

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 748 Session of  
2011

INTRODUCED BY JOHNSON, WATERS, PAYTON, MIRABITO, MANN,  
PASHINSKI, JOSEPHS, FRANKEL, V. BROWN, YOUNGBLOOD, WAGNER,  
MYERS AND MCGEEHAN, FEBRUARY 17, 2011

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 17, 2011

AN ACT

1 Establishing the Pennsylvania Criminal Justice Commission as a  
2 subcommission under the Commission on Crime and Delinquency  
3 to review the Commonwealth's entire criminal justice system  
4 within an 18-month period, to propose concrete, wide-ranging  
5 reforms designed to responsibly reduce the overall  
6 incarceration rate, to improve State and local responses to  
7 international and domestic gang violence, to restructure our  
8 approach to drug policy, to improve the treatment of mental  
9 illness, to improve prison administration and to establish a  
10 system for reintegrating ex-offenders.

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4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Pennsylvania  
8 Criminal Justice Commission Act.

9 Section 2. Findings.

10 The General Assembly finds and declares as follows:

11 (1) In comparison to bordering states, Pennsylvania's  
12 violent offenses rate is more than the rates for New Jersey,  
13 Ohio and West Virginia.

14 (2) Pennsylvania's 2006 reported murder rate of 5.8 per  
15 100,000 persons was greater than both the national rate of  
16 5.7 and the northeastern regional rate of 4.5. Of counties  
17 reporting murders in 2006, rates ranged from 0.7 in  
18 Schuylkill County to 28.0 in Philadelphia County.

19 (3) Minorities make up a disproportionate share of  
20 prison populations. Incarceration for drug crimes has had a  
21 lopsided impact on minority communities. Black males have 32%  
22 chance of serving time in prison at some point in their  
23 lives, Hispanic males have a 17% chance and white males have  
24 a 6% chance.

25 (4) The State prison population during 2006 totaled  
26 44,450 offenders. This was a 5% increase from 2005. However,  
27 the 2006 population figure is nearly twice that of the prison  
28 population in 1990.

29 (5) Existing practices can incarcerate people who do not  
30 belong in prison and distract from locking up more serious,

1 violent offenders who are a threat to our community.

2 (6) A total of 52,432 violent offenses were reported in  
3 Pennsylvania during 2006. This is a 4% increase over the  
4 number reported in 2005. A longer trend shows reported  
5 violent offenses increased 6% over ten years, since 1996 and  
6 9% since 2000.

7 (7) In the past, reentry programs have undermined public  
8 safety, making it extremely difficult for some ex-offenders  
9 to become full, contributing members of society, while  
10 releasing repeat offenders.

11 (8) The national and northeast regional rates have  
12 increased over the past several years. While New Jersey's and  
13 West Virginia's rates have decreased, Pennsylvania's and its  
14 other contiguous states' rates have increased in terms of  
15 violent offense arrests.

16 (9) Those addicted to and abusive of illicit drugs are  
17 an estimated 10% to 20% of the drug-using population but  
18 account for an estimated half of all illicit drug  
19 consumption. Treating addiction will significantly help  
20 decrease demand.

21 (10) Prisons and jails nationwide have become holding  
22 facilities for the mentally ill. An estimated 350,000 men and  
23 women are in prisons and jails with serious mental disorders  
24 and are 12 times more likely to be in prisons than in mental  
25 health hospitals. Prisoners are two to four times more likely  
26 to be schizophrenic, depressed, bipolar or suffering from  
27 posttraumatic stress disorder. Approximately 73% of mentally  
28 ill inmates suffer from a substance abuse disorder.

29 (11) Prisons have become public health risks. The number  
30 of State prisoners with HIV is 2.5 times greater than the

1 general population. The number of State prisoners with  
2 hepatitis C is nine times that of the general population.

3 (12) Prison administration is uneven, lacking clear,  
4 affirmative standards of training and performance, varying  
5 greatly from institution to institution, locality to locality  
6 and among Federal, State and local jurisdictions.

7 (13) According to a 2007 Bureau of Justice Statistics  
8 survey, an estimated 64.5% of all Federal and State inmates  
9 experienced one or more incidents of sexual victimization  
10 involving other inmates or staff.

### 11 Section 3. Legislative intent.

12 It is the intent of the General Assembly to establish the  
13 Pennsylvania Criminal Justice Commission. The commission will:

14 (1) Refocus incarceration policies to reduce the overall  
15 incarceration rate while preserving public safety, cost  
16 effectiveness and societal fairness.

17 (2) Decrease prison violence.

18 (3) Improve prison administration, including competence  
19 and career enhancement of administrators.

20 (4) Establish meaningful reentry programs for ex-  
21 offenders.

22 (5) Reform our State's drug policies.

23 (6) Improve treatment of the mentally ill in the prison  
24 system.

25 (7) Reform any other aspect of the system the commission  
26 determines necessary.

### 27 Section 4. Definitions.

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

1 "Commission." The Pennsylvania Criminal Justice Commission.

2 "PCCD." The Pennsylvania Commission on Crime and

3 Delinquency.

4 Section 5. Establishment.

5 There is established a commission to be known as the

6 Pennsylvania Criminal Justice Commission.

7 Section 6. Purpose.

8 The commission shall undertake a comprehensive review of the

9 criminal justice system, make findings related to current State

10 criminal justice policies and practices and make reform

11 recommendations for the Governor and General Assembly to improve

12 public safety, cost effectiveness, overall prison administration

13 and fairness in the implementation of Pennsylvania's criminal

14 justice system.

15 Section 7. Review and findings.

16 (a) Review.--The commission shall review all areas of State

17 criminal justice costs, practices and polices.

18 (b) Specific findings.--In conducting the review, the

19 commission shall make findings as it deems appropriate,

20 including:

21 (1) the statistical areas of increase in the

22 Commonwealth's incarceration rate compared to historical

23 standards of incarceration in Pennsylvania and the reasons

24 for this increase;

25 (2) a comparison of incarceration policies, including

26 juvenile incarceration policies with other states, outlining

27 the different standards applied for types of crime, length of

28 sentences, standards of prison administration, quality of

29 reentry programs for ex-offenders and recidivism rates;

30 (3) an examination of prison administration policies,

1 including the availability and quality of pre-employment  
2 training programs and the availability of meaningful career  
3 progression within the profession;

4 (4) the costs of current incarceration policies,  
5 including the relevant costs of law enforcement, the  
6 proportion of that cost associated with gangs and drug  
7 enforcement, the costs of constructing and administering  
8 prison facilities, the costs of postincarceration supervision  
9 and reentry programs and the cost of lost economic  
10 opportunities associated with the stigma of incarceration;

11 (5) an examination of the impact of gang activities in  
12 Pennsylvania, and outlining the impact of these activities in  
13 terms of violence, intimidation and all areas of criminal  
14 activity;

15 (6) an examination of the drug policy and its impact on  
16 incarceration, crime and violence, sentencing and reentry  
17 programs, including an analysis of the general availability  
18 of drugs in our communities, the impact and effectiveness of  
19 current policies on reducing that availability and on the  
20 incidence of crime and, in the case of criminal offenders,  
21 the availability of drug treatment programs before, during  
22 and after incarceration;

23 (7) an examination of the legal and administrative  
24 changes in policies regarding those who suffer from mental  
25 illness, including mandatory and voluntary commitment to  
26 institutional care, the effectiveness and availability of  
27 alternative methods of treatment, the impact of these policy  
28 changes on incarceration and the availability of government-  
29 sponsored or government-assisted programs to address mental  
30 illness; and

1           (8) any other area that the commission, in its judgment,  
2 believes to be relevant to a full understanding of the  
3 present criminal justice system in this Commonwealth.

4 Section 8. Duties.

5       (a) Recommendations.--After conducting a review of the  
6 Pennsylvania criminal justice system and making findings as  
7 required under section 7, the commission shall make  
8 recommendations for changes in policies and laws designed to:

9           (1) refocus incarceration policies to reduce the overall  
10 incarceration rate while preserving public safety, cost  
11 effectiveness and societal fairness;

12          (2) decrease prison violence, with particular reference  
13 to protecting those incarcerated from physical abuse;

14          (3) improve prison administration;

15          (4) institute the use of policies and practices proven  
16 effective throughout the spectrum of criminal behavior;

17          (5) establish a system for the reintegration of ex-  
18 offenders that provides them with productive skills and  
19 opportunities;

20          (6) restructure the approach to criminalization of and  
21 incarceration as a result of the possession or use of illegal  
22 drugs, decreasing the demand for illicit drugs and improving  
23 the treatment for addiction;

24          (7) improve and streamline the treatment of mental  
25 illness, both in our society and in the criminal justice  
26 system;

27          (8) improve local responses to criminal activity and  
28 violence carried out by gangs, cartels and syndicates,  
29 particularly in relation to drug smuggling and distribution;  
30 and

1           (9) improve and reform any other aspect of the  
2       Pennsylvania criminal justice system the commission  
3       determines is required.

4       (b) Consultations.--The commission shall:

5           (1) consult with government and nongovernment leaders,  
6       including State and local law enforcement officials; and

7           (2) include in its final report required under  
8       subsection (c) summaries of the input and recommendations  
9       based on the recommendations required under subsection (a).

10       (c) Report.--

11           (1) Not later than 18 months after the selection of the  
12       chair and the executive director of the commission under the  
13       PCCD, the commission shall prepare and submit a final report  
14       that contains a detailed statement of findings, conclusions  
15       and recommendations of the commission to the Governor and the  
16       General Assembly.

17           (2) The report submitted under this subsection shall be  
18       made available to the public.

19       Section 9. Membership.

20       (a) Composition.--The commission shall be composed of the  
21       following members:

22           (1) One member appointed by the Governor, who shall  
23       serve as chairman of the commission.

24           (2) Two members appointed by the Majority Leader of the  
25       Senate, in consultation with the chairman of the Judiciary  
26       Committee of the Senate.

27           (3) Two members appointed by the Minority Leader of the  
28       Senate, in consultation with the minority chairman of the  
29       Judiciary Committee of the Senate.

30           (4) Two members appointed by the Speaker of the House of



Representatives, in consultation with the chairman of the Judiciary Committee of the House of Representatives.

(5) Two members appointed by the Minority Leader of the House of Representatives, in consultation with the minority chairman of the Judiciary Committee of the House of Representatives.

(b) Membership.--

(1) The individuals appointed from private life as members of the commission shall be individuals who are nationally recognized for expertise, knowledge or experience in relevant areas such as:

(i) law enforcement;

(ii) criminal justice;

(iii) national security;

(iv) prison administration;

(v) prisoner reentry;

(vi) public health, including drug addiction and mental health;

(vii) victims' rights; and

(viii) social services.

(2) An individual shall not be appointed as a member of the commission if the individual possesses any personal or financial interest in the discharge of any of the duties of the commission.

(3) Members shall be appointed for the life of the commission.

(c) Appointment and initial meeting.--

(1) Members of the commission shall be appointed not later than 45 days after the effective date of this section.

(2) The commission shall hold its initial meeting 60

1 days after the effective date of this section.

2 (d) Meetings, quorum and vacancies.--

3 (1) The commission shall meet at the call of the chair  
4 or a majority of its members.

5 (2) Five members of the commission, including at least  
6 one member chosen by the Minority Leader of the Senate and  
7 Minority leader of the House of Representatives, shall  
8 constitute a quorum for purposes of conducting business,  
9 except that two members of the commission shall constitute a  
10 quorum for purposes of receiving testimony.

11 (3) Any vacancy in the commission shall not affect its  
12 powers, but shall be filled in the same manner in which the  
13 original appointment was made. If vacancies in the commission  
14 occur on any day after 45 days after the effective date of  
15 this section, a quorum shall consist of a majority of the  
16 members of the commission as of that day, if at least one  
17 commission member chosen by a member of the Republican Party  
18 and a member of the Democratic Party are present.

19 (e) Action of commission.--

20 (1) The commission:

21 (i) shall act by resolution agreed to by a majority  
22 of the members of the commission voting and present; and

23 (ii) may establish panels composed of less than the  
24 full membership of the commission for purposes of  
25 carrying out the duties of the commission under this act,  
26 which panels shall be subject to the review and control  
27 of the commission. Any findings and determinations made  
28 by a panel shall not be considered the findings and  
29 determinations of the commission unless approved by the  
30 commission.

1           (2) Any member, agent or staff of the commission may, if  
2           authorized by the chair of the commission, take any action  
3           which the commission is authorized to take under this act.

4 Section 10. Administration.

5           (a) Travel expenses.--Members shall receive travel expenses,  
6           including a per diem, while away from their homes or regular  
7           places of business in performance of services for the  
8           commission.

9           (b) Staff.--The following staff shall be present on the  
10          commission and shall be paid by the PCCD. Stipends will be  
11          determined by the PCCD in consultation with the commission:

12               (1) The commission shall have a staff headed by an  
13               executive director.

14               (2) With the approval of the commission and PCCD, the  
15               executive director may appoint personnel as the executive  
16               director determines to be appropriate.

17               (3) With the approval of the commission, the executive  
18               director may procure temporary and intermittent services.

19               (4) Upon the request of the commission, the head of any  
20               State agency may detail, without reimbursement, any of the  
21               personnel of the agency to the commission to assist in  
22               carrying out the duties of the commission. Any details shall  
23               not interrupt or otherwise affect the civil service status or  
24               privileges of the State employee.

25               (5) The commission shall have reasonable access to  
26               materials, resources, statistical data and other information  
27               the commission determines to be necessary to carry out its  
28               duties from the Legislative Reference Bureau, the Department  
29               of State and other agencies of the executive and legislative  
30               branches of the State government. The chair of the commission

1 shall make requests for access in writing when necessary.

2 (c) Obtaining official data.--The commission may secure  
3 directly from any agency of the Commonwealth information  
4 necessary to enable it to carry out this act. Upon the request  
5 of the chair of the commission, the head of that department or  
6 agency shall furnish that information to the commission.

7 Section 11. Funding.

8 (a) In general.--The PCCD shall provide funding to the  
9 commission.

10 (b) Availability.--Any sums appropriated under the  
11 subsection (a) shall remain available, without fiscal year  
12 limitation, until expended.

13 Section 12. Termination.

14 The commission shall terminate 60 days after it submits its  
15 report to the General Assembly.

16 Section 20. Effective date.

17 This act shall take effect in 60 days.