the court, at the time  
15 of sentence or at any time thereafter upon application made in  
16 accordance with this section, may enter an order making the  
17 offender eligible to leave the jail during necessary and  
18 reasonable hours for the purpose of working at his employment,  
19 conducting his own business or other self-employed occupation,  
20 including housekeeping and attending to the needs of family,  
21 seeking employment, attending an educational institution,  
22 securing medical treatment or for other lawful purposes as the  
23 court shall consider necessary and appropriate.

24 (b) Procedure.--At the time of imposition of a county jail  
25 sentence, a crime victim receiving notice of the sentence  
26 imposed shall be informed that the offender may be eligible for  
27 an order under this section. An application for an order under  
28 this section shall be served on the attorney for the  
29 Commonwealth. Prior to granting any order under this section,  
30 the court shall ensure that the attorney for the Commonwealth

1 and a registered crime victim have received notice of the  
2 application and had a reasonable opportunity to be heard on the  
3 application.

4 (c) Revocation or modification of previously entered  
5 order.--The county jail officials may detain and recommit the  
6 offender or preclude the offender from leaving the county jail  
7 if the offender violates the conditions set by the jail  
8 officials or the court, or if allowing the offender to leave the  
9 county jail poses a risk to community safety or the orderly and  
10 safe management of the jail. The jail officials shall notify the  
11 court of such action. In addition, the order of court may be  
12 revoked or modified at any time with notice to the prisoner.

13 SECTION 8.2. SECTION 9904 OF TITLE 42 IS AMENDED BY ADDING A <—  
14 SUBSECTION TO READ:

15 § 9904. REFERRAL TO STATE INTERMEDIATE PUNISHMENT PROGRAM.

16 \* \* \*

17 (D.1) RESENTENCING.--THE DEPARTMENT MAY MAKE A WRITTEN  
18 REQUEST TO THE SENTENCING COURT THAT AN OFFENDER WHO IS  
19 OTHERWISE ELIGIBLE BUT HAS NOT BEEN REFERRED FOR EVALUATION OR  
20 ORIGINALLY SENTENCED TO STATE INTERMEDIATE PUNISHMENT BE  
21 SENTENCED TO STATE INTERMEDIATE PUNISHMENT. THE COURT MAY  
22 RESENTENCE THE OFFENDER TO STATE INTERMEDIATE PUNISHMENT IF ALL  
23 OF THE FOLLOWING APPLY:

24 (1) THE DEPARTMENT HAS RECOMMENDED PLACEMENT IN A DRUG  
25 OFFENDER TREATMENT PROGRAM.

26 (2) THE ATTORNEY FOR THE COMMONWEALTH AND THE OFFENDER  
27 HAVE AGREED TO THE PLACEMENT AND MODIFICATION OF SENTENCE.

28 (3) THE COURT MAKES THE FINDINGS SET FORTH UNDER  
29 SUBSECTION (D).

30 (4) THE RESENTENCING HAS OCCURRED WITHIN 365 DAYS OF THE

1 DATE OF THE DEFENDANT'S ADMISSION TO THE CUSTODY OF THE  
2 DEPARTMENT.

3 (5) THE COURT HAS OTHERWISE COMPLIED WITH ALL OTHER  
4 REQUIREMENTS FOR THE IMPOSITION OF SENTENCE INCLUDING VICTIM  
5 NOTIFICATION UNDER THE ACT OF NOVEMBER 24, 1998 (P.L.882,  
6 NO.111), KNOWN AS THE CRIME VICTIMS ACT.

7 \* \* \*

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

9 PART III

10 INCARCERATION

11 Chapter

12 51. Preliminary Provisions (Reserved)

13 53. Recidivism Risk Reduction Incentive

14 CHAPTER 51

15 PRELIMINARY PROVISIONS

16 (Reserved)

17 CHAPTER 53

18 RECIDIVISM RISK REDUCTION INCENTIVE

19 Sec.

20 5301. Scope of chapter.

21 5302. Purpose.

22 5303. Definitions.

23 5304. Recidivism risk reduction incentive programs.

24 5305. Sentencing.

25 5306. Recidivism risk reduction incentive minimum.

26 5307. Authority of board.

27 5308. Written guidelines and regulations.

28 5309. Evaluation.

29 5310. Reports.

30 5311. Construction.

1 5312. Applicability.

2 § 5301. Scope of chapter.

3 This chapter relates to recidivism risk reduction incentive.

4 § 5302. Purpose.

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

11 § 5303. Definitions.

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

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

16 "Commission." The Pennsylvania Commission on Sentencing.

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

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

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

24 "Eligible offender." A defendant or prisoner convicted of a  
25 criminal offense who will be committed to the custody of the  
26 department and who meets all of the following eligibility  
27 requirements:

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

30 (2) Has not been subject to a sentence the calculation

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

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

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

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

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

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

30 (iv) 18 Pa.C.S. § 6318 (relating to unlawful contact

1       with minor).

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

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

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

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

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

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

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

26       § 5304. Recidivism risk reduction incentive programs.

27       (a) Authorization.--Subject to the provisions of this  
28       chapter, the department is authorized to create or otherwise  
29       designate treatment or other programs as recidivism risk  
30       reduction incentive programs.

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

6     (c) Program requirements.--In accordance with the provisions  
7     of this chapter, the department may designate a treatment  
8     program or other program as a recidivism risk reduction  
9     incentive program if there is appropriate scientific research  
10    that demonstrates that the proposed program would likely reduce  
11    overall recidivism rates or serious crime rates of program  
12    participants. A recidivism risk reduction incentive program  
13    designed to provide treatment in the form of a therapeutic  
14    community for drug abuse or addiction shall meet the  
15    requirements of an institutional therapeutic community as  
16    defined under 42 Pa.C.S. § 9903 (relating to definitions).

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

24    (e) Program approval process.--

25        (1) The department shall publish, in a manner reasonably  
26        calculated to inform, a detailed description of the program,  
27        the types of offenders who will be eligible to participate in  
28        the program, the name and citation of research reports that  
29        demonstrate the effectiveness of the proposed program and the  
30        name and address of a department contact person responsible



1 for receiving public comments. On the same date as  
2 publication, the department shall also deliver a copy of the  
3 list to the Judiciary Committee of the Senate, the Judiciary  
4 Committee of the House of Representatives, the board, the  
5 commission and the Victim Advocate.

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

11 § 5305. Sentencing.

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

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

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

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

1 proceeding generally).

2 (2) Imposes the recidivism risk reduction incentive  
3 minimum sentence. The recidivism risk reduction incentive  
4 minimum shall be equal to three-fourths of the minimum  
5 sentence imposed when the minimum sentence is three years or  
6 less. The recidivism risk reduction incentive minimum shall  
7 be equal to five-sixths of the minimum sentence if the  
8 minimum sentence is greater than three years. For purposes of  
9 these calculations, partial days shall be rounded to the  
10 nearest whole day. In determining the recidivism risk  
11 reduction incentive minimum sentence, the aggregation  
12 provisions of 42 Pa.C.S. §§ 9757 (relating to consecutive  
13 sentences of total confinement for multiple offenses) and  
14 9762(d) (relating to sentencing proceeding; place of  
15 confinement) shall apply.

16 (3) Notwithstanding paragraph (2), if the defendant was  
17 previously sentenced to two or more recidivism risk reduction  
18 incentive minimum sentences, the court shall have the  
19 discretion, with the approval of the prosecuting attorney, to  
20 impose the recidivism risk reduction incentive minimum  
21 sentence as provided for in paragraph (2).

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

25 § 5306. Recidivism risk reduction incentive minimum.

26 (a) Generally.--The board or its designee shall issue a  
27 decision to parole, without further review by the board, a  
28 prisoner who has been sentenced to a recidivism risk reduction  
29 incentive minimum sentence at the expiration of that recidivism  
30 risk reduction incentive minimum sentence upon a determination

1 that all of the following apply:

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

6 (2) The department has certified that it developed a  
7 program plan based on the assessment conducted under  
8 paragraph (1) that is designed to reduce the risk of  
9 recidivism through the use of recidivism risk reduction  
10 incentive programs authorized and approved under this chapter  
11 that are appropriate for that particular prisoner.

12 (3) The department advised the prisoner that the  
13 prisoner is required to successfully complete the program  
14 plan.

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

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

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

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

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

29 (9) The department has certified that the prisoner  
30 continues to be an eligible offender. In the event that a

1 recidivism risk reduction minimum sentence was imposed under  
2 section 5305(b) (relating to sentencing), the department  
3 certifies that it has not received additional information  
4 demonstrating a history of past or present violent behavior  
5 which was not available at the time of sentencing and the  
6 prosecuting attorney was unaware of that information at the  
7 time of sentencing.

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

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

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

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

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

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

26 (d) Adjudication.--Nothing in this section shall be  
27 interpreted as granting a right to be paroled to any person, and  
28 any decision by the board and its designees or the department,  
29 under this section, shall not be considered an adjudication  
30 under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and

procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

§ 5307. Authority of board.

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

§ 5308. Written guidelines and regulations.

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

§ 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

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

7 § 5310. Reports.

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

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

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

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

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

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

29 (v) The six-month, one-year, three-year and five-  
30 year recidivism rates for prisoners released at the

recidivism risk reduction incentive minimum sentence.

(vi) Any other information the department deems relevant.

(2) In even-numbered years, the commission 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) Whether the goals of this chapter could be achieved through amendments to parole or sentencing guidelines.

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

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

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

(v) Any other information the commission deems relevant.

(b) Educational plan.--The Pennsylvania Commission on Crime and Delinquency shall publish a report of a proposed educational program plan within one year of the effective date of this section. The proposed educational program plan shall be developed in consultation with the department, commission, board, the Pennsylvania District Attorneys Association, the Victim Advocate and representatives of the judiciary and the criminal defense bar and other criminal justice stakeholders. The plan shall seek to provide cost-effective training or

information through electronic means, publications or continuing educational programs that address the following topics:

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

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

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

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

§ 5311. Construction.

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

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

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

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

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

(iv) File any cause of action in any Federal or State court challenging the department's determination that a participant be suspended or expelled from or that



1        a participant has successfully completed or failed to  
2        successfully complete any recidivism risk reduction  
3        incentive program.

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

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

8        § 5312. Applicability.

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

11       Section 10. Repeals are as follows:

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

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

18       Section 11. This act shall take effect in 60 days.