

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 501 Session of 2019

INTRODUCED BY KILLION, BAKER, BARTOLOTTA, STREET, COLLETT, A. WILLIAMS, LEACH, SCHWANK, COSTA, HAYWOOD, PHILLIPS-HILL, STEFANO, TARTAGLIONE, YUDICHAK, J. WARD, BROWNE AND MUTH, MARCH 25, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, DECEMBER 16, 2019

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 61
2 (Prisons and Parole) of the Pennsylvania Consolidated
3 Statutes, in judicial boards and commissions, further <--
4 providing for powers and duties, PROVIDING FOR COMMISSION, <--
5 FOR COMPOSITION OF COMMISSION AND FOR POWERS AND DUTIES OF
6 COMMISSION, for adoption of guidelines for sentencing, for
7 adoption of guidelines for county intermediate punishment,
8 for adoption of guidelines for State intermediate punishment
9 and for adoption of risk assessment instrument; IN JUDGMENTS <--
10 AND OTHER LIENS, FURTHER PROVIDING FOR PERSONAL EARNINGS
11 EXEMPT FROM PROCESS; in sentencing, further providing for
12 SENTENCES FOR OFFENSES AGAINST INFANT PERSONS, FOR sentencing <--
13 generally, FOR COLLECTION OF RESTITUTION, REPARATION, FEES, <--
14 COSTS, FINES AND PENALTIES, FOR PAYMENTS OF COURT COSTS,
15 RESTITUTION AND FINES, for order of probation, for sentence
16 of partial confinement, for sentence of total confinement,
17 for sentence of county intermediate punishment, for
18 information required upon commitment and subsequent
19 disposition, for modification or revocation of order of
20 probation, for court-imposed sanctions for offenders
21 violating probation, for modification or revocation of county
22 intermediate punishment sentence and for revocation of State
23 intermediate punishment sentence; in county intermediate
24 punishment, further providing for county intermediate
25 punishment programs and for continued eligibility; in
26 motivational boot camp, further providing for definitions,
27 for selection of inmate participants and for motivational
28 boot camp program; in State intermediate punishment, further
29 providing for scope of chapter, for definitions, for referral
30 to State intermediate punishment program, for drug offender

1 treatment program and for reports; in recidivism risk
2 reduction incentive, further providing for definitions, FOR <--
3 SENTENCING, for evaluation and for reports; IN MISCELLANEOUS <--
4 PROVISIONS, FURTHER PROVIDING FOR CONFIDENTIALLY OF VICTIM
5 INFORMATION; in Pennsylvania Board of Probation and Parole,
6 further providing for definitions, ~~for advisory committee,~~ <--
7 for general powers of board, for probation services, for
8 parole power, providing for short sentence parole AND FOR <--
9 REENTRY SUPERVISION, further providing for violation of terms
10 of parole ~~and~~, for parole procedure AND FOR VICTIM <--
11 STATEMENTS, TESTIMONY AND PARTICIPATION IN HEARING AND
12 PROVIDING FOR PAROLEE HOMICIDE REVIEW; IN COUNTY PROBATION
13 OFFICERS' FIREARM EDUCATION AND TRAINING, FURTHER PROVIDING
14 FOR COUNTY PROBATION OFFICERS' FIREARM EDUCATION AND TRAINING
15 COMMISSION AND FOR COMMISSION MEMBERSHIP; ~~and~~ making <--
16 conforming amendments; AND MAKING A RELATED REPEAL. <--

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 ~~Section 1. Section 2153(a) of Title 42 of the Pennsylvania~~ <--
20 ~~Consolidated Statutes is amended by adding a paragraph to read:~~
21 ~~§ 2153. Powers and duties.~~

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

24 * * *

25 ~~(16) Report to the General Assembly on:~~

26 ~~(i) implementation of revisions to the guidelines~~
27 ~~under sections 2154 (relating to adoption of guidelines~~
28 ~~for sentencing) and 2154.1 (relating to adoption of~~
29 ~~guidelines for restrictive conditions);~~

30 ~~(ii) implementation and outcomes of justice~~
31 ~~reinvestment funding to county probation;~~

32 ~~(iii) use of court imposed sanctions for violating~~
33 ~~probation under section 9771.1 (relating to court imposed~~
34 ~~sanctions for violating probation);~~

35 ~~(iv) in consultation with the Office of the Budget~~
36 ~~and the Department of Corrections, the implementation of~~
37 ~~short sentence parole under 61 Pa.C.S. § 6137.1 (relating~~
38 ~~to short sentence parole), use of the State drug~~

~~treatment program under 61 Pa.C.S. Ch. 41 (relating to State drug treatment program) and use of sanctions for technical parole violations under 61 Pa.C.S. § 6138(c)(8) (relating to violation of terms of parole); and~~
~~(v) evaluations of the effectiveness of various criminal justice interventions and programming, including restrictive conditions of probation, recidivism risk reduction incentive programs, the State drug treatment program, the State motivational boot camp program, pretrial diversion programs, prisoner treatment programs and prisoner reentry programs. For evaluations of the effectiveness of programs in reducing recidivism, the commission shall report on:~~

~~(A) The number of individuals eligible for the program, the number of individuals participating in the program and the number of individuals who successfully completed the program during the period under study.~~

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

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

~~(D) Any other information the commission deems relevant.~~

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SECTION 1. TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED
STATUTES IS AMENDED BY ADDING SECTIONS TO READ:
§ 2151.2. COMMISSION.

<--

1 (A) CONTINUATION.--THE COMMISSION IS CONTINUED AS AN AGENCY
2 OF THE GENERAL ASSEMBLY.

3 (B) SEAL.--THE COMMISSION SHALL HAVE A SEAL ENGRAVED WITH
4 THE COMMISSION'S NAME AND SUCH OTHER INSCRIPTION AS MAY BE
5 SPECIFIED BY REGULATION OF THE COMMISSION.

6 § 2152. COMPOSITION OF COMMISSION.

7 (A) MEMBERS.--THE PENNSYLVANIA COMMISSION ON SENTENCING
8 SHALL CONSIST OF THE FOLLOWING:

9 (1) ONE INDIVIDUAL SELECTED BY THE SPEAKER OF THE HOUSE
10 OF REPRESENTATIVES, WHO SHALL BE A DISTRICT ATTORNEY.

11 (2) ONE INDIVIDUAL SELECTED BY THE PRESIDENT PRO TEMPORE
12 OF THE SENATE, WHO SHALL BE A DEFENSE ATTORNEY.

13 (3) TWO JUDGES OF COURTS OF RECORD SELECTED BY THE CHIEF
14 JUSTICE OF PENNSYLVANIA.

15 (4) TWO JUDGES OF COURTS OF RECORD, ONE OF WHOM SHALL BE
16 SELECTED BY THE PRESIDENT JUDGE OF COMMONWEALTH COURT AND ONE
17 OF WHOM SHALL BE SELECTED BY THE PRESIDENT JUDGE OF THE
18 SUPERIOR COURT.

19 (5) ONE INDIVIDUAL SELECTED BY THE CHIEF JUSTICE OF
20 PENNSYLVANIA, WHO SHALL BE A PROFESSOR OF LAW KNOWLEDGEABLE
21 IN CRIMINAL SENTENCING.

22 (6) ONE MEMBER OF THE SENATE SELECTED BY THE PRESIDENT
23 PRO TEMPORE OF THE SENATE.

24 (7) ONE MEMBER OF THE SENATE SELECTED BY THE MINORITY
25 LEADER OF THE SENATE.

26 (8) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES SELECTED
27 BY THE MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

28 (9) ONE MEMBER OF THE HOUSE OF REPRESENTATIVES SELECTED
29 BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.

30 (B) EX OFFICIO MEMBERS.--THE SECRETARY OF CORRECTIONS AND

1 THE CHAIRPERSON OF THE BOARD, DURING THEIR TENURE IN THEIR
2 RESPECTIVE POSITIONS, SHALL SERVE AS EX OFFICIO NONVOTING
3 MEMBERS OF THE COMMISSION.

4 (C) TERMS OF OFFICE.--THE MEMBERS OF THE COMMISSION SHALL
5 SERVE FOR TERMS OF TWO YEARS AND UNTIL A SUCCESSOR HAS BEEN
6 SELECTED AND QUALIFIED. A VACANCY ON THE COMMISSION SHALL BE
7 FILLED FOR THE BALANCE OF THE TERM.

8 (D) CHAIRPERSON AND EXECUTIVE DIRECTOR.--THE COMMISSION
9 SHALL SELECT A CHAIRPERSON FROM ITS MEMBERS AND AN EXECUTIVE
10 DIRECTOR. THE CHAIRPERSON SHALL:

11 (1) PRESIDE AT MEETINGS OF THE COMMISSION.

12 (2) DIRECT THE PREPARATION OF REQUESTS FOR
13 APPROPRIATIONS FOR THE COMMISSION AND THE USE OF FUNDS MADE
14 AVAILABLE TO THE COMMISSION.

15 (E) MEETINGS AND QUORUM.--

16 (1) THE COMMISSION SHALL MEET AT LEAST FOUR TIMES A YEAR
17 AND NOT LESS THAN SEMIANNUALLY TO ESTABLISH THE COMMISSION'S
18 GENERAL POLICIES AND RULES.

19 (2) THE COMMISSION SHALL BE DEEMED AN "AGENCY" WITHIN
20 THE MEANING OF AND SHALL BE SUBJECT TO THE PROVISIONS OF 65
21 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

22 (3) SEVEN COMMISSIONERS SHALL CONSTITUTE A QUORUM FOR
23 THE PURPOSE OF ADOPTING PROPOSED INITIAL AND SUBSEQUENT
24 GUIDELINES. A MAJORITY OF COMMISSIONERS SHALL CONSTITUTE A
25 QUORUM FOR ALL OTHER PURPOSES.

26 (4) MINUTES OF MEETINGS SHALL BE KEPT BY THE EXECUTIVE
27 DIRECTOR AND FILED AT THE EXECUTIVE OFFICE OF THE COMMISSION.

28 (F) RECORDS OF ACTION.--EXCEPT AS OTHERWISE PROVIDED BY LAW,
29 THE COMMISSION SHALL MAINTAIN AND MAKE AVAILABLE FOR PUBLIC
30 INSPECTION A RECORD OF THE FINAL VOTE OF EACH MEMBER ON ANY

1 ACTION TAKEN BY THE COMMISSION.

2 (G) EXPENSES.--EACH COMMISSIONER SHALL BE ENTITLED TO
3 REIMBURSEMENT FOR EACH COMMISSIONER'S ACCOUNTABLE EXPENSES
4 INCURRED WHILE ENGAGED IN THE BUSINESS OF THE COMMISSION.

5 (H) COMPETENCY TO TESTIFY.--IN A JUDICIAL, ADMINISTRATIVE OR
6 SIMILAR PROCEEDING, A COMMISSIONER OR COMMISSION STAFF SHALL NOT
7 BE COMPETENT TO TESTIFY AND MAY NOT BE REQUIRED TO PRODUCE
8 RECORDS OR OTHER DISCOVERY AS TO ANY STATEMENT, CONDUCT,
9 DECISION OR DELIBERATION OCCURRING DURING THE COURSE OF OFFICIAL
10 BUSINESS, TO THE SAME EXTENT AS A LEGISLATOR OR LEGISLATIVE
11 STAFF OF THIS COMMONWEALTH ACTING IN A LEGISLATIVE CAPACITY.

12 § 2153. POWERS AND DUTIES OF COMMISSION.

13 (A) POWERS AND DUTIES.--THE COMMISSION, IN ACCORDANCE WITH
14 THE RULES AND REGULATIONS OF THE COMMISSION, SHALL HAVE THE
15 POWERS TO:

16 (1) ESTABLISH GENERAL POLICIES AND PROMULGATE SUCH RULES
17 AND REGULATIONS FOR THE COMMISSION AS ARE NECESSARY TO
18 ADMINISTER THIS SUBCHAPTER AND CHAPTER 97 (RELATING TO
19 SENTENCING).

20 (2) UTILIZE, WITH THE CONSENT OF FEDERAL, STATE, LOCAL
21 AND PRIVATE AGENCIES AND INSTRUMENTALITIES, THE SERVICES,
22 EQUIPMENT, PERSONNEL, INFORMATION AND FACILITIES OF THE
23 FEDERAL, STATE, LOCAL AND PRIVATE AGENCIES AND
24 INSTRUMENTALITIES WITH OR WITHOUT REIMBURSEMENT.

25 (3) ENTER INTO AND PERFORM SUCH CONTRACTS, LEASES,
26 COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS AS MAY BE
27 NECESSARY IN THE CONDUCT OF THE FUNCTIONS OF THE COMMISSION,
28 WITH ANY PUBLIC AGENCY OR WITH ANY PERSON, FIRM, ASSOCIATION,
29 CORPORATION, EDUCATIONAL INSTITUTION OR NONPROFIT
30 ORGANIZATION.

1 (4) REQUEST SUCH INFORMATION, DATA AND REPORTS FROM ANY
2 OFFICER OR AGENCY OF THE COMMONWEALTH AS THE COMMISSION MAY
3 FROM TIME TO TIME REQUIRE AND AS MAY BE PRODUCED CONSISTENT
4 WITH ANY OTHER FEDERAL OR STATE LAW.

5 (5) ARRANGE WITH THE HEAD OF ANY GOVERNMENT UNIT FOR THE
6 PERFORMANCE BY THE GOVERNMENT UNIT OF ANY FUNCTION OF THE
7 COMMISSION, WITH OR WITHOUT REIMBURSEMENT.

8 (6) ISSUE INVITATIONS REQUESTING THE ATTENDANCE AND
9 TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE
10 THAT RELATES DIRECTLY TO A MATTER WITH RESPECT TO WHICH THE
11 COMMISSION OR ANY MEMBER THEREOF IS EMPOWERED TO MAKE A
12 DETERMINATION UNDER THIS SUBCHAPTER.

13 (7) ESTABLISH A RESEARCH AND DEVELOPMENT PROGRAM WITHIN
14 THE COMMISSION FOR THE PURPOSE OF:

15 (I) SERVING AS A CLEARINGHOUSE AND INFORMATION
16 CENTER FOR THE COLLECTION, PREPARATION AND DISSEMINATION
17 OF INFORMATION ON COMMONWEALTH SENTENCING, RESENTENCING
18 AND PAROLE PRACTICES.

19 (II) ASSISTING AND SERVING IN A CONSULTING CAPACITY
20 TO THE BOARD, STATE COURTS, DEPARTMENTS AND AGENCIES IN
21 THE DEVELOPMENT, MAINTENANCE AND COORDINATION OF SOUND
22 SENTENCING, RESENTENCING AND PAROLE PRACTICES.

23 (8) COLLECT SYSTEMATICALLY THE DATA OBTAINED FROM
24 STUDIES, RESEARCH AND THE EMPIRICAL EXPERIENCE OF PUBLIC AND
25 PRIVATE AGENCIES CONCERNING THE SENTENCING PROCESSES.

26 (9) PUBLISH DATA CONCERNING THE SENTENCING AND PAROLE
27 PROCESSES.

28 (10) COLLECT SYSTEMATICALLY AND DISSEMINATE INFORMATION
29 CONCERNING PAROLE DISPOSITIONS AND SENTENCES ACTUALLY
30 IMPOSED, INCLUDING INITIAL SENTENCES AND ANY SUBSEQUENT

1 MODIFICATION OF SENTENCES OR RESENTENCES FOLLOWING REVOCATION
2 OR REMAND, AND PAROLE AND REPAROLE DECISIONS BY THE BOARD AND
3 ANY OTHER PAROLE AUTHORITY.

4 (11) COLLECT SYSTEMATICALLY AND DISSEMINATE INFORMATION
5 REGARDING EFFECTIVENESS OF PAROLE DISPOSITIONS AND SENTENCES
6 IMPOSED.

7 (12) MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY
8 CONCERNING MODIFICATION OR ENACTMENT OF SENTENCING, PAROLE
9 AND CORRECTIONAL STATUTES WHICH THE COMMISSION FINDS TO BE
10 NECESSARY AND ADVISABLE TO CARRY OUT AN EFFECTIVE, HUMANE AND
11 RATIONAL SENTENCING, RESENTENCING AND PAROLE POLICY.

12 (13) ESTABLISH A PLAN AND TIMETABLE TO COLLECT AND
13 DISSEMINATE INFORMATION RELATING TO INCAPACITATION,
14 RECIDIVISM, DETERRENCE AND OVERALL EFFECTIVENESS OF SENTENCES
15 AND PAROLE DISPOSITIONS IMPOSED.

16 (14) ESTABLISH A PROGRAM TO SYSTEMATICALLY MONITOR
17 COMPLIANCE WITH THE GUIDELINES, WITH THE RISK ASSESSMENT
18 INSTRUMENT, WITH RECOMMITMENT RANGES AND WITH MANDATORY
19 SENTENCING LAWS TO DOCUMENT ELIGIBILITY FOR A RELEASE IN
20 ACCORDANCE WITH A COUNTY REENTRY PLAN, TO DOCUMENT
21 ELIGIBILITY FOR AND IMPOSITION OF RECIDIVISM RISK REDUCTION
22 INCENTIVE MINIMUM SENTENCES AND TO DOCUMENT ALL PAROLE AND
23 REPAROLE DECISIONS BY THE BOARD AND ANY OTHER PAROLING
24 AUTHORITY BY:

25 (I) PROMULGATING FORMS WHICH DOCUMENT THE
26 APPLICATION OF SENTENCING, RESENTENCING AND PAROLE
27 GUIDELINES, MANDATORY SENTENCING LAWS, RISK ASSESSMENT
28 INSTRUMENT, RELEASES IN ACCORDANCE WITH A COUNTY REENTRY
29 PLAN, RECOMMITMENT RANGES AND RECIDIVISM RISK REDUCTION
30 INCENTIVE MINIMUM SENTENCES AND COLLECTING INFORMATION ON

1 ALL PAROLE AND REPAROLE DECISIONS BY THE BOARD AND ANY
2 OTHER PAROLING AUTHORITY.

3 (II) REQUIRING THE TIMELY COMPLETION AND ELECTRONIC
4 SUBMISSION OF SUCH FORMS TO THE COMMISSION.

5 (15) PRIOR TO ADOPTION OF CHANGES TO GUIDELINES FOR
6 SENTENCING, RESENTENCING AND PAROLE, RISK ASSESSMENT
7 INSTRUMENT AND RECOMMITMENT RANGES FOLLOWING REVOCATION, USE
8 A CORRECTIONAL POPULATION SIMULATION MODEL TO DETERMINE:

9 (I) RESOURCES THAT ARE REQUIRED UNDER CURRENT
10 GUIDELINES, RISK ASSESSMENT INSTRUMENT AND RANGES.

11 (II) RESOURCES THAT WOULD BE REQUIRED TO CARRY OUT
12 ANY PROPOSED CHANGES TO THE GUIDELINES, RISK ASSESSMENT
13 INSTRUMENT AND RANGES.

14 (16) REPORT TO THE GENERAL ASSEMBLY ON:

15 (I) IMPLEMENTATION OF REVISIONS TO THE GUIDELINES
16 UNDER SECTIONS 2154 (RELATING TO ADOPTION OF GUIDELINES
17 FOR SENTENCING) AND 2154.1 (RELATING TO ADOPTION OF
18 GUIDELINES FOR COUNTY INTERMEDIATE PUNISHMENT);

19 (II) IMPLEMENTATION AND OUTCOMES OF JUSTICE
20 REINVESTMENT FUNDING TO COUNTY PROBATION;

21 (III) USE OF COURT-IMPOSED SANCTIONS FOR VIOLATION
22 OF PROBATION UNDER SECTION 9771.1 (RELATING TO COURT-
23 IMPOSED SANCTIONS FOR OFFENDERS VIOLATING PROBATION);

24 (IV) IN CONSULTATION WITH THE OFFICE OF THE BUDGET
25 AND THE DEPARTMENT OF CORRECTIONS, IMPLEMENTATION OF
26 SHORT SENTENCE PAROLE UNDER 61 PA.C.S. § 6137.1 (RELATING
27 TO SHORT SENTENCE PAROLE), USE OF THE STATE DRUG
28 TREATMENT PROGRAM UNDER 61 PA.C.S. CH. 41 (RELATING TO
29 STATE DRUG TREATMENT PROGRAM) AND USE OF SANCTIONS FOR
30 TECHNICAL PAROLE VIOLATIONS UNDER 61 PA.C.S. § 6138(C)

1 (1.2) (RELATING TO VIOLATION OF TERMS OF PAROLE); AND

2 (V) EVALUATIONS OF THE EFFECTIVENESS AND COST-
3 BENEFIT OF VARIOUS CRIMINAL JUSTICE INTERVENTIONS AND
4 PROGRAMMING, INCLUDING RESTRICTIVE CONDITIONS OF
5 PROBATION, RECIDIVISM RISK REDUCTION INCENTIVE PROGRAMS,
6 THE STATE DRUG TREATMENT PROGRAM, THE STATE MOTIVATIONAL
7 BOOT CAMP PROGRAM, PRETRIAL DIVERSION PROGRAMS, PRISONER
8 TREATMENT PROGRAMS AND PRISON REENTRY PROGRAMS. FOR
9 EVALUATIONS OF THE EFFECTIVENESS AND COST-BENEFIT OF A
10 PROGRAM IN REDUCING RECIDIVISM, THE COMMISSION SHALL
11 REPORT ON:

12 (A) THE NUMBER OF INDIVIDUALS ELIGIBLE FOR THE
13 PROGRAM, THE NUMBER OF INDIVIDUALS PARTICIPATING IN
14 THE PROGRAM AND THE NUMBER OF INDIVIDUALS WHO
15 SUCCESSFULLY COMPLETED THE PROGRAM DURING THE PERIOD
16 UNDER STUDY.

17 (B) THE RECIDIVISM RATES FOR PARTICIPANTS OF THE
18 PROGRAM AND FOR A COMPARISON GROUP OF INDIVIDUALS WHO
19 DID NOT PARTICIPATE IN THE PROGRAM.

20 (C) POTENTIAL CHANGES IN THE PROGRAM THAT THE
21 COMMISSION BELIEVES WOULD MAKE THE PROGRAM MORE
22 EFFECTIVE.

23 (D) ANY OTHER INFORMATION THE COMMISSION DEEMS
24 RELEVANT.

25 (B) ANNUAL REPORTS.--THE COMMISSION SHALL REPORT ANNUALLY TO
26 THE GOVERNOR, THE GENERAL ASSEMBLY AND THE ADMINISTRATIVE OFFICE
27 OF PENNSYLVANIA COURTS ON THE ACTIVITIES OF THE COMMISSION.

28 (C) ADDITIONAL POWERS AND DUTIES.--THE COMMISSION SHALL HAVE
29 SUCH OTHER POWERS AND DUTIES AND SHALL PERFORM SUCH OTHER
30 FUNCTIONS AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS

1 SUBCHAPTER OR AS MAY BE PROVIDED UNDER ANY OTHER PROVISION OF
2 STATE LAW AND MAY DELEGATE TO ANY COMMISSIONER OR DESIGNATED
3 PERSON SUCH POWERS AS MAY BE APPROPRIATE OTHER THAN THE POWER TO
4 ESTABLISH GENERAL POLICIES, GUIDELINES, RULES AND FACTORS UNDER
5 SUBSECTION (A) (1).

6 Section 2. Sections 2154 and 2154.1 of Title 42 are amended
7 to read:

8 § 2154. Adoption of guidelines for sentencing.

9 (a) General rule.--The commission shall adopt guidelines for
10 sentencing within the limits established by law which shall be
11 considered by the sentencing court in determining the
12 appropriate sentence for defendants who plead guilty or nolo
13 contendere to, or who were found guilty of, felonies and
14 misdemeanors. In adopting guidelines, the commission shall
15 recommend confinement that is consistent with the protection of
16 the public, the gravity of the offense as it relates to the
17 impact on the life of the victim and the community and the
18 ~~rehabilitative needs of the offender. The guidelines shall~~ <--
19 REHABILITATIVE NEEDS OF THE OFFENDER. <--

20 (B) FACTORS.--THE GUIDELINES SHALL address the following
21 retributive factors:

22 (1) Seriousness of the offense, by specifying the range
23 of sentences applicable to crimes of a given degree of
24 gravity[, including incapacitation of serious violent
25 offenders].

26 (2) Criminal history, by specifying a range of sentences
27 of increased severity or intensity of intervention for
28 offenders previously convicted of or adjudicated delinquent
29 for one or more misdemeanor or felony offenses committed
30 prior to the current offense. The commission may exclude or

1 reduce the valuation of less serious offenses and increase
2 the valuation of offenses committed while under supervision
3 or in a temporal or offense pattern.

4 (3) Criminal behavior, by specifying a range of
5 sentences of increased severity or intensity of intervention
6 for offenders [who pose a substantial risk to public safety]
7 with increased culpability, including those who possessed or
8 used a deadly weapon or inflicted substantial harm during the
9 commission of the current conviction offense.

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

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

15 **[(b)]** (C) Adjustments.--The guidelines shall include the <--
16 following risk-related adjustments:

17 (1) Incapacitation of serious violent offenders.

18 (2) Modifications to criminal history to reflect risk to
19 reoffend and substantial risk to public safety to adjust the
20 length of total confinement for more serious criminal
21 history.

22 ~~(3) Recommendations related to the use of county~~ <--
23 ~~intermediate punishment programs as restrictive conditions of~~
24 ~~probation and the duration of terms of probation.~~

25 (D) PROBATION GUIDELINES.--THE GUIDELINES SHALL ADDRESS THE <--
26 USE OF COUNTY INTERMEDIATE PUNISHMENT PROGRAMS AS RESTRICTIVE
27 CONDITIONS OF PROBATION AND THE DURATION OF TERMS OF PROBATION.

28 ~~(e)~~ (E) Interactive information.--The guidelines shall <--
29 include interactive information to support decisions with risk, <--
30 AND recidivism and cost information. <--

1 ~~(d)~~ (F) Definitions.--As used in this section, the following <--
2 words and phrases shall have the meanings given to them in this
3 subsection unless the context clearly indicates otherwise:

4 "Possessed." On a defendant's person or within the
5 defendant's immediate physical control.

6 "Previously convicted of or adjudicated delinquent." Any
7 finding of guilt or adjudication of delinquency, whether or not
8 sentence has been imposed or disposition ordered prior to the
9 commission of the current offense.

10 § 2154.1. Adoption of guidelines for [county intermediate
11 punishment] restrictive conditions.

12 (a) General rule.--The commission shall adopt guidelines to
13 identify offenders who would be eligible and appropriate for
14 [participation in county intermediate punishment programs]
15 restrictive conditions of probation. These guidelines shall be
16 considered by the sentencing court in determining whether to
17 [sentence an offender] impose restrictive conditions pursuant to
18 section 9763 (relating to [sentence of county intermediate
19 punishment] conditions of probation). The guidelines shall[:

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

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

24 (b) Compliance.--The commission shall certify compliance BY <--
25 EACH COUNTY with guidelines adopted by the commission for county
26 intermediate punishment or for imposing restrictive conditions
27 of probation and with related statutory requirements AND SECTION <--
28 9728(G.1) (RELATING TO COLLECTION OF RESTITUTION, REPARATION,
29 FEES, COSTS, FINES AND PENALTIES) and report the results to the
30 Pennsylvania Commission on Crime and Delinquency.

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

2 [§ 2154.2. Adoption of guidelines for State intermediate
3 punishment.]

4 The commission shall adopt guidelines to identify offenders
5 who would be appropriate for participation in State intermediate
6 punishment programs. These guidelines shall be considered by the
7 attorney for the Commonwealth and the sentencing court in
8 determining whether to commit a defendant for evaluation and
9 whether to sentence an eligible offender pursuant to 61 Pa.C.S.
10 Ch. 41 (relating to State intermediate punishment). The
11 guidelines shall:

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

14 (2) Give primary consideration to protection of the
15 public safety.]

16 Section 4. Sections 2154.7(d), 8127(B), 9718, 9721(a), (a.1) <--
17 and (b), 9728(A)(2) AND (B)(5), 9730, 9754, 9755(d) and (h), <--
18 9756(c.1), 9763 heading, (a), ~~(b)(14)~~ ~~(B)(1)~~, ~~(2)~~, (B)(2), (8), <--
19 (10), (14), (16) and (17), (c) and (d), 9764(f), 9771(a) and (b)
20 and 9771.1 of Title 42 are amended to read:

21 § 2154.7. Adoption of risk assessment instrument.

22 * * *

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

26 (1) for persons under supervision, intensity of
27 intervention, use of restrictive conditions and duration of
28 supervision; and

29 (2) appropriate candidates for alternative sentencing,
30 including the recidivism risk reduction incentive, State [and

1 county intermediate punishment programs] drug treatment
2 program and State motivational boot camps.

3 * * *

4 § 8127. PERSONAL EARNINGS EXEMPT FROM PROCESS. <--

5 * * *

6 (B) PRIORITY.--AN ORDER OF ATTACHMENT FOR SUPPORT SHALL HAVE
7 FIRST PRIORITY AND AN ORDER DESCRIBED IN SUBSECTION (A) (5) SHALL
8 HAVE SECOND PRIORITY OVER ANY OTHER ATTACHMENT, EXECUTION,
9 GARNISHMENT OR WAGE ASSIGNMENT.

10 * * *

11 § 9718. SENTENCES FOR OFFENSES AGAINST INFANT PERSONS.

12 (A) MANDATORY SENTENCE.--

13 (1) A PERSON CONVICTED OF THE FOLLOWING OFFENSES WHEN
14 THE VICTIM IS LESS THAN 16 YEARS OF AGE SHALL BE SENTENCED TO
15 A MANDATORY TERM OF IMPRISONMENT AS FOLLOWS:

16 18 PA.C.S. § 2702(A) (1) AND (4) (RELATING TO AGGRAVATED
17 ASSAULT) - NOT LESS THAN TWO YEARS.

18 18 PA.C.S. § 3121(A) (1), (2), (3), (4) AND (5) (RELATING
19 TO RAPE) - NOT LESS THAN TEN YEARS.

20 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
21 INTERCOURSE) - NOT LESS THAN TEN YEARS.

22 18 PA.C.S. § 3125(A) (1) THROUGH (6) (RELATING TO
23 AGGRAVATED INDECENT ASSAULT) - NOT LESS THAN FIVE YEARS.

24 (2) A PERSON CONVICTED OF THE FOLLOWING OFFENSES WHEN
25 THE VICTIM IS LESS THAN 13 YEARS OF AGE SHALL BE SENTENCED TO
26 A MANDATORY TERM OF IMPRISONMENT AS FOLLOWS:

27 18 PA.C.S. § 2502(C) (RELATING TO MURDER) - NOT LESS THAN
28 15 YEARS.

29 18 PA.C.S. § 2702(A) (1) - NOT LESS THAN FIVE YEARS.

30 (3) A PERSON CONVICTED OF THE FOLLOWING OFFENSES SHALL

1 BE SENTENCED TO A MANDATORY TERM OF IMPRISONMENT AS FOLLOWS:

2 18 PA.C.S. § 3121(C) AND (D) - NOT LESS THAN TEN YEARS.

3 18 PA.C.S. § 3125(A) (7) - NOT LESS THAN FIVE YEARS.

4 18 PA.C.S. § 3125(B) - NOT LESS THAN TEN YEARS.

5 (B) ELIGIBILITY FOR PAROLE.--PAROLE SHALL NOT BE GRANTED
6 UNTIL THE MINIMUM TERM OF IMPRISONMENT HAS BEEN SERVED.

7 (C) [PROOF AT SENTENCING.--THE PROVISIONS OF THIS SECTION
8 SHALL NOT BE AN ELEMENT OF THE CRIME, AND NOTICE OF THE
9 PROVISIONS OF THIS SECTION TO THE DEFENDANT SHALL NOT BE
10 REQUIRED PRIOR TO CONVICTION, BUT REASONABLE NOTICE OF THE
11 COMMONWEALTH'S INTENTION TO PROCEED UNDER THIS SECTION SHALL BE
12 PROVIDED AFTER CONVICTION AND BEFORE SENTENCING. THE
13 APPLICABILITY OF THIS SECTION SHALL BE DETERMINED AT SENTENCING.
14 THE COURT SHALL CONSIDER ANY EVIDENCE PRESENTED AT TRIAL AND
15 SHALL AFFORD THE COMMONWEALTH AND THE DEFENDANT AN OPPORTUNITY
16 TO PRESENT ANY NECESSARY ADDITIONAL EVIDENCE AND SHALL
17 DETERMINE, BY A PREPONDERANCE OF THE EVIDENCE, IF THIS SECTION
18 IS APPLICABLE.] APPLICATION OF MANDATORY MINIMUM PENALTY.--WITH
19 THE EXCEPTION OF PRIOR CONVICTIONS, ANY PROVISION OF THIS
20 SECTION THAT REQUIRES IMPOSITION OF A MANDATORY MINIMUM SENTENCE
21 SHALL CONSTITUTE AN ELEMENT ENHANCING THE UNDERLYING OFFENSE.
22 ANY ENHANCING ELEMENT MUST BE PROVEN BEYOND A REASONABLE DOUBT
23 AT TRIAL ON THE UNDERLYING OFFENSE AND MUST BE SUBMITTED TO THE
24 FACT-FINDER FOR DELIBERATION TOGETHER WITH THE UNDERLYING
25 OFFENSE. IF THE FACT-FINDER FINDS THE DEFENDANT GUILTY OF THE
26 UNDERLYING OFFENSE, THE FACT-FINDER SHALL ALSO DECIDE WHETHER
27 ANY ENHANCING ELEMENT HAS BEEN PROVEN.

28 (C.1) NOTICE.--NOTICE TO THE DEFENDANT OF THE APPLICABILITY
29 OF THIS SECTION SHALL BE REQUIRED PRIOR TO CONVICTION.

30 (D) AUTHORITY OF COURT IN SENTENCING.--THERE SHALL BE NO

1 AUTHORITY IN ANY COURT TO IMPOSE ON AN OFFENDER TO WHICH THIS
2 SECTION IS APPLICABLE ANY LESSER SENTENCE THAN PROVIDED FOR IN
3 SUBSECTION (A) OR TO PLACE THE OFFENDER ON PROBATION OR TO
4 SUSPEND SENTENCE. NOTHING IN THIS SECTION SHALL PREVENT THE
5 SENTENCING COURT FROM IMPOSING A SENTENCE GREATER THAN THAT
6 PROVIDED IN THIS SECTION. SENTENCING GUIDELINES PROMULGATED BY
7 THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL NOT SUPERSEDE
8 THE MANDATORY SENTENCES PROVIDED IN THIS SECTION.

9 (E) APPEAL BY COMMONWEALTH.-- [IF A SENTENCING COURT REFUSES
10 TO APPLY THIS SECTION WHERE APPLICABLE, THE COMMONWEALTH SHALL
11 HAVE THE RIGHT TO APPELLATE REVIEW OF THE ACTION OF THE
12 SENTENCING COURT. THE APPELLATE COURT SHALL VACATE THE SENTENCE
13 AND REMAND THE CASE TO THE SENTENCING COURT FOR IMPOSITION OF A
14 SENTENCE IN ACCORDANCE WITH THIS SECTION IF IT FINDS THAT THE
15 SENTENCE WAS IMPOSED IN VIOLATION OF THIS SECTION.] ~~IF THE FACT-FINDER~~ <--
16 ~~HAS FOUND ANY ENHANCING ELEMENT AND A SENTENCING COURT~~
17 ~~IMPOSES A SENTENCE BELOW THE MANDATORY MINIMUM SENTENCE, THE~~
18 ~~COMMONWEALTH SHALL HAVE THE RIGHT TO APPELLATE REVIEW OF THE~~
19 ~~SENTENCE. IF THE APPELLATE COURT FINDS THAT THE MANDATORY~~
20 ~~SENTENCING PROVISION WAS APPLICABLE, THE COURT SHALL VACATE THE~~
21 ~~SENTENCE AND REMAND THE CASE FOR RESENTENCING IN ACCORDANCE WITH~~
22 ~~THAT PROVISION.~~

23 * * * IF THE FACT-FINDER HAS FOUND ANY ENHANCING ELEMENT AND <--
24 A SENTENCING COURT IMPOSES A SENTENCE BELOW THE MANDATORY
25 MINIMUM SENTENCE, THE COMMONWEALTH SHALL HAVE THE RIGHT TO
26 APPELLATE REVIEW OF THE SENTENCE. IF THE APPELLATE COURT FINDS
27 THAT THE MANDATORY SENTENCING PROVISION WAS APPLICABLE, THE
28 COURT SHALL VACATE THE SENTENCE AND REMAND THE CASE FOR
29 RESENTENCING IN ACCORDANCE WITH THAT PROVISION.

30 § 9721. Sentencing generally.

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

- 5 (1) An order of probation.
- 6 (2) A determination of guilt without further penalty.
- 7 (3) Partial confinement.
- 8 (4) Total confinement.
- 9 (5) A fine.
- 10 [(6) County intermediate punishment.
- 11 (7) State intermediate punishment.]

12 (a.1) Exception.--

13 (1) Unless specifically authorized under section 9763
14 (relating to [a sentence of county intermediate punishment)
15 or 61 Pa.C.S. Ch. 41 (relating to State intermediate
16 punishment)] conditions of probation), subsection (a) shall
17 not apply where a mandatory minimum sentence is otherwise
18 provided by law.

19 (2) [An eligible offender may be sentenced to State
20 intermediate punishment pursuant to subsection (a) (7) and as
21 described in 61 Pa.C.S. Ch. 41 or to] A person may be
22 eligible for the State drug treatment program or State
23 motivational boot camp as described in 61 Pa.C.S. Ch. 39
24 (relating to motivational boot camp), even if a mandatory
25 minimum sentence would otherwise be provided by law.

26 (3) An eligible [offender] person may be sentenced to
27 total confinement pursuant to subsection (a) (4) and a
28 recidivism risk reduction incentive minimum sentence pursuant
29 to section 9756(b.1) (relating to sentence of total
30 confinement), even if a mandatory minimum sentence would

1 otherwise be provided by law.

2 (b) General standards.--In selecting from the alternatives
3 set forth in subsection (a), the court shall follow the general
4 principle that the sentence imposed should call for total
5 confinement that is consistent with section 9725 (relating to
6 total confinement) and the protection of the public, the gravity
7 of the offense as it relates to the impact on the life of the
8 victim and on the community, and the rehabilitative needs of the
9 defendant. The court shall also consider any guidelines for
10 sentencing and resentencing adopted by the Pennsylvania
11 Commission on Sentencing and taking effect under section 2155
12 (relating to publication of guidelines for sentencing,
13 resentencing and parole, risk assessment instrument and
14 recommitment ranges following revocation). In every case in
15 which the court imposes a sentence for a felony or misdemeanor,
16 modifies a sentence, resentsences [an offender] a person
17 following revocation of probation[, county intermediate
18 punishment or State intermediate punishment] or resentsences
19 following remand, the court shall make as a part of the record,
20 and disclose in open court at the time of sentencing, a
21 statement of the reason or reasons for the sentence imposed. In
22 every case where the court imposes a sentence or resentence
23 outside the guidelines adopted by the Pennsylvania Commission on
24 Sentencing under sections 2154 (relating to adoption of
25 guidelines for sentencing), 2154.1 (relating to adoption of
26 guidelines for [county intermediate punishment), 2154.2
27 (relating to adoption of guidelines for State intermediate
28 punishment)] restrictive conditions), 2154.3 (relating to
29 adoption of guidelines for fines), 2154.4 (relating to adoption
30 of guidelines for resentencing) and 2154.5 (relating to adoption

1 of guidelines for parole) and made effective under section 2155,
2 the court shall provide a contemporaneous written statement of
3 the reason or reasons for the deviation from the guidelines to
4 the commission, as established under section 2153(a) (14)
5 (relating to powers and duties). Failure to comply shall be
6 grounds for vacating the sentence or resentence and resentencing
7 the defendant.

8 * * *

9 § 9728. COLLECTION OF RESTITUTION, REPARATION, FEES, COSTS, <--
10 FINES AND PENALTIES.

11 (A) GENERAL RULE.--

12 * * *

13 (2) IN ACCORDANCE WITH SECTION 9730.1 (RELATING TO
14 COLLECTION OF COURT COSTS, RESTITUTION AND FINES BY PRIVATE
15 COLLECTION AGENCY), THE COLLECTION OF RESTITUTION,
16 REPARATION, FEES, COSTS, FINES AND PENALTIES UNDER THIS
17 SECTION MAY BE REFERRED TO A PRIVATE COLLECTION AGENCY. ANY
18 COUNTY THAT DOES NOT ENGAGE THE SERVICES OF A PRIVATE
19 COLLECTION AGENCY SHALL OPERATE A COLLECTIONS ENFORCEMENT
20 UNIT CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (1) AND
21 DEDICATED TO CARRYING OUT THE DUTIES THEREIN PROVIDED.
22 STATISTICAL INFORMATION RELATING TO THE AMOUNT OF RESTITUTION
23 COLLECTED BY THE COUNTY PROBATION DEPARTMENT OR ANY AGENT
24 DESIGNATED BY THE COUNTY COMMISSIONERS OF THE COUNTY WITH THE
25 APPROVAL OF THE PRESIDENT JUDGE OF THE COUNTY SHALL BE [MADE
26 AVAILABLE] PROVIDED TO THE PENNSYLVANIA COMMISSION ON CRIME
27 AND DELINQUENCY AND PENNSYLVANIA COMMISSION ON SENTENCING ON
28 AN ANNUAL BASIS. THE STATISTICAL INFORMATION SHALL BE
29 SUFFICIENTLY DETAILED SO AS TO SHOW COMPLIANCE WITH THE
30 REQUIREMENTS OF THIS SECTION, INCLUDING SUBSECTION (G.1).

1 (B) PROCEDURE.--

2 * * *

3 (5) DEDUCTIONS SHALL BE AS FOLLOWS:

4 (I) THE [COUNTY CORRECTIONAL FACILITY TO WHICH THE
5 OFFENDER HAS BEEN SENTENCED OR THE] DEPARTMENT OF
6 CORRECTIONS SHALL [BE AUTHORIZED TO] MAKE MONETARY
7 DEDUCTIONS [FROM] OF AT LEAST 25% OF DEPOSITS MADE TO
8 INMATE WAGES AND PERSONAL ACCOUNTS FOR THE PURPOSE OF
9 COLLECTING RESTITUTION [OR], COSTS IMPOSED UNDER SECTION
10 9721(C.1), FILING FEES TO BE COLLECTED UNDER SECTION
11 6602(C) (RELATING TO PRISONER FILING FEES) AND ANY OTHER
12 COURT-ORDERED OBLIGATION. [OR COSTS IMPOSED UNDER SECTION
13 9721(C.1). ANY AMOUNT DEDUCTED SHALL BE TRANSMITTED BY
14 THE DEPARTMENT OF CORRECTIONS OR THE COUNTY CORRECTIONAL
15 FACILITY TO THE PROBATION DEPARTMENT OF THE COUNTY OR
16 OTHER AGENT DESIGNATED BY THE COUNTY COMMISSIONERS OF THE
17 COUNTY WITH THE APPROVAL OF THE PRESIDENT JUDGE OF THE
18 COUNTY IN WHICH THE OFFENDER WAS CONVICTED. THE
19 DEPARTMENT OF CORRECTIONS SHALL DEVELOP GUIDELINES
20 RELATING TO ITS RESPONSIBILITIES UNDER THIS PARAGRAPH.]

21 (II) THE COUNTY CORRECTIONAL FACILITY TO WHICH THE
22 OFFENDER HAS BEEN SENTENCED SHALL:

23 (A) BE AUTHORIZED TO MAKE MONETARY DEDUCTIONS
24 FROM INMATE WAGES AND PERSONAL ACCOUNTS FOR THE
25 PURPOSE OF COLLECTING RESTITUTION, COSTS IMPOSED
26 UNDER SECTION 9721(C.1), FILING FEES TO BE COLLECTED
27 UNDER SECTION 6602(C) AND ANY OTHER COURT-ORDERED
28 OBLIGATION OR FEES OWED TO THE COUNTY JAIL OR PRISON
29 RELATED TO THE INMATE'S INCARCERATION.

30 (B) DEDUCT AN AMOUNT SUFFICIENT TO SATISFY ANY

1 OUTSTANDING RESTITUTION, COSTS IMPOSED UNDER SECTION
2 9721(C.1), FILING FEES TO BE COLLECTED UNDER SECTION
3 6602(C) OR OTHER COURT-ORDERED OBLIGATIONS BEFORE
4 RELEASING FUNDS ON DEPOSIT.

5 (III) ANY AMOUNT DEDUCTED UNDER THIS PARAGRAPH SHALL
6 BE IN ADDITION TO THE FULL AMOUNT AUTHORIZED TO BE
7 COLLECTED PURSUANT TO ANY ORDER FOR SUPPORT. ANY AMOUNT
8 DEDUCTED SHALL BE TRANSMITTED TO THE PROBATION DEPARTMENT
9 OF THE COUNTY OR OTHER AGENT DESIGNATED BY THE COUNTY
10 COMMISSIONERS WITH THE APPROVAL OF THE PRESIDENT JUDGE OF
11 THE COUNTY IN WHICH THE OFFENDER WAS CONVICTED.

12 (IV) THE DEPARTMENT OF CORRECTIONS AND EACH COUNTY
13 CORRECTIONAL FACILITY SHALL DEVELOP GUIDELINES RELATING
14 TO ITS RESPONSIBILITIES UNDER THIS PARAGRAPH. THE
15 GUIDELINES SHALL BE INCORPORATED INTO ANY CONTRACT
16 ENTERED INTO WITH A CORRECTIONAL FACILITY.

17 * * *

18 § 9730. PAYMENT OF COURT COSTS, RESTITUTION AND FINES.

19 (A) [USE OF CREDIT CARDS] METHOD OF PAYMENT.--THE TREASURER
20 OF EACH COUNTY MAY ALLOW THE USE OF CREDIT CARDS AND BANK CARDS
21 IN THE PAYMENT OF COURT COSTS, RESTITUTION AND FINES[.] AND MAY
22 PROVIDE FOR AUTOMATIC PERIODIC DEDUCTIONS FROM A BANK ACCOUNT,
23 SUBJECT TO THE AGREEMENT OF THE OWNER OF THE ACCOUNT.

24 (A.1) WAGE ATTACHMENT.--A COURT MAY, AT SENTENCING, ASSIGN
25 AN AMOUNT NOT GREATER THAN 25% OF THE DEFENDANT'S GROSS SALARY,
26 WAGES OR OTHER EARNINGS TO BE USED FOR THE PAYMENT OF COURT
27 COSTS, RESTITUTION OR FINES.

28 (B) PROCEDURES REGARDING DEFAULT.--

29 (1) IF A DEFENDANT DEFAULTS IN THE PAYMENT OF [A FINE,]
30 COURT COSTS [OR], RESTITUTION OR FINES AFTER IMPOSITION OF

1 SENTENCE, THE ISSUING AUTHORITY OR A SENIOR JUDGE OR SENIOR
2 MAGISTERIAL DISTRICT JUDGE APPOINTED BY THE PRESIDENT JUDGE
3 FOR THE PURPOSES OF THIS SECTION MAY CONDUCT A HEARING TO
4 DETERMINE WHETHER THE DEFENDANT IS FINANCIALLY ABLE TO PAY.

5 (2) IF THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR
6 MAGISTERIAL DISTRICT JUDGE DETERMINES THAT THE DEFENDANT IS
7 FINANCIALLY ABLE TO PAY THE [FINE OR] COSTS, RESTITUTION OR
8 FINE, THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR
9 MAGISTERIAL DISTRICT JUDGE MAY ENTER AN ORDER FOR WAGE
10 ATTACHMENT, TURN THE DELINQUENT ACCOUNT OVER TO A PRIVATE
11 COLLECTION AGENCY OR IMPOSE IMPRISONMENT FOR NONPAYMENT, AS
12 PROVIDED BY LAW.

13 (3) IF THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR
14 MAGISTERIAL DISTRICT JUDGE DETERMINES THAT THE DEFENDANT IS
15 WITHOUT THE FINANCIAL MEANS TO PAY THE [FINE OR] COSTS, RESTITUTION OR FINE IMMEDIATELY OR IN A SINGLE REMITTANCE,
16 THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR MAGISTERIAL
17 DISTRICT JUDGE MAY PROVIDE FOR PAYMENT IN INSTALLMENTS. IN
18 DETERMINING THE APPROPRIATE INSTALLMENTS, THE ISSUING
19 AUTHORITY, SENIOR JUDGE OR SENIOR MAGISTERIAL DISTRICT JUDGE
20 SHALL CONSIDER THE DEFENDANT'S FINANCIAL RESOURCES, THE
21 DEFENDANT'S ABILITY TO MAKE RESTITUTION AND REPARATIONS AND
22 THE NATURE OF THE BURDEN THE PAYMENT WILL IMPOSE ON THE
23 DEFENDANT. IF THE DEFENDANT IS IN DEFAULT OF A PAYMENT OR
24 ADVISES THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR
25 MAGISTERIAL DISTRICT JUDGE THAT DEFAULT IS IMMINENT, THE
26 ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR MAGISTERIAL
27 DISTRICT JUDGE MAY SCHEDULE A REHEARING ON THE PAYMENT
28 SCHEDULE. AT THE REHEARING THE DEFENDANT HAS THE BURDEN OF
29 PROVING CHANGES OF FINANCIAL CONDITION SUCH THAT THE
30

1 DEFENDANT IS WITHOUT THE MEANS TO MEET THE PAYMENT SCHEDULE.
2 THE ISSUING AUTHORITY, SENIOR JUDGE OR SENIOR MAGISTERIAL
3 DISTRICT JUDGE MAY EXTEND OR ACCELERATE THE SCHEDULE, LEAVE
4 IT UNALTERED OR SENTENCE THE DEFENDANT TO A PERIOD OF
5 COMMUNITY SERVICE AS THE ISSUING AUTHORITY, SENIOR JUDGE OR
6 SENIOR MAGISTERIAL DISTRICT JUDGE FINDS TO BE JUST AND
7 PRACTICABLE UNDER THE CIRCUMSTANCES.

8 (4) A DECISION OF THE ISSUING AUTHORITY, SENIOR JUDGE OR
9 SENIOR MAGISTERIAL DISTRICT JUDGE UNDER PARAGRAPH (2) OR (3)
10 IS SUBJECT TO SECTION 5105 (RELATING TO RIGHT TO APPELLATE
11 REVIEW).

12 § 9754. Order of probation.

13 (a) General rule.--In imposing an order of probation the
14 court shall specify at the time of sentencing the length of any
15 term during which the defendant is to be supervised, which term
16 may not exceed the maximum term for which the defendant could be
17 confined, and the authority that shall conduct the supervision.
18 The court shall consider probation guidelines adopted by the
19 Pennsylvania Commission on Sentencing under sections 2154
20 (relating to adoption of guidelines for sentencing) and 2154.1
21 (relating to adoption of guidelines for restrictive conditions).

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

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

28 (1) To meet his family responsibilities.

29 (2) To devote himself to a specific occupation or
30 employment.

1 (2.1) To participate in a public or nonprofit community
2 service program unless the defendant was convicted of murder,
3 rape, aggravated assault, arson, theft by extortion,
4 terroristic threats, robbery or kidnapping.

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

8 (4) To pursue a prescribed secular course of study or
9 vocational training.

10 (5) To attend or reside in a facility established for
11 the instruction, recreation, or residence of persons on
12 probation.

13 (6) To refrain from frequenting unlawful or disreputable
14 places or consorting with disreputable persons.

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

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

20 (9) To remain within the jurisdiction of the court and
21 to notify the court or the probation officer of any change in
22 his address or his employment.

23 (10) To report as directed to the court or the probation
24 officer and to permit the probation officer to visit his
25 home.

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

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

29 (13) To satisfy any other conditions reasonably related
30 to the rehabilitation of the defendant and not unduly

1 restrictive of his liberty or incompatible with his freedom
2 of conscience.

3 (14) To remain within the premises of his residence
4 during the hours designated by the court.] reasonable
5 conditions authorized by section 9763 (relating to conditions
6 of probation) AS IT DEEMS NECESSARY TO ENSURE OR ASSIST THE <--
7 DEFENDANT IN LEADING A LAW-ABIDING LIFE.

8 (d) Sentence following violation of probation.--The sentence
9 to be imposed in the event of the violation of a condition shall
10 not be fixed prior to a finding on the record that a violation
11 has occurred.

12 § 9755. Sentence of partial confinement.

13 * * *

14 (d) Conditions to release.--The court may in addition
15 include in its order such of the conditions as are enumerated in
16 section [9754 (relating to order of probation)] 9763 (relating
17 to conditions of probation) as may be reasonably related to the
18 sentence.

19 * * *

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

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

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

4 § 9756. Sentence of total confinement.

5 * * *

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

10 (1) the period of total confinement is followed
11 immediately by [a sentence] restrictive conditions of
12 probation imposed pursuant to section 9763(c) or (d)
13 (relating to [sentence of county intermediate punishment])
14 conditions of probation) in which case the sentence of total
15 confinement shall specify the number of days of total
16 confinement also to be served; and

17 (2) the maximum sentence of total confinement imposed on
18 one or more indictments to run consecutively or concurrently
19 total 90 days or less.

20 * * *

21 § 9763. [Sentence of county intermediate punishment] Conditions
22 of probation.

23 (a) General rule.--In imposing [a sentence of county
24 intermediate punishment] probation, the court shall consider
25 guidelines adopted by the Pennsylvania Commission on Sentencing
26 under section 2154 (relating to adoption of guidelines for
27 sentencing) or 2154.1 (relating to adoption of guidelines for
28 restrictive conditions) and specify at the time of sentencing
29 the conditions of probation, including the length of the term
30 [for which the defendant is to be in a county intermediate

1 punishment program established under Chapter 98 (relating to
2 county intermediate punishment) or a combination of county
3 intermediate punishment programs. The term may not exceed the
4 maximum term for which the defendant could be confined and the
5 program to which the defendant is sentenced. The court may order
6 a defendant to serve a portion of the sentence under section
7 9755 (relating to sentence of partial confinement) or 9756
8 (relating to sentence of total confinement) and to serve a
9 portion in a county intermediate punishment program or a
10 combination of county intermediate punishment programs.] of
11 restrictive conditions under subsection (c) or (d). The term of
12 restrictive conditions under subsection (c) shall be equal to or
13 greater than the mandatory minimum term of imprisonment required
14 by statute.

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

17 * * * <--

18 ~~(1) TO MEET FAMILY RESPONSIBILITIES, INCLUDING~~ <--
19 ~~CONSIDERATION OF CHILD CARE RESPONSIBILITIES AND LIMITATIONS.~~

20 * * * <--

21 (2) TO BE DEVOTED TO A SPECIFIC OCCUPATION [OR],
22 EMPLOYMENT OR EDUCATION INITIATIVE.

23 * * *

24 [(8) TO REFRAIN FROM FREQUENTING UNLAWFUL OR
25 DISREPUTABLE PLACES OR CONSORTING WITH DISREPUTABLE PERSONS.]

26 * * *

27 (10) TO MAKE RESTITUTION OF THE FRUITS OF THE CRIME OR
28 TO MAKE REPARATIONS, IN AN AFFORDABLE AMOUNT AND ON A
29 SCHEDULE THAT THE DEFENDANT CAN AFFORD TO PAY, FOR THE LOSS
30 OR DAMAGE CAUSED BY THE CRIME.

1 * * *

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

5 * * *

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

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

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

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

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

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

- 1 (ii) house arrest with electronic surveillance;
2 (iii) a partial confinement program such as work
3 release, work camp and halfway facility; or
4 (iv) any combination of the programs set forth in
5 this paragraph.

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

- 10 (i) house arrest with electronic surveillance;
11 (ii) partial confinement programs such as work
12 release, work camps and halfway facilities; or
13 (iii) any combination of the programs set forth in
14 this paragraph.

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

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

1 notice at any time prior to resentencing of the Commonwealth's
2 intention to proceed under an applicable provision of law
3 requiring a mandatory minimum sentence.] Restrictive conditions
4 of probation.--Probation may include restrictive conditions
5 that:

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

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

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

13 * * *

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

16 (1) Prior to the release of an inmate from a county
17 correctional facility to State probation or parole
18 supervision, the facility shall provide to the Department of
19 Corrections and the Pennsylvania Board of Probation and
20 Parole the information contained in subsections [(a) (1)
21 through (4)] (a) and (b) with the exception of subsection (a)
22 (5).

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

29 * * *

30 § 9771. Modification or revocation of order of probation.

1 (a) General rule.--The court [may] has inherent power to at
2 any time terminate continued supervision [or], lessen [or <--
3 increase] the conditions upon which an order of probation has
4 been imposed[.] OR INCREASE THE CONDITIONS UNDER WHICH AN ORDER <--
5 OF PROBATION HAS BEEN IMPOSED UPON A FINDING THAT A PERSON
6 PRESENTS AN IDENTIFIABLE THREAT TO PUBLIC SAFETY.

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

20 * * *

21 § 9771.1. Court-imposed sanctions for [offenders] violating
22 probation.

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

28 [(b) Coordination with other officials.--The court shall
29 work with probation administrators and officers, jail
30 administrators, prosecutors, public defenders and law

1 enforcement in the judicial district to develop and implement
2 the program.

3 (c) Eligibility.--

4 (1) The court shall determine which offenders are
5 eligible for and admitted into the program. The program shall
6 focus on, but not be limited to, offenders who have committed
7 drug-related crimes.

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

14 (d) Warning hearing.--

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

19 (2) The court shall emphasize the expectations that the
20 participant remain drug free and comply with any treatment or
21 services ordered by the court as a condition of the
22 participant's probation.

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

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

29 (f) Violation hearing.--If a participant commits a probation
30 violation, the participant shall promptly be arrested, and a

1 hearing shall be held no later than two business days after the
2 arrest date.

3 (g) Sanctions.--

4 (1) The court shall impose a term of imprisonment of up
5 to:

6 (i) three days for a first violation;

7 (ii) seven days for a second violation;

8 (iii) fourteen days for a third violation; and

9 (iv) twenty-one days for a fourth or subsequent
10 violation of probation.

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

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

17 (h) Exceptions.--If the participant is able to provide a
18 compelling reason for the probation violation, the court may
19 grant an exception to the sanctions authorized under subsection
20 (g).

21 (i) Revocation of probation.--

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

24 (2) Upon revocation, the sentencing alternatives shall
25 be the same as were available at the time of initial
26 sentencing, due consideration being given to the time spent
27 serving the order of probation.

28 (j) Local rules.--

29 (1) The court may adopt local rules for the
30 administration of this program. Except as provided for under

1 paragraph (2), the local rules may not be inconsistent with
2 this section or any rules adopted by the Supreme Court.

3 (2) The court may adopt local rules that are
4 inconsistent with subsection (g) regarding the terms of
5 imprisonment or other sanctions or conditions provided for
6 under subsection (g).

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

8 [§ 9773. Modification or revocation of county intermediate
9 punishment sentence.

10 (a) General rule.--The court may at any time terminate a
11 sentence of county intermediate punishment or increase or
12 decrease the conditions of a sentence pursuant to section 9763
13 (relating to sentence of county intermediate punishment).

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

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

1 punishment. A hearing is not required to decrease the conditions
2 of the sentence.

3 § 9774. Revocation of State intermediate punishment sentence.

4 (a) General rule.--The court may at any time terminate a
5 sentence of State intermediate punishment pursuant to 61 Pa.C.S.
6 Ch. 41 (relating to State intermediate punishment).

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

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

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

21 § 9804. County intermediate punishment programs.

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

24 (1) Restrictive intermediate punishments providing for
25 the strict supervision of the offender, including programs
26 that:

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

28 (ii) significantly restrict the offender's movement
29 and monitor the offender's compliance with the program;

30 or

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

3 (2) When utilized in combination with restrictive
4 intermediate punishments, restorative sanctions providing for
5 nonconfinement sentencing options that:

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

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

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

16 (b) Eligibility.--

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

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

30 (iii) The court, after considering victim input, may

1 refuse to accept the prosecuting attorney's waiver of the
2 eligibility requirements.

3 (2) [The Pennsylvania Commission on Sentencing shall
4 employ the term "eligible offender" to further identify
5 offenders who would be appropriate for participation in
6 county intermediate punishment programs. In developing the
7 guidelines, the commission shall give primary consideration
8 to protection of the public safety.] Only programs that meet
9 the requirements of restrictive conditions of probation under
10 section 9763(c) or (d) and are certified in accordance with
11 section 2154.1(b) shall be eligible for county intermediate
12 punishment program funding.

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

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

27 (A) a residential inpatient program or a
28 residential rehabilitative center;

29 (B) house arrest with electronic surveillance;

30 (C) a partial confinement program such as work

1 release, work camp and halfway facility; or

2 (D) any combination of the programs set forth in
3 this subparagraph.

4 (iii) If the defendant is determined not to be in
5 need of drug and alcohol treatment or if the defendant
6 receives a penalty imposed under 30 Pa.C.S. § 5502(c.1)
7 (relating to operating watercraft under influence of
8 alcohol or controlled substance), the defendant may only
9 be sentenced to a county intermediate punishment program
10 in:

11 (A) house arrest with electronic surveillance;

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

14 (C) any combination of the programs set forth in
15 this paragraph.

16 (5) A defendant subject to 75 Pa.C.S. § 3804 (relating
17 to penalties) or 30 Pa.C.S. § 5502(c.1) may only be sentenced
18 to county intermediate punishment for a first, second or
19 third offense under 75 Pa.C.S. Ch. 38 (relating to driving
20 after imbibing alcohol or utilizing drugs) or 30 Pa.C.S. §
21 5502.]

22 § 9810. Continued eligibility.

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

1 * * *

2 Section 7. The definition of "eligible inmate" in section
3 3903 of Title 61 is amended to read:

4 § 3903. Definitions.

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

8 * * *

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

29 **18 Pa.C.S. § 2502 (relating to murder).**

30 **18 Pa.C.S. § 2503 (relating to voluntary manslaughter).**

1 18 Pa.C.S. § 2506 (relating to drug delivery resulting in
2 death).

3 18 Pa.C.S. § 2901(a) (relating to kidnapping).

4 18 Pa.C.S. § 3301(a)(1)(i) (relating to arson and related
5 offenses).

6 18 Pa.C.S. § 3502 (relating to burglary) in the case of
7 burglary of a structure adapted for overnight accommodation
8 in which at the time of the offense any person is present.

9 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
10 robbery).

11 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

12 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3)(iii) or (4)
13 (iii) (relating to drug trafficking sentencing and

14 penalties).] 18 PA.C.S. § 2502 (RELATING TO MURDER), drug <--

15 trafficking as defined in section 4103 (relating to
16 definitions) or a crime of violence as defined in 42 Pa.C.S.

17 § 9714(g) (relating to sentences for second or subsequent

18 offenses)- OR CRIMINAL ATTEMPT, CRIMINAL SOLICITATION OR <--

19 CRIMINAL CONSPIRACY TO COMMIT ANY OF THESE OFFENSES.

20 * * *

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

23 § 3904. Selection of inmate participants.

24 * * *

25 (b) Duties of sentencing judge.--The sentencing judge shall
26 employ the sentencing guidelines to identify those defendants
27 who are eligible for participation in a motivational boot camp.
28 The judge shall have the discretion to exclude a defendant from
29 eligibility if the judge determines that the defendant would be
30 inappropriate for placement in a motivational boot camp. The

1 judge shall note on the sentencing order whether the defendant
2 has been [identified as eligible] excluded from eligibility for
3 a motivational boot camp program.

4 * * *

5 § 3905. Motivational boot camp program.

6 * * *

7 [(e) Evaluation.--The department and the commission shall
8 monitor and evaluate the motivational boot camp programs to
9 ensure that the programmatic objectives are met. Both shall
10 present biennial reports of the evaluations to the Judiciary
11 Committee of the Senate and the Judiciary Committee of the House
12 of Representatives no later than February 1 in alternate years.]

13 Section 9. The heading of Chapter 41 of Title 61 is amended
14 to read:

15 CHAPTER 41

16 STATE [INTERMEDIATE PUNISHMENT] DRUG TREATMENT PROGRAM

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

18 § 4101. Scope of chapter.

19 This chapter relates to the State [intermediate punishment]
20 drug treatment program.

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

24 § 4103. Definitions.

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

28 * * *

29 "Drug trafficking." A violation of section 13(a)(14), (30)
30 or (37) of the act of April 14, 1972 (P.L.233, No.64), known as

1 The Controlled Substance, Drug, Device and Cosmetic Act, where
2 the controlled substance is:

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

5 (2) A narcotic drug classified in Schedule I or Schedule
6 II under section 3 OR 4 of The Controlled Substance, Drug, <--
7 Device and Cosmetic Act, if the aggregate weight of the
8 compound or mixture containing the substance involved is at
9 least 100 grams.

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

13 (i) Coca leaves.

14 (ii) A salt, compound, derivative or preparation of
15 coca leaves.

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

19 (iv) A mixture containing any of the substances
20 under subparagraphs (i) and (ii), except decocainized
21 coca leaves or extracts of coca leaves which do not
22 contain cocaine or ecgonine.

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

26 (i) Methamphetamine.

27 (ii) Phencyclidine.

28 (iii) A salt, isomer or salt of an isomer of
29 methamphetamine or phencyclidine.

30 (iv) A mixture containing:

- 1 (A) Methamphetamine or phencyclidine.
2 (B) A salt of methamphetamine or phencyclidine.
3 (C) An isomer of methamphetamine or
4 phencyclidine.
5 (D) A salt of an isomer of methamphetamine or
6 phencyclidine.

7 (5) Heroin or a mixture containing heroin, if the
8 aggregate weight of the compound or mixture containing the
9 heroin is 50 grams or greater.

10 (6) A mixture containing 3, 4-methylenedioxyamphetamine
11 (MDA); 3,4-methylenedioxymethamphetamine (MDMA); 5-methoxy-
12 3,4methylenedioxyamphetamine (MMDA); 3,4-methylenedioxy-N-
13 ethylamphetamine; OR N-hydroxy-3,4-methylenedioxyamphetamine <--
14 when the aggregate weight of the compound or mixture
15 containing the substance involved is at least 1,000 tablets,
16 capsules, caplets or other dosage units, or 300 grams.

17 (7) ~~Fenteny~~ FENTANYL or a mixture containing ~~fenteny~~ <--
18 FENTANYL, if the aggregate weight of the compound or mixture <--
19 containing the ~~fenteny~~ FENTANYL is 50 10 grams or more. <--

20 (8) CARFENTANIL OR A MIXTURE CONTAINING CARFENTANIL, IF <--
21 THE AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING
22 THE CARFENTANIL IS ONE GRAM OR MORE.

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

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

28 [[1)] (i) Has undergone an assessment performed by
29 the Department of Corrections, which assessment has
30 concluded that the [defendant] person is in need of drug

1 and alcohol addiction treatment and would benefit from
2 commitment to [a drug offender] the State drug treatment
3 program and that placement in [a drug offender] the State
4 drug treatment program would be appropriate.

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

7 [(3) Would be placed in the custody of the
8 department if not sentenced to State intermediate
9 punishment.]

10 (iii) Is a person sentenced to a term of confinement
11 under the jurisdiction of the department, the minimum of
12 which is not more than two years, or a person who is
13 serving a term of confinement, the minimum of which is
14 not more than five years where the person is within two
15 years of completing the person's minimum term.

16 [(4)] (iv) Provides written consent permitting
17 release of information pertaining to the [defendant's]
18 person's participation in [a drug offender] the State
19 drug treatment program.

20 (2) The term shall not include a [defendant] person who
21 is subject to a sentence the calculation of which includes an
22 enhancement for the use of a deadly weapon, as defined
23 pursuant to law or the sentencing guidelines promulgated by
24 the Pennsylvania Commission on Sentencing, a [defendant]
25 person who has been convicted or adjudicated delinquent of
26 any crime [requiring registration] LISTED under 42 Pa.C.S. <--
27 Ch. 97 Subch. H (relating to registration of sexual
28 offenders) or I (relating to continued registration of sexual
29 offenders) or a [defendant] person with a current conviction
30 or a prior conviction within the past ten years for [any of

1 the following offenses:

2 18 Pa.C.S. § 2502 (relating to murder).

3 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

4 18 Pa.C.S. § 2506 (relating to drug delivery resulting in
5 death).

6 18 Pa.C.S. § 2901(a) (relating to kidnapping).

7 18 Pa.C.S. § 3301(a)(1)(i) (relating to arson and related
8 offenses).

9 18 Pa.C.S. § 3502 (relating to burglary), in the case of
10 burglary of a structure adapted for overnight accommodation
11 in which at the time of the offense any person is present.

12 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
13 robbery).

14 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

15 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3)(iii) or (4)
16 (iii) (relating to drug trafficking sentencing and

17 penalties).] 18 PA.C.S. § 2502 (RELATING TO MURDER), drug <--
18 trafficking as defined in this section or a crime of violence
19 as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for
20 second or subsequent offenses)- OR CRIMINAL ATTEMPT, CRIMINAL <--
21 SOLICITATION OR CRIMINAL CONSPIRACY TO COMMIT ANY OF THESE
22 OFFENSES.

23 * * *

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

28 * * *

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

1 § 4104. [Referral to State intermediate punishment] Selection
2 for the State drug treatment program.

3 (a) [Referral for evaluation.--

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

10 (1.1)] Duties of commission and sentencing judge.--

11 (1) Through the use of sentencing guidelines, the
12 commission shall employ the term "eligible person" as defined
13 in this chapter to further identify persons who would be
14 potentially appropriate for participation in the State drug
15 treatment program. The sentencing judge shall employ the
16 sentencing guidelines to identify persons who are eligible
17 for participation in the State drug treatment program. The
18 judge shall consider the position of a victim of the crime,
19 as advised by the prosecuting attorney, on whether to exclude
20 the person from eligibility for placement in the State drug
21 treatment program. The judge shall exclude the person from
22 eligibility if the prosecuting attorney opposes eligibility.
23 The judge shall note on the sentencing order if a person has
24 been excluded from eligibility for the State drug treatment
25 program. If the person is not excluded from eligibility, the
26 minimum sentence imposed shall operate as the minimum for
27 parole eligibility purposes if the person is not placed in
28 the program by the department under subsection (c) or if the
29 person is expelled from the program under section 4105(f)
30 (relating to State drug treatment program).

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

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

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

14 (i) A summary of the offense for which the defendant
15 has been convicted.

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

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

23 (iv) A presentence investigation report, when
24 available.

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

28 (b) Assessment of [addiction.--

29 (1) The] addiction.--The department shall conduct an
30 assessment of the addiction and other treatment needs of [a

<--

1 [defendant] an eligible person and determine whether the
 2 [defendant] person would benefit from [a drug offender] the
 3 State drug treatment program[.], PUBLIC SAFETY WOULD BE
 4 ENHANCED BY THE PERSON'S PARTICIPATION IN THE STATE DRUG
 5 TREATMENT PROGRAM, AND PLACEMENT OF THE PERSON IN THE STATE
 6 DRUG TREATMENT PROGRAM WOULD NOT DEPRECIATE THE SERIOUSNESS
 7 OF THE OFFENSE. The assessment shall be conducted using a
 8 nationally recognized assessment instrument or an instrument
 9 that has been normed and validated on the department's inmate
 10 population by a recognized expert in such matters. The
 11 assessment instrument shall be administered by persons
 12 skilled in the treatment of drug and alcohol addiction and
 13 trained to conduct assessments. The assessments shall be
 14 reviewed and approved by a supervisor with at least three
 15 years of experience providing drug and alcohol counseling
 16 services.

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

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

1 offender treatment program detailing the type of treatment
2 proposed] of the placement.

3 [(d) Prerequisites for commitment.--Upon receipt of a
4 recommendation for placement in a drug offender treatment
5 program from the department and agreement of the attorney for
6 the Commonwealth, the court may sentence an eligible offender to
7 a period of 24 months of State intermediate punishment if the
8 court finds that:

9 (1) The eligible offender is likely to benefit from
10 State intermediate punishment.

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

13 (3) Sentencing the eligible offender to State
14 intermediate punishment would not depreciate the seriousness
15 of the offense.

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

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

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

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

28 (4) The resentencing has occurred within 365 days of the
29 date of the defendant's admission to the custody of the
30 department.

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

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

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

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

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

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

29 § 4105. [Drug offender] State drug treatment program.

30 (a) Establishment.--The department shall establish and

1 administer [a drug offender] the State drug treatment program
2 [as a State intermediate punishment]. The program shall be
3 designed to address the individually assessed drug and alcohol
4 abuse and addiction needs of a participant and shall address
5 other issues essential to the participant's successful
6 reintegration into the community, including, but not limited to,
7 educational and employment issues.

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

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

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

25 (ii) Following evaluation under subparagraph (i),
26 not less than four months shall be in an institutional
27 therapeutic community.

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

30 (3) A period of at least six-months' treatment through

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

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

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

20 (c) Program management.--

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

1 administrative reasons.

2 (2) This subsection shall be construed to provide the
3 department with the maximum flexibility to administer the
4 State drug [offender] treatment program both as a whole and
5 for individual participants.

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

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

19 (f) Expulsion from program.--

20 (1) A participant may be expelled from the State drug
21 [offender] treatment program at any time in accordance with
22 guidelines established by the department, including failure
23 to comply with administrative or disciplinary procedures or
24 requirements set forth by the department. An expelled
25 participant shall be housed in a State correctional
26 institution to serve the remainder of the participant's
27 sentence. The expelled participant shall be eligible for
28 parole at the minimum sentence but may not be eligible for
29 short sentence parole under section 6137.1 (relating to short
30 sentence parole).

1 (1.1) A police officer commissioned under section 1 of
2 the act of May 21, 1943 (P.L.469, No.210), entitled "An act
3 providing for commissioning as police officers certain
4 employes of institutions maintained in whole or in part by
5 the Commonwealth; conferring upon them the powers of
6 constables in certain cases; and imposing duties on wardens
7 and keepers of jails, police stations and lock-ups," shall
8 have the authority to issue a warrant for the return of a
9 participant who is not in compliance with the terms of the
10 drug offender treatment program to the custody of the
11 department.

12 (2) The department shall promptly notify the court, the
13 [defendant] participant, the attorney for the Commonwealth
14 and the commission of the expulsion of a participant from the
15 State drug [offender] treatment program and the reason for
16 such expulsion. [The participant shall be housed in a State
17 correctional institution or county jail pending action by the
18 court.]

19 (3) The court shall schedule a prompt State intermediate
20 punishment revocation hearing pursuant to 42 Pa.C.S. § 9774
21 (relating to revocation of State intermediate punishment
22 sentence).]

23 § 4107. [Reports] Evaluation.

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

28 (b) Evaluation and report to General Assembly.--The
29 department [and the commission] shall monitor and evaluate the
30 State drug [offender] treatment program to ensure that the

1 programmatic objectives are met. [In odd-numbered years, the]
2 Every three years, the department shall present a report of its
3 evaluation to the Judiciary Committee of the Senate and the
4 Judiciary Committee of the House of Representatives no later
5 than February 1. [In even-numbered years, the commission shall
6 present a report of its evaluation to the Judiciary Committee of
7 the Senate and the Judiciary Committee of the House of
8 Representatives no later than February 1.] The report shall
9 include:

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

12 (2) The number of [offenders sentenced to] persons
13 placed into the State drug [offender] treatment program.

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

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

19 (5) The six-month, one-year, three-year and five-year
20 recidivism rates for [offenders] persons who have completed
21 the State drug [offender] treatment program and for a
22 comparison group of [offenders] persons who were not placed
23 in the State drug [offender] treatment program.

24 (6) Any changes the department [or the commission]
25 believes will make the State drug [offender] treatment
26 program more effective.

27 Section 13. The definition of "eligible offender" in section
28 4503 of Title 61 is amended to read:

29 § 4503. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Eligible [offender] person." A defendant or inmate
5 convicted of a criminal offense who will be committed to the
6 custody of the department and who meets all of the following
7 eligibility 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[.] OR CRIMINAL ATTEMPT, CRIMINAL SOLICITATION <--
22 OR CRIMINAL CONSPIRACY TO COMMIT ANY OF THESE OFFENSES.

23 (3) Has not been found guilty of or previously convicted
24 of or adjudicated delinquent for or [an attempt or conspiracy <--
25 to commit] CRIMINAL ATTEMPT, CRIMINAL SOLICITATION OR <--
26 CRIMINAL CONSPIRACY TO COMMIT MURDER, A CRIME OF VIOLENCE AS
27 DEFINED IN 42 PA.C.S. § 9714(G) (RELATING TO SENTENCES FOR
28 SECOND AND SUBSEQUENT OFFENSES) OR a personal injury crime as
29 defined under section 103 of the act of November 24, 1998
30 (P.L.882, No.111), known as the Crime Victims Act, except for

1 an offense under 18 Pa.C.S. § 2701 (relating to simple
2 assault) when the offense is a misdemeanor of the third
3 degree, or an equivalent offense under the laws of the United
4 States or one of its territories or possessions, another
5 state, the District of Columbia, the Commonwealth of Puerto
6 Rico or a foreign nation.

7 (4) Has not been found guilty or previously convicted or
8 adjudicated delinquent for violating any of the following
9 provisions or an equivalent offense under the laws of the
10 United States or one of its territories or possessions,
11 another state, the District of Columbia, the Commonwealth of
12 Puerto Rico or a foreign nation OR CRIMINAL ATTEMPT, CRIMINAL <--
13 SOLICITATION OR CRIMINAL CONSPIRACY TO COMMIT ANY OF THESE
14 OFFENSES:

15 18 Pa.C.S. § 4302(a) (relating to incest).

16 18 Pa.C.S. § 5901 (relating to open lewdness).

17 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
18 child pornography).

19 Received a criminal sentence pursuant to 42 Pa.C.S. §
20 9712.1 (relating to sentences for certain drug offenses
21 committed with firearms).

22 Any offense [for which registration is required] <--
23 LISTED under 42 Pa.C.S. Ch. 97 Subch. H (relating to
24 registration of sexual offenders) or I (relating to
25 continued registration of sexual offenders).

26 Drug trafficking as defined in section 4103 (relating
27 to definitions).

28 (5) Is not awaiting trial or sentencing for additional
29 criminal charges, if a conviction or sentence on the
30 additional charges would cause the defendant to become

1 ineligible under this definition.

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

9 * * *

10 SECTION 13.1. SECTION ~~4505(C)(2) OF TITLE 61 IS~~ 4505(C) <--
11 INTRODUCTORY PARAGRAPH AND PARAGRAPH (2) OF TITLE 61 ARE AMENDED
12 TO READ:

13 § 4505. SENTENCING.

14 * * *

15 (C) RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCE.--
16 IF THE COURT DETERMINES THAT THE DEFENDANT IS AN ELIGIBLE
17 OFFENDER OR THE PROSECUTING ATTORNEY HAS WAIVED THE ELIGIBILITY
18 REQUIREMENTS UNDER SUBSECTION (B), THE COURT SHALL PROVIDE <--
19 NOTICE OF ELIGIBILITY TO THE DEFENDANT AND ENTER A SENTENCING
20 ORDER THAT DOES ALL OF THE FOLLOWING:

21 * * *

22 (2) IMPOSES THE RECIDIVISM RISK REDUCTION INCENTIVE
23 MINIMUM SENTENCE. ~~PRIOR TO SENTENCING, THE THE COURT SHALL~~ <--
24 DIRECT THE DEPARTMENT TO CALCULATE THE LENGTH OF THE
25 SENTENCE. THE RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM
26 SHALL BE EQUAL TO THREE-FOURTHS OF THE MINIMUM SENTENCE
27 IMPOSED WHEN THE MINIMUM SENTENCE IS THREE YEARS OR LESS. THE
28 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SHALL BE EQUAL TO
29 FIVE-SIXTHS OF THE MINIMUM SENTENCE IF THE MINIMUM SENTENCE
30 IS GREATER THAN THREE YEARS. FOR PURPOSES OF THESE

1 CALCULATIONS, PARTIAL DAYS SHALL BE ROUNDED TO THE NEAREST
2 WHOLE DAY. IN DETERMINING THE RECIDIVISM RISK REDUCTION
3 INCENTIVE MINIMUM SENTENCE, THE AGGREGATION PROVISIONS OF 42
4 PA.C.S. §§ 9757 (RELATING TO CONSECUTIVE SENTENCES OF TOTAL
5 CONFINEMENT FOR MULTIPLE OFFENSES) AND 9762(F) (RELATING TO
6 SENTENCING PROCEEDING; PLACE OF CONFINEMENT) SHALL APPLY[.]
7 AND THE RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCE
8 SHALL BE RECALCULATED FOLLOWING THE AGGREGATION OF
9 CONSECUTIVE SENTENCES. AN OFFENDER DETERMINED BY THE COURT TO
10 BE INELIGIBLE FOR A RECIDIVISM RISK REDUCTION INCENTIVE
11 MINIMUM SENTENCE FOR ANY OF THE SENTENCES SUBJECT TO
12 AGGREGATION SHALL BE INELIGIBLE FOR A RECIDIVISM RISK
13 REDUCTION INCENTIVE MINIMUM SENTENCE FOR THE AGGREGATED
14 SENTENCE.

15 * * *

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

17 [§ 4509. Evaluation.

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

26 (b) Publication.--The department, the board and the
27 commission shall make evaluations conducted under this section
28 and underlying data available to the public. The publicly
29 available data and evaluations shall comply with generally
30 accepted practices of the research community, including

1 expectations relating to subject privacy and identifying
2 information.

3 § 4510. Reports.

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

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

14 (i) The number of inmates determined by the
15 department to be eligible offenders under this chapter
16 and the offenses for which the eligible offenders were
17 committed to the custody of the department.

18 (ii) The number of inmates committed to the custody
19 of the department who were subject to a recidivism risk
20 reduction incentive minimum sentence.

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

23 (iv) Any potential changes that would make the
24 program more effective.

25 (v) The six-month, one-year, three-year and five-
26 year recidivism rates for inmates released at the
27 recidivism risk reduction incentive minimum sentence.

28 (vi) Any other information the department deems
29 relevant.

30 (2) In odd-numbered years, the commission shall present

1 a report of its evaluation to the Judiciary Committee of the
2 Senate and the Judiciary Committee of the House of
3 Representatives no later than February 1. The report shall
4 include all of the following:

5 (i) Whether the goals of this chapter could be
6 achieved through amendments to parole or sentencing
7 guidelines.

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

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

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

16 (v) Any other information the commission deems
17 relevant.

18 (b) Educational plan.--

19 (1) The Pennsylvania Commission on Crime and Delinquency
20 shall publish a report of a proposed educational program plan
21 within one year of the effective date of this section. The
22 proposed educational program plan shall be developed in
23 consultation with the department, the commission, the board,
24 the Pennsylvania District Attorneys Association, the victim
25 advocate and representatives of the judiciary and the
26 criminal defense bar and other criminal justice stakeholders.

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

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

3 (ii) The availability of programs and eligibility
4 requirements that can reduce recidivism risk, including
5 State intermediate punishment, motivational boot camp and
6 recidivism risk reduction incentive programs.

7 (iii) The calculation of sentencing credit and
8 practices that could inadvertently prevent an inmate from
9 receiving sentence credit.

10 (iv) Recent statutory changes relating to
11 sentencing, place of confinement, medical releases,
12 transfer of inmates and parole.]

13 SECTION 14.1. SECTION 5906(A) INTRODUCTORY PARAGRAPH OF
14 TITLE 61 IS AMENDED TO READ:

15 § 5906. CONFIDENTIALITY OF VICTIM INFORMATION.

16 (A) GENERAL RULE.--NOTWITHSTANDING ANY OTHER PROVISION OF
17 LAW, ANY AND ALL STATEMENTS OR TESTIMONY OF THE VICTIM [OR] AND
18 OF ANY FAMILY MEMBER SUBMITTED TO THE DEPARTMENT SHALL BE:

19 * * *

20 Section 15. Section 6101 of Title 61 is amended to read:

21 § 6101. 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 Board.

27 Section 16. The heading of Subchapter B of Chapter 61 of
28 Title 61 is amended to read:

29 SUBCHAPTER B

30 ADMINISTRATION OF THE PENNSYLVANIA PAROLE BOARD

1 Section 16.1. Section 6111 heading and (a) of Title 61 are
2 amended to read:

3 § 6111. Pennsylvania [~~Board of Probation and~~] Parole Board.

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

8 * * *

9 Section 17. ~~Section 6123 of Title 61 is repealed:~~ <--

10 ~~§ 6123. Advisory committee.~~

11 ~~(a) Establishment. An advisory committee on probation is~~
12 ~~reestablished to assist the board.~~

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

24 ~~(c) Terms.~~

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

30 ~~(2) The terms of members of the committee who are~~

1 ~~appointed by virtue of holding an office as a member of the~~
2 ~~General Assembly, judge, chief county probation officer or~~
3 ~~county commissioner shall continue only so long as that~~
4 ~~person remains in that office.~~

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

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

18 ~~(d) Reimbursement of expenses. Each member of the advisory~~
19 ~~committee shall be paid all reasonable and necessary travel and~~
20 ~~other expenses incurred by him in the performance of his duties.~~

21 ~~(e) Assistance to be provided. The advisory committee shall~~
22 ~~aid the chairperson and the board in formulating and reviewing~~
23 ~~standards for probation personnel and probation services in the~~
24 ~~counties.] (RESERVED).~~ <--

25 Section 18. Sections 6131(a)(3), (4) and (5), 6133(c) and
26 (d) and 6137(a)(1) AND (G) of Title 61 are amended to read: <--

27 § 6131. General powers of board.

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

30 * * *

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

3 [(4) To collect, compile and publish statistical and
4 other information relating to probation and parole work in
5 all courts and such other information the board may deem of
6 value in probation service.]

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

9 (i) Presentence investigations.

10 (ii) The supervision of probationers.

11 (iii) The qualifications for probation personnel.

12 (iv) Minimum salaries.

13 (v) Quality of probation service.

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

22 * * *

23 § 6133. Probation services.

24 * * *

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

26 (1) A county that provides additional probation staff
27 for presentence investigations and improved probation
28 supervision and programs shall receive a grant-in-aid from
29 the Commonwealth through the board for additional costs
30 incurred thereby but only to the extent that the additional

1 staff and program meet the qualifications and standards
2 established by the board.

3 (2) The grant-in-aid shall provide 80% of the personnel
4 salary costs incurred by a county to administer these
5 additional services and programs.

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

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

10 Supervision and investigation.--Supervision and presentence
11 investigations by court order or request shall be provided in
12 accordance with board regulations.

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

19 § 6137. Parole power.

20 (a) General criteria for parole.--

21 (1) The board may parole subject to consideration of
22 guidelines established under 42 Pa.C.S. § 2154.5 (relating to
23 adoption of guidelines for parole) or subject to section
24 6137.1 (relating to short sentence parole) and may release on
25 parole any inmate to whom the power to parole is granted to
26 the board by this chapter, except an inmate condemned to
27 death or serving life imprisonment, whenever in its opinion:

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

30 (ii) It does not appear that the interests of the

1 Commonwealth will be injured by the inmate's parole.

2 * * *

3 (G) PROCEDURE.--

<--

4 (1) THE DEPARTMENT SHALL IDENTIFY ALL INMATES COMMITTED
5 TO THE CUSTODY OF THE DEPARTMENT THAT MEET THE DEFINITION OF
6 AN ELIGIBLE OFFENDER.

7 (2) UPON IDENTIFICATION OF AN INMATE AS AN ELIGIBLE
8 OFFENDER, THE DEPARTMENT SHALL SEND NOTICE TO THE BOARD. THE
9 BOARD SHALL SEND NOTICE TO THE PROSECUTING ATTORNEY AND THE
10 COURT NO LESS THAN SIX MONTHS BEFORE THE EXPIRATION OF THE
11 INMATE'S MINIMUM SENTENCE INDICATING THAT THE DEPARTMENT HAS
12 PRELIMINARILY IDENTIFIED THE INMATE AS AN ELIGIBLE OFFENDER.
13 THE NOTICE SHALL BE SENT BY UNITED STATES MAIL UNLESS THE
14 BOARD, THE COURT AND THE PROSECUTOR HAVE CONSENTED TO RECEIPT
15 OF NOTICE VIA ELECTRONIC MEANS. FOR INMATES COMMITTED TO THE
16 DEPARTMENT WHOSE EXPIRATION OF THE MINIMUM SENTENCE IS SIX
17 MONTHS OR LESS FROM THE DATE OF ADMISSION, THE DEPARTMENT
18 SHALL GIVE PROMPT NOTICE.

19 (2.1) THE DEPARTMENT SHALL PROVIDE THE BOARD ALL
20 INFORMATION RELATED TO THE INMATE'S ADJUSTMENT WHILE
21 INCARCERATED, MISCONDUCTS, IF ANY, INFORMATION RELATED TO
22 PROGRAMMING AND TREATMENT, INCLUDING SUCCESS, COMPLETION OR
23 FAILURE TO COMPLETE, OR ANY OTHER INFORMATION THE DEPARTMENT
24 DEEMS RELEVANT. THE BOARD SHALL SEND SUCH INFORMATION TO THE
25 PROSECUTING ATTORNEY AND TO THE COURT NO LESS THAN SIX MONTHS
26 BEFORE THE EXPIRATION OF THE INMATE'S MINIMUM SENTENCE. THE
27 NOTICE MAY BE SENT ELECTRONICALLY. FOR INMATES COMMITTED TO
28 THE DEPARTMENT WHOSE EXPIRATION OF THE MINIMUM SENTENCE IS
29 SIX MONTHS OR LESS FROM THE DATE OF ADMISSION, SUCH
30 INFORMATION SHALL BE SENT AT THE SAME TIME PROMPT NOTICE

1 UNDER PARAGRAPH (2) IS GIVEN.

2 (3) WITHIN 30 DAYS OF RECEIPT OF NOTICE UNDER PARAGRAPH
3 (2), THE COURT OR PROSECUTING ATTORNEY MAY FILE A WRITTEN
4 OBJECTION TO THE DEPARTMENT'S PRELIMINARY IDENTIFICATION OF
5 THE INMATE AS AN ELIGIBLE OFFENDER. NOTICE OF THE OBJECTION
6 SHALL BE PROVIDED TO THE DEPARTMENT AND THE BOARD.

7 (4) IF NO NOTICE OF OBJECTION HAS BEEN FILED UNDER
8 PARAGRAPH (3), THE BOARD OR ITS DESIGNEE SHALL APPROVE FOR
9 PAROLE AT THE EXPIRATION OF THE ELIGIBLE OFFENDER'S MINIMUM
10 DATE UPON A DETERMINATION THAT ALL OF THE FOLLOWING APPLY:

11 (I) THE DEPARTMENT CERTIFIED THAT THE INMATE HAS
12 MAINTAINED A GOOD CONDUCT RECORD AND CONTINUES TO REMAIN
13 AN ELIGIBLE OFFENDER.

14 (II) THE REENTRY PLAN FOR THE INMATE IS ADEQUATE.

15 (III) INDIVIDUAL CONDITIONS AND REQUIREMENTS FOR
16 PAROLE HAVE BEEN ESTABLISHED.

17 (IV) THERE IS NO REASONABLE INDICATION THAT THE
18 INMATE POSES A RISK TO PUBLIC SAFETY.

19 (5) IF THE COURT OR PROSECUTING ATTORNEY FILES A TIMELY
20 OBJECTION UNDER PARAGRAPH (3), THE BOARD SHALL MAKE A
21 DETERMINATION AS TO WHETHER THE INMATE IS AN ELIGIBLE
22 OFFENDER. THE BOARD SHALL NOTIFY THE DEPARTMENT, PROSECUTING
23 ATTORNEY AND COURT OF ITS DETERMINATION NO LATER THAN 30 DAYS
24 PRIOR TO THE MINIMUM PAROLE DATE. IF THE BOARD DETERMINES
25 THAT THE INMATE IS AN ELIGIBLE OFFENDER UNDER THIS CHAPTER,
26 THE BOARD SHALL FOLLOW THE PROVISIONS UNDER PARAGRAPH (4). IF
27 THE BOARD DETERMINES THAT THE INMATE IS NOT AN ELIGIBLE
28 OFFENDER UNDER SECTION 4503 (RELATING TO DEFINITIONS), THE
29 BOARD SHALL RETAIN EXCLUSIVE JURISDICTION TO GRANT PAROLE AND
30 SHALL DETERMINE WHETHER THE INMATE SHOULD BE PAROLED AT THE

1 MINIMUM DATE, PAROLED AT A LATER DATE OR DENIED PAROLE.

2 (6) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED AS
3 GRANTING A RIGHT TO BE PAROLED TO ANY PERSON, AND ANY
4 DECISION BY THE BOARD AND ITS DESIGNEES OR THE DEPARTMENT,
5 UNDER THIS SECTION SHALL NOT BE CONSIDERED AN ADJUDICATION
6 UNDER 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO PRACTICE AND
7 PROCEDURE OF COMMONWEALTH AGENCIES) AND CH. 7 SUBCH. A
8 (RELATING TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

9 (7) EXCEPT AS PROVIDED UNDER THIS SUBSECTION, NOTHING IN
10 THIS CHAPTER SHALL OTHERWISE AFFECT THE POWERS AND DUTIES OF
11 THE BOARD OR THE DEPARTMENT.

12 * * *

13 Section 19. Title 61 is amended by adding ~~a section~~ SECTIONS <--
14 to read:

15 § 6137.1. Short sentence parole.

16 (a) General rule.--This section applies to persons committed
17 to the department with a AN AGGREGATE minimum sentence of <--
18 confinement under 42 Pa.C.S. § 9756(b) (relating to sentence of
19 total confinement) of two years or less or a recidivism risk
20 reduction incentive minimum sentence under 42 Pa.C.S. §
21 9756(b.1) of two years or less, whichever is shorter. Regardless
22 of sentence imposed, this section does not apply to:

23 (1) persons committed for or with an aggregate sentence
24 containing a personal injury crime, or any criminal attempt,
25 criminal solicitation or criminal conspiracy to commit a
26 personal injury crime as defined in section 103 of the act of
27 November 24, 1998 (P.L.882, No.111), known as the Crime
28 Victims Act;

29 (1.1) PERSONS COMMITTED FOR OR WITH AN AGGREGATE <--
30 SENTENCE CONTAINING A CRIME OF VIOLENCE, OR ANY CRIMINAL

1 ATTEMPT, CRIMINAL SOLICITATION OR CRIMINAL CONSPIRACY TO
2 COMMIT A CRIME OF VIOLENCE AS DEFINED IN 42 PA.C.S. § 9714(G)
3 (RELATING TO SENTENCES FOR SECOND OR SUBSEQUENT OFFENSES);

4 (2) persons committed for or with an aggregate sentence
5 containing an offense under 18 Pa.C.S. § ~~6105~~ (relating to <--
6 persons not to possess, use, manufacture, control, sell or
7 transfer firearms) CH. 61 (RELATING TO FIREARMS AND OTHER <--
8 DANGEROUS ARTICLES) OR A CRIMINAL ATTEMPT, CRIMINAL <--
9 SOLICITATION OR CRIMINAL CONSPIRACY TO COMMIT THE OFFENSE;

10 (3) persons committed for or with an aggregate sentence
11 containing an enhancement for the use of a deadly weapon as
12 defined under law or the sentencing guidelines promulgated by
13 the Pennsylvania Commission on Sentencing or where the
14 attorney for the Commonwealth has demonstrated that the
15 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 A CRIMINAL ATTEMPT, CRIMINAL SOLICITATION OR CRIMINAL
19 CONSPIRACY TO COMMIT THE OFFENSE or an equivalent offense
20 under the laws of the United States or one of its territories
21 or possessions, another state, the District of Columbia, the
22 Commonwealth of Puerto Rico or a foreign nation;

23 (4) persons committed for or with an aggregate sentence
24 containing a violation of any of the following provisions or
25 an equivalent offense under the laws of the United States or
26 one of its territories or possessions, another state, the
27 District of Columbia, the Commonwealth of Puerto Rico or a
28 foreign nation, INCLUDING A CRIMINAL ATTEMPT, CRIMINAL <--
29 SOLICITATION OR CRIMINAL CONSPIRACY TO COMMIT THE OFFENSE:

30 18 Pa.C.S. § 4302(a) (relating to incest).

1 18 Pa.C.S. § 5901 (relating to open lewdness).

2 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
3 child pornography).

4 A criminal sentence pursuant to 42 Pa.C.S. § 9712.1
5 (relating to sentences for certain drug offenses
6 committed with firearms).

7 An offense for which registration is required LISTED <--
8 under 42 Pa.C.S. Ch. 97 Subch. H (relating to
9 registration of sexual offenders).

10 An offense for which registration is required LISTED <--
11 under 42 Pa.C.S. Ch. 97 Subch. I (relating to continued
12 registration of sexual offenders).

13 (5) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE <--
14 CONTAINING AN OFFENSE OF drug trafficking as defined in
15 section 4103 (relating to definitions),^r OR A CRIMINAL <--
16 ATTEMPT, CRIMINAL SOLICITATION OR CRIMINAL CONSPIRACY TO
17 COMMIT DRUG TRAFFICKING AS DEFINED IN SECTION 4103;

18 (6) persons awaiting trial or sentencing for additional
19 criminal charges, if a conviction or sentence on the
20 additional charges would cause the person to become
21 ineligible under this subsection; ~~or~~ <--

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

25 ~~(b) Approval of parole. The board shall, without requiring~~
26 ~~an interview, approve for parole at the expiration of the~~
27 ~~eligible person's minimum date or recidivism risk reduction~~
28 ~~incentive minimum date, whichever is shorter, unless the person~~
29 ~~has:~~

30 ~~(1) been found guilty of a major disciplinary infraction~~

~~1 while confined in a county correctional institution or State
2 correctional institution; or~~

~~3 (2) a pending felony charge or outstanding felony arrest
4 warrant or detainer, except that this section may be applied
5 to allow a person to be paroled to a detainer related to an
6 underlying felony charge.~~

7 ~~i~~ <--

8 ~~(8) PERSONS CONVICTED OF ANY CRIMINAL OFFENSE COMMITTED <--
9 WHILE INCARCERATED; OR~~

10 ~~(9) ANY PERSON WHO THE BOARD, IN ITS DISCRETION,
11 DETERMINES SHOULD BE EXCLUDED FROM THIS SECTION BECAUSE:~~

12 ~~(I) THERE EXISTS AN IDENTIFIABLE THREAT TO PUBLIC
13 SAFETY; OR~~

14 ~~(II) INCLUSION SUBSTANTIALLY JEOPARDIZES THE
15 REHABILITATIVE NEEDS OF THE PERSON.~~

16 ~~(B) APPROVAL OF PAROLE.--THE BOARD SHALL, WITHOUT REQUIRING
17 AN INTERVIEW, APPROVE FOR PAROLE A PERSON ELIGIBLE FOR SHORT
18 SENTENCE PAROLE UNDER THIS SECTION AT THE EXPIRATION OF THE
19 PERSON'S MINIMUM DATE OR RECIDIVISM RISK REDUCTION INCENTIVE
20 MINIMUM DATE, WHICHEVER IS SHORTER. IF THE PERSON WAS COMMITTED
21 TO THE DEPARTMENT AFTER EXPIRATION OF THE PERSON'S MINIMUM DATE,
22 THE BOARD SHALL APPROVE THE PERSON FOR PAROLE WITHIN 30 DAYS
23 AFTER COMMITMENT TO THE DEPARTMENT.~~

24 ~~(B.1) MISCONDUCT.--NOTWITHSTANDING SUBSECTION (B), A PERSON
25 SHALL NOT BE ELIGIBLE FOR SHORT SENTENCE PAROLE UNDER THIS
26 SECTION IF THE PERSON HAS:~~

27 ~~(1) BEEN FOUND GUILTY OF A MAJOR DISCIPLINARY INFRACTION
28 WHILE CONFINED IN A COUNTY CORRECTIONAL INSTITUTION OR STATE
29 CORRECTIONAL INSTITUTION; OR~~

30 ~~(2) A PENDING FELONY CHARGE OR OUTSTANDING FELONY ARREST~~

1 WARRANT OR DETAINER, EXCEPT THAT THIS SECTION MAY BE APPLIED
2 TO ALLOW A PERSON TO BE PAROLED TO A DETAINER RELATED TO AN
3 UNDERLYING FELONY CHARGE.

4 (c) Nonapplicability.--The requirements of sections 6135
5 (relating to investigation of circumstances of offense), 6137(a)
6 (3.1), (e) (1), (f) and (g) (relating to parole power) and 6139
7 (relating to parole procedure) and section 1101(e) of the Crime
8 Victims Act do not apply to paroles under this section.

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

12 (e) Applicability.--This section shall only apply to
13 ~~individuals~~ PERSONS sentenced after the effective date of this <--
14 section.

15 (f) Reports.--The Pennsylvania Commission on Sentencing
16 shall provide a report to the General Assembly on cost savings
17 and recidivism attributed to this section as follows:

18 (1) No later than two years after the effective date of
19 this section.

20 (2) No later than two years after the report issued
21 under paragraph (1).

22 (g) Procedures.--The ~~chairman of the~~ board shall adopt <--
23 procedures to carry out this section.

24 (h) Definition.--As used in this section, the term "major
25 disciplinary infraction" means

26 the violation:

27 (1) was sexual in nature;

28 (2) involved assaultive behavior or included a credible
29 threat to cause bodily ~~harm~~ INJURY to another; <--

30 (3) involved possession or control of a weapon; ~~and~~ OR <--

1 (4) involved escape or possessing implements of escape.

2 § 6137.2. REENTRY SUPERVISION. <--

3 (A) GENERAL RULE.--THIS SECTION APPLIES TO PERSONS COMMITTED

4 TO THE DEPARTMENT WITH A AN AGGREGATE MINIMUM SENTENCE OF TOTAL <--

5 CONFINEMENT UNDER 42 PA.C.S. § 9756(B) (RELATING TO SENTENCE OF

6 TOTAL CONFINEMENT) OF 4 YEARS OR MORE. REGARDLESS OF THE

7 SENTENCE IMPOSED, THIS SECTION DOES NOT APPLY TO PERSONS

8 SENTENCED TO DEATH, LIFE IMPRISONMENT OR, PERSONS OTHERWISE <--

9 INELIGIBLE FOR PAROLE OR PERSONS SUBJECT TO 42 PA.C.S. § 9718.5 <--

10 (RELATING TO MANDATORY PERIOD OF PROBATION FOR CERTAIN SEXUAL

11 OFFENDERS).

12 (B) REENTRY SUPERVISION.--ANY PERSON UNDER SUBSECTION (A)

13 SHALL BE SENTENCED TO A PERIOD OF REENTRY SUPERVISION OF 12

14 MONTHS CONSECUTIVE TO AND IN ADDITION TO ANY OTHER LAWFUL

15 SENTENCE ISSUED BY THE COURT.

16 (C) PAROLE GRANTED.--PERSONS WHO HAVE BEEN GRANTED ANY

17 PERIOD OF PAROLE BY THE PAROLE BOARD DURING THE SAME PERIOD OF

18 INCARCERATION SHALL BE DEEMED TO HAVE SERVED THE REQUIREMENTS OF

19 THIS SECTION.

20 (D) SUPERVISION.--A PERSON RELEASED TO REENTRY SUPERVISION

21 SHALL BE CONSIDERED TO BE RELEASED ON PAROLE.

22 (E) IMPOSITION.--THE COURT SHALL IMPOSE REENTRY SUPERVISION

23 IN ADDITION TO THE MAXIMUM SENTENCE PERMITTED FOR THE OFFENSE

24 FOR WHICH THE DEFENDANT WAS CONVICTED.

25 (F) APPLICABILITY.--THIS SECTION SHALL ONLY APPLY TO PERSONS

26 SENTENCED AFTER THE EFFECTIVE DATE OF THIS SECTION.

27 Section 20. Section ~~6138(e)~~ 6138(C) (1) AND (1.1) of Title 61 <--

28 ~~is~~ ARE amended AND SUBSECTIONS (A) AND (C) ARE AMENDED by adding <--

29 ~~a paragraph~~ PARAGRAPHS to read: <--

30 § 6138. Violation of terms of parole.

1 * * *

2 ~~(c) Technical violators.~~

3 * * *

4 ~~(8) (i) A parolee under the board's supervision who is~~
5 ~~alleged to have committed a technical parole violation~~
6 ~~may be arrested and detained for a period not to exceed~~
7 ~~seven days, provided that either the parolee is detained~~
8 ~~on a 48 hour warrant or the parolee is brought before a~~
9 ~~hearing examiner within 48 hours to determine if the~~
10 ~~parolee shall be released or held for the remainder of~~
11 ~~the seven days or a shorter period. The chairman of the~~
12 ~~board shall adopt procedures governing the appropriate~~
13 ~~use of brief detention under this section so that~~
14 ~~technical violations enumerated under paragraph (1) are~~
15 ~~not resolved with brief detention.~~

16 ~~(ii) This paragraph shall not apply to parolees if:~~

17 ~~(A) the violation was sexual in nature;~~

18 ~~(B) the violation involved assaultive behavior;~~

19 ~~(C) the violation involved possession or control~~
20 ~~of a weapon;~~

21 ~~(D) the violation involved escape or possessing~~
22 ~~implements of escape; or~~

23 ~~(E) there exists an identifiable threat to~~
24 ~~public safety.~~

25 * * *

26 (A) CONVICTED VIOLATORS.--

27 * * *

28 (1.1) IN ADDITION TO PARAGRAPH (1), A PAROLEE UNDER THE
29 JURISDICTION OF THE BOARD RELEASED FROM A CORRECTIONAL
30 FACILITY WHO, DURING THE PERIOD OF PAROLE OR WHILE DELINQUENT

1 ON PAROLE, COMMITS A CRIME PUNISHABLE BY IMPRISONMENT FOR
2 WHICH THE PAROLEE IS CONVICTED OR FOUND GUILTY BY A JUDGE OR
3 JURY OR TO WHICH THE PAROLEE PLEADS GUILTY OR NOLO CONTENDERE
4 OR OF ANY MISDEMEANOR OF THE THIRD DEGREE OR OF ANY OF THE
5 FOLLOWING OFFENSES WHERE GRADED AS A SUMMARY OFFENSE, MAY AT
6 THE DISCRETION OF THE BOARD BE RECOMMITTED AS A PAROLE
7 VIOLATOR:

8 (I) POSSESSION OF A FIREARM IN A COURT FACILITY
9 UNDER 18 PA.C.S. § 913(B)(3) (RELATING TO POSSESSION OF
10 FIREARM OR OTHER DANGEROUS WEAPON IN COURT FACILITY).

11 (II) HARASSMENT UNDER 18 PA.C.S. § 2709 (RELATING TO
12 HARASSMENT).

13 (III) RETAIL THEFT UNDER 18 PA.C.S. § 3929 (RELATING
14 TO RETAIL THEFT).

15 (IV) DISORDERLY CONDUCT UNDER 18 PA.C.S. § 5503
16 (RELATING TO DISORDERLY CONDUCT).

17 (V) PUBLIC DRUNKENNESS UNDER 18 PA.C.S. § 5505
18 (RELATING TO PUBLIC DRUNKENNESS AND SIMILAR MISCONDUCT).

19 (VI) CRUELTY TO ANIMALS UNDER 18 PA.C.S. § 5533
20 (RELATING TO CRUELTY TO ANIMAL).

21 (VII) AIDING OR ABETTING A MINOR TO COMMIT TRUANCY
22 UNDER 18 PA.C.S. § 6301 (RELATING TO CORRUPTION OF
23 MINORS).

24 (VIII) SELLING OR FURNISHING NONALCOHOLIC BEVERAGES
25 TO MINORS UNDER 18 PA.C.S. § 6310.7 (RELATING TO SELLING
26 OR FURNISHING NONALCOHOLIC BEVERAGES TO PERSONS UNDER 21
27 YEARS OF AGE).

28 * * *

29 (C) TECHNICAL VIOLATORS.--

<--

30 (1) [A] SUBJECT TO PARAGRAPH (1.3), A PAROLEE UNDER THE

1 JURISDICTION OF THE BOARD WHO VIOLATES THE TERMS AND
2 CONDITIONS OF HIS PAROLE, OTHER THAN [BY THE COMMISSION OF A
3 NEW CRIME OF WHICH THE PAROLEE IS CONVICTED OR FOUND GUILTY
4 BY A JUDGE OR JURY OR TO WHICH THE PAROLEE PLEADS GUILTY OR
5 NOLO CONTENDERE IN A COURT OF RECORD] A CONVICTED VIOLATOR
6 WHO HAS PAROLE REVOKED UNDER SUBSECTION (A), MAY BE DETAINED
7 PENDING A HEARING BEFORE THE BOARD OR WAIVER OF THE HEARING
8 OR RECOMMITTED AFTER A HEARING BEFORE THE BOARD OR A WAIVER
9 OF THE HEARING. DETENTION AND RECOMMITMENT UNDER THIS
10 PARAGRAPH SHALL BE IN A COMMUNITY CORRECTIONS CENTER [OR],
11 COMMUNITY CORRECTIONS FACILITY[, UNLESS THE BOARD DETERMINES
12 THAT ONE OF THE FOLLOWING CONDITIONS IS PRESENT:

13 (I) THE VIOLATION WAS SEXUAL IN NATURE.

14 (II) THE VIOLATION INVOLVED ASSAULTIVE BEHAVIOR.

15 (III) THE VIOLATION INVOLVED POSSESSION OR CONTROL
16 OF A WEAPON.

17 (IV) THE PAROLEE HAS ABSCONDED, AND THE PAROLEE
18 CANNOT BE SAFELY DIVERTED TO A COMMUNITY CORRECTIONS
19 CENTER OR COMMUNITY CORRECTIONS FACILITY.

20 (V) THERE EXISTS AN IDENTIFIABLE THREAT TO PUBLIC
21 SAFETY, AND THE PAROLEE CANNOT BE SAFELY DIVERTED TO A
22 COMMUNITY CORRECTIONS CENTER OR COMMUNITY CORRECTIONS
23 FACILITY.

24 (1.1) IF THE BOARD DETERMINES THAT A CONDITION UNDER
25 PARAGRAPH (1) APPLIES, THE PAROLEE SHALL BE DETAINED IN OR
26 RECOMMITTED TO A STATE CORRECTIONAL INSTITUTION OR CONTRACTED
27 COUNTY JAIL.] OR ANY SECURED FACILITY OPERATED OR CONTRACTED
28 BY THE DEPARTMENT.

29 (1.2) NOTWITHSTANDING PARAGRAPH (1) AND SUBJECT TO
30 PARAGRAPH (1.3), A PAROLEE UNDER THE JURISDICTION OF THE

1 BOARD WHO VIOLATES THE TERMS AND CONDITIONS OF HIS PAROLE,
2 OTHER THAN A CONVICTED VIOLATOR WHO HAS PAROLE REVOKED UNDER
3 SUBSECTION (A), MAY BE ARRESTED AND DETAINED WITHOUT
4 REVOCAION OF PAROLE UNDER A PROGRAM TO IMPOSE SWIFT,
5 PREDICTABLE AND BRIEF SANCTIONS. THE PROGRAM SHALL PROVIDE
6 FOR IMMEDIATE DETENTION IN A COMMUNITY CORRECTIONS CENTER,
7 COMMUNITY CORRECTIONS FACILITY OR ANY SECURED FACILITY
8 OPERATED OR CONTRACTED BY THE DEPARTMENT FOR A PERIOD NOT TO
9 EXCEED SEVEN DAYS. THE BOARD SHALL ADOPT PROCEDURES GOVERNING
10 APPROPRIATE DETENTION UNDER THIS PARAGRAPH, INCLUDING
11 IDENTIFYING WHICH OFFENDERS ARE ELIGIBLE FOR THE PROGRAM AND
12 PROVIDING WARNINGS TO PAROLEES TO CLEARLY COMMUNICATE
13 EXPECTATIONS AND CONSEQUENCES.

14 (1.3) IF THE BOARD DETERMINES THAT ONE OF THE FOLLOWING
15 CONDITIONS IS PRESENT REGARDING A PAROLEE WHO VIOLATES THE
16 TERMS AND CONDITIONS OF PAROLE, THE PAROLEE SHALL NOT BE
17 ELIGIBLE FOR DETENTION UNDER PARAGRAPH (1.2) AND SHALL BE
18 DETAINED IN OR RECOMMITTED TO A STATE CORRECTIONAL
19 INSTITUTION OR CONTRACTED COUNTY JAIL:

20 (I) THE VIOLATION WAS SEXUAL IN NATURE.

21 (II) THE VIOLATION INVOLVED ASSAULTIVE BEHAVIOR OR
22 INCLUDED A CREDIBLE THREAT TO CAUSE BODILY INJURY TO
23 ANOTHER.

24 (III) THE VIOLATION INVOLVED POSSESSION OR CONTROL
25 OF A WEAPON.

26 (IV) THE PAROLEE HAS ABSCONDED AND THE PAROLEE
27 CANNOT BE SAFELY DIVERTED TO A COMMUNITY CORRECTIONS
28 CENTER, COMMUNITY CORRECTIONS FACILITY OR ANY SECURED
29 FACILITY OPERATED OR CONTRACTED BY THE DEPARTMENT.

30 (V) THERE EXISTS AN IDENTIFIABLE THREAT TO PUBLIC

1 SAFETY, AND THE PAROLEE CANNOT BE SAFELY DIVERTED TO A
2 COMMUNITY CORRECTIONS CENTER, COMMUNITY CORRECTIONS
3 FACILITY OR ANY SECURED FACILITY OPERATED OR CONTRACTED
4 BY THE DEPARTMENT.

5 (VI) THE VIOLATION INVOLVED AN INTENTIONAL AND
6 UNEXCUSED FAILURE TO ADHERE TO RECOMMENDED PROGRAMMING OR
7 CONDITIONS ON MORE THAN THREE OCCASIONS, AND THE PAROLEE
8 CANNOT BE SAFELY DIVERTED TO A COMMUNITY CORRECTIONS
9 CENTER, COMMUNITY CORRECTIONS FACILITY OR ANY SECURED
10 FACILITY OPERATED OR CONTRACTED BY THE DEPARTMENT.

11 * * *

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

14 § 6139. Parole procedure.

15 (a) Specific requirements.--

16 * * *

17 (6) In no case shall a parole be granted, or an
18 application for parole be dismissed, unless a board member,
19 hearing examiner or other person so designated by the board
20 shall have seen and heard the parolee in person in regard
21 thereto within six months prior to the granting or dismissal
22 thereof. This requirement does not apply to paroles under
23 section 6137.1 (relating to short sentence parole).

24 * * *

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

1 furnished to them by fellow members of the board or by others.
2 In granting or revoking parole or bringing an alleged parole
3 violator before a hearing examiner, the appearance may be
4 conducted via videoconferencing or similar virtual presence
5 technology. THIS SUBSECTION SHALL NOT APPLY TO VICTIM INPUT <--
6 UNDER SECTION 6140 (RELATING TO VICTIM STATEMENTS, TESTIMONY AND
7 PARTICIPATION IN HEARING).

8 * * *

9 SECTION 22. SECTION 6140 OF TITLE 61 IS AMENDED BY ADDING A <--
10 SUBSECTION TO READ:

11 § 6140. VICTIM STATEMENTS, TESTIMONY AND PARTICIPATION IN
12 HEARING.

13 * * *

14 (I) VICTIM OR FAMILY MEMBER.--THE TERM "VICTIM OR FAMILY
15 MEMBER" SHALL BE INTERPRETED AND APPLIED TO INCLUDE ALL VICTIMS
16 AND FAMILY MEMBERS AND SHALL NOT BE INTERPRETED OR APPLIED TO
17 EXCLUDE ANY VICTIM, VICTIM'S REPRESENTATIVE OR FAMILY MEMBER WHO
18 WISHES TO SUBMIT A STATEMENT, TESTIFY OR OTHERWISE PARTICIPATE
19 UNDER THIS SECTION.

20 SECTION 23. CHAPTER 61 OF TITLE 61 IS AMENDED BY ADDING A
21 SUBCHAPTER TO READ:

22 SUBCHAPTER E
23 PAROLEE HOMICIDE REVIEW
24 SEC.

25 6161. PAROLEE HOMICIDE REVIEW TEAM.

26 6162. MEMBERS.

27 6163. CONFIDENTIALITY.

28 6164. REGULATIONS.

29 § 6161. PAROLEE HOMICIDE REVIEW TEAM.

30 (A) ESTABLISHMENT.--THE DEPARTMENT SHALL ESTABLISH THE

1 PAROLEE HOMICIDE REVIEW TEAM, WHICH SHALL EXAMINE CIRCUMSTANCES
2 SURROUNDING THOSE WHO HAVE COMMITTED CRIMINAL HOMICIDE WHILE
3 UNDER SUPERVISION BY THE BOARD.

4 (B) POWERS AND DUTIES.--THE DEPARTMENT, IN COOPERATION WITH
5 THE MEMBERS OF THE PAROLEE HOMICIDE REVIEW TEAM, SHALL HAVE THE
6 FOLLOWING POWERS AND DUTIES IN RELATION TO THE PROGRAM:

7 (1) COLLECT, REVIEW AND ANALYZE ALL APPROPRIATE EVENTS
8 AND ISSUES SURROUNDING AND RELATED TO HOMICIDES COMMITTED BY
9 THOSE WHILE UNDER THE SUPERVISION OF THE BOARD.

10 (2) IDENTIFY COMPLIANCE WITH APPLICABLE STATUTES,
11 REGULATIONS, GUIDELINES, BEST PRACTICES, PROTOCOLS AND OTHER
12 STANDARDS.

13 (3) DEVELOP AND RECOMMEND ANY APPROPRIATE CHANGES IN
14 APPLICABLE STATUTES, REGULATIONS, GUIDELINES, BEST PRACTICES,
15 PROTOCOLS AND OTHER STANDARDS.

16 (4) REVIEW RELEVANT AND APPLICABLE ISSUES RELATED TO THE
17 TRAINING OF INDIVIDUALS WHO INTERACT WITH THOSE UNDER THE
18 SUPERVISION OF THE BOARD AND DEVELOP AND RECOMMEND ANY
19 APPROPRIATE CHANGES TO SUCH TRAINING.

20 (5) REVIEW RELEVANT AND APPLICABLE ISSUES RELATED TO
21 COLLABORATION WITH OTHER CRIMINAL JUSTICE AGENCIES AND
22 DEVELOP RECOMMENDATIONS TO ADDRESS ANY SYSTEMATIC GAPS IN
23 SUPERVISION AND PUBLIC SAFETY.

24 (6) REVIEW RELEVANT AND APPLICABLE ISSUES RELATED TO
25 TREATMENT, COUNSELING, SERVICES AND REENTRY PROGRAMS AND
26 DEVELOP RECOMMENDATIONS TO IMPROVE CASE MANAGEMENT OF
27 INDIVIDUALS.

28 (7) SUBMIT A REPORT TO THE GOVERNOR AND THE CHAIRPERSON
29 AND MINORITY CHAIRPERSON OF THE JUDICIARY COMMITTEE OF THE
30 SENATE AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE

1 JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES BY
2 SEPTEMBER 30 OF EACH YEAR RELATING TO THE ACTIVITIES, REVIEW,
3 FINDINGS, ANALYSIS AND RECOMMENDATIONS OF THE PAROLEE
4 HOMICIDE REVIEW TEAM. THE RECOMMENDATIONS SHALL ADDRESS ALL
5 ISSUES IDENTIFIED UNDER PARAGRAPHS (1), (2), (3), (4), (5)
6 AND (6), AS WELL AS FACTORS THAT ARE LIKELY TO IMPROVE
7 SUPERVISION PRACTICES, IDENTIFY DEFICIENCIES IN THE SYSTEM
8 AND RECOMMENDATIONS TO ADDRESS THEM IN ORDER TO REDUCE
9 RECIDIVISM AND IMPROVE PUBLIC SAFETY AND STRENGTHEN
10 COLLABORATION WITH CRIMINAL JUSTICE AGENCIES.

11 (C) NONHOMICIDES.--THE CHAIR, IN CONSULTATION WITH AND
12 APPROVAL OF THE OTHER MEMBERS OF THE PAROLEE HOMICIDE REVIEW
13 TEAM, MAY INCLUDE CASE REVIEWS OF NONHOMICIDE CASES IF SUCH
14 CASES RESULTED IN A SERIOUS BREACH OF PUBLIC SAFETY AND REVIEW
15 OF SUCH CASES IS NECESSARY TO MAINTAIN OR IMPROVE THE SAFETY OF
16 THE PUBLIC.

17 (D) MEETINGS.--THE PAROLEE HOMICIDE REVIEW TEAM SHALL MEET
18 NO LESS THAN ONCE PER YEAR, BUT AS OFTEN AS THE CHAIR DEEMS
19 NECESSARY TO FULFILL THE DUTIES OF THE PAROLEE HOMICIDE REVIEW
20 TEAM.

21 § 6162. MEMBERS.

22 (A) PERMANENT MEMBERS.--THE PAROLE HOMICIDE REVIEW TEAM
23 SHALL CONSIST OF THE FOLLOWING INDIVIDUALS OR THEIR DESIGNEES:

24 (1) THE SECRETARY OF CORRECTIONS, WHO SHALL CHAIR THE
25 PAROLEE HOMICIDE REVIEW TEAM.

26 (2) THE CHAIR OF THE BOARD OF PROBATION AND PAROLE.

27 (3) THE COMMISSIONER OF THE PENNSYLVANIA STATE POLICE.

28 (4) THREE DISTRICT ATTORNEYS SELECTED BY THE
29 PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION. EACH DISTRICT
30 ATTORNEY SHALL BE FROM DIFFERENT REGIONS OF THIS

1 COMMONWEALTH.

2 (5) THREE CHIEF COUNTY PROBATION OFFICERS SELECTED BY
3 THE COUNTY PROBATION OFFICERS ASSOCIATION. EACH CHIEF COUNTY
4 PROBATION OFFICER SHALL BE FROM DIFFERENT REGIONS OF THIS
5 COMMONWEALTH.

6 (6) THE EXECUTIVE DIRECTOR OF THE PENNSYLVANIA
7 COMMISSION ON SENTENCING.

8 (7) THE ATTORNEY GENERAL.

9 (8) THE EXECUTIVE DIRECTOR OF THE PENNSYLVANIA CHIEFS OF
10 POLICE ASSOCIATION.

11 (9) THE VICTIM ADVOCATE.

12 (10) NO MORE THAN TWO PROFESSORS OF LAW WITH EXPERTISE
13 IN CRIMINAL JUSTICE, APPOINTED BY THE GOVERNOR.

14 (11) A REPRESENTATIVE FROM THE ADMINISTRATIVE OFFICE OF
15 PENNSYLVANIA COURTS, APPOINTED BY THE CHIEF JUSTICE.

16 (12) A REPRESENTATIVE OF A LOCAL VICTIM SERVICES
17 ORGANIZATION, APPOINTED BY THE GOVERNOR.

18 (13) THE EXECUTIVE DIRECTOR OF THE PENNSYLVANIA
19 COMMISSION ON CRIME AND DELINQUENCY.

20 (B) AD HOC MEMBERS.--THE CHAIR, IN CONSULTATION WITH AND
21 APPROVAL OF THE OTHER MEMBERS OF THE PAROLEE HOMICIDE REVIEW
22 TEAM, MAY INVITE OTHER RELEVANT INDIVIDUALS TO SERVE ON AN AD
23 HOC BASIS AND PARTICIPATE AS FULL MEMBERS OF THE REVIEW TEAM FOR
24 A PARTICULAR REVIEW. THESE INDIVIDUALS MAY INCLUDE INDIVIDUALS
25 WITH PARTICULAR EXPERTISE THAT WOULD BE HELPFUL TO THE REVIEW
26 PANEL OR REPRESENTATIVES OF ORGANIZATIONS OR AGENCIES THAT HAD
27 CONTACT WITH OR PROVIDED SERVICES TO THE HOMICIDE VICTIM OR THE
28 ALLEGED PERPETRATOR.

29 § 6163. CONFIDENTIALITY.

30 (A) MAINTENANCE.--MEMBERS OF THE PAROLEE HOMICIDE REVIEW

1 TEAM SHALL MAINTAIN THE CONFIDENTIALITY OF ANY IDENTIFYING
2 INFORMATION OBTAINED RELATING TO THIS SECTION.

3 (B) AGREEMENT.--EACH MEMBER OF THE PAROLEE HOMICIDE REVIEW
4 TEAM SHALL SIGN A CONFIDENTIALITY AGREEMENT APPLICABLE TO ALL
5 REVIEWS CONDUCTED BY THE PAROLEE HOMICIDE REVIEW TEAM.

6 (C) LIABILITY.--AN INDIVIDUAL, AGENCY OR ENTITY THAT IN GOOD
7 FAITH PROVIDES INFORMATION OR RECORDS TO THE PAROLEE HOMICIDE
8 REVIEW TEAM SHALL NOT BE SUBJECT TO CIVIL OR CRIMINAL LIABILITY
9 AS A RESULT OF PROVIDING THE INFORMATION OR RECORD.

10 (D) DISCOVERY.--THE DISCUSSIONS, DELIBERATIONS AND RECORDS
11 OF THE PAROLEE HOMICIDE REVIEW TEAM ARE PRIVILEGED AND
12 CONFIDENTIAL AND SHALL NOT BE SUBJECT TO DISCOVERY, SUBPOENA OR
13 INTRODUCTION INTO EVIDENCE IN ANY CIVIL OR CRIMINAL ACTION.

14 (E) RIGHT-TO-KNOW LAW.--THE PROVISIONS OF THIS CHAPTER SHALL
15 NOT BE SUBJECT TO THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3),
16 KNOWN AS THE RIGHT-TO-KNOW LAW.

17 (F) MEETINGS.--MEETINGS OF THE PAROLEE HOMICIDE REVIEW TEAM
18 SHALL BE CLOSED TO THE PUBLIC AND SHALL NOT BE SUBJECT TO THE
19 PROVISIONS OF 65 PA.C.S. CH. 7 (RELATING TO OPEN MEETINGS).

20 (G) PENALTY.--A PERSON WHO VIOLATES THE PROVISIONS OF THIS
21 SECTION COMMITS A MISDEMEANOR OF THE THIRD DEGREE.

22 § 6164. REGULATIONS.

23 THE DEPARTMENT SHALL PROMULGATE REGULATIONS NECESSARY TO
24 CARRY OUT THE PURPOSES OF THIS SUBCHAPTER.

25 SECTION 24. SECTIONS 6303 AND 6304 OF TITLE 61 ARE AMENDED
26 TO READ:

27 § 6303. COUNTY PROBATION OFFICERS' FIREARM EDUCATION AND
28 TRAINING COMMISSION.

29 [THE COUNTY PROBATION OFFICERS' FIREARM EDUCATION AND
30 TRAINING COMMISSION IS ESTABLISHED UNDER THE PENNSYLVANIA BOARD

1 OF PROBATION AND PAROLE. THE COMMISSION SHALL ESTABLISH WITHIN
2 SIX MONTHS FOLLOWING THE APPOINTMENT OF COMMISSION MEMBERS A
3 COUNTY PROBATION OFFICERS' FIREARM EDUCATION AND TRAINING
4 PROGRAM TO PROVIDE FIREARM EDUCATION AND TRAINING IN ACCORDANCE
5 WITH THE PROVISIONS OF THIS CHAPTER.] THE COUNTY ADULT PROBATION
6 AND PAROLE ADVISORY COMMITTEE ESTABLISHED UNDER THE ACT OF
7 NOVEMBER 22, 1978 (P.L.1166, NO.274), REFERRED TO AS THE
8 PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY LAW, SHALL
9 SERVE AS THE COUNTY PROBATION OFFICERS' FIREARM EDUCATION AND
10 TRAINING COMMISSION UNDER THIS CHAPTER, INCLUDING ASSUMING ALL
11 OF ITS FUNDING, POWERS, DUTIES AND RESPONSIBILITIES UNDER THIS
12 CHAPTER.

13 § 6304. COMMISSION [MEMBERSHIP] AND ADVISORY SUBCOMMITTEE.

14 (A) COMPOSITION.--THE [COMMISSION] CHAIRPERSON OF THE COUNTY
15 ADULT PROBATION AND PAROLE ADVISORY COMMITTEE SHALL [BE COMPOSED
16 OF THE CHAIRMAN OF THE BOARD AND EIGHT OTHER MEMBERS TO BE
17 APPOINTED BY THE GOVERNOR] APPOINT AN ADVISORY SUBCOMMITTEE TO
18 BE COMPOSED OF:

19 (1) THREE COUNTY ADULT PROBATION OFFICERS WHO ARE FULL
20 MEMBERS OF THE COUNTY CHIEF ADULT PROBATION AND PAROLE
21 OFFICERS' ASSOCIATION OF PENNSYLVANIA, ONE OF WHOM IS A CHIEF
22 ADULT PROBATION OFFICER FROM A COUNTY AUTHORIZED TO CARRY
23 FIREARMS AND TWO OF WHOM ARE FIREARMS INSTRUCTORS CERTIFIED
24 AS SUCH BY THE NATIONAL RIFLE ASSOCIATION, THE PENNSYLVANIA
25 STATE POLICE OR THE FEDERAL BUREAU OF INVESTIGATION.

26 (2) ONE MEMBER OF THE PENNSYLVANIA COUNCIL OF CHIEF
27 JUVENILE PROBATION OFFICERS.

28 (3) ONE REPRESENTATIVE OF THE JUVENILE COURT JUDGES'
29 COMMISSION.

30 (4) ONE JUDGE OF A COURT OF COMMON PLEAS OF A COUNTY

1 THAT EMPLOYS OFFICERS WHO CARRY FIREARMS.

2 (5) ONE DIRECTOR QUALIFIED UNDER 53 PA.C.S. CH. 21
3 SUBCH. D (RELATING TO MUNICIPAL POLICE EDUCATION AND
4 TRAINING).

5 (6) ONE COUNTY COMMISSIONER FROM A COUNTY WHICH EMPLOYS
6 OFFICERS WHO CARRY FIREARMS.

7 [(B) TERMS.--TERMS OF THE MEMBERS INITIALLY APPOINTED SHALL
8 BE THREE MEMBERS FOR ONE YEAR, THREE MEMBERS FOR TWO YEARS AND
9 THREE MEMBERS FOR THREE YEARS, AS DESIGNATED BY THE GOVERNOR AT
10 THE TIME OF APPOINTMENT. THEREAFTER, TERMS SHALL BE FOR THREE
11 YEARS. EACH MEMBER SHALL HOLD OFFICE UNTIL THE EXPIRATION OF THE
12 TERM FOR WHICH THE MEMBER WAS SELECTED OR UNTIL THE MEMBER'S
13 EARLIER DEATH, RESIGNATION OR REMOVAL OR UNTIL THE MEMBER'S
14 SUCCESSOR HAS BEEN SELECTED AND QUALIFIED BUT IN NO EVENT MORE
15 THAN SIX MONTHS BEYOND THE EXPIRATION OF THE MEMBER'S APPOINTED
16 TERM.]

17 (C) VACANCIES.--A PERSON APPOINTED TO FILL A VACANCY CREATED
18 BY OTHER THAN EXPIRATION OF A TERM SHALL BE APPOINTED FOR THE
19 UNEXPIRED TERM OF THE MEMBER WHO THAT PERSON IS TO SUCCEED IN
20 THE SAME MANNER AS THE ORIGINAL APPOINTMENT.]

21 (D) COMPENSATION.--THE MEMBERS OF THE COMMISSION AND
22 SUBCOMMITTEE SHALL SERVE WITHOUT COMPENSATION BUT SHALL BE
23 REIMBURSED THE NECESSARY AND ACTUAL EXPENSES INCURRED IN
24 ATTENDING THE MEETINGS OF THE COMMISSION AND IN THE PERFORMANCE
25 OF THEIR DUTIES UNDER THIS CHAPTER.

26 (E) ORGANIZATION.--[THE COMMISSION SHALL ELECT FROM AMONG
27 ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS WHO SHALL HOLD
28 OFFICE AT THE PLEASURE OF THE COMMISSION.] THE CHAIRPERSON OF
29 THE COUNTY ADULT PROBATION AND PAROLE ADVISORY COMMITTEE SHALL
30 SERVE AS CHAIRPERSON OF THE COMMISSION. THE COMMISSION SHALL ACT

1 ONLY WITH THE CONCURRENCE OF THE MAJORITY.

2 (F) MEETINGS AND QUORUM.--THE COMMISSION SHALL MEET [AT
3 LEAST FOUR TIMES EACH YEAR UNTIL THE PROGRAM IS IMPLEMENTED.
4 THEREAFTER, THE COMMISSION SHALL MEET] AS MAY BE NECESSARY, BUT
5 AT LEAST ONCE ANNUALLY. SPECIAL MEETINGS MAY BE CALLED BY THE
6 CHAIRPERSON OF THE COMMISSION OR UPON WRITTEN REQUEST OF THREE
7 MEMBERS. A QUORUM SHALL CONSIST OF [FOUR MEMBERS OF THE
8 COMMISSION] A MAJORITY OF THE MEMBERS APPOINTED.

9 SECTION 25. REPEALS ARE AS FOLLOWS:

10 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
11 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 42
12 PA.C.S. §§ 2151.2, 2152 AND 2153.

13 (2) ARTICLE XXVIII-F OF THE ACT OF APRIL 9, 1929
14 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929,
15 IS REPEALED.

16 SECTION 26. THE ADDITION OF 61 PA.C.S. § 6137.1 SHALL NOT BE
17 INTERPRETED TO CREATE A RIGHT TO PAROLE OR A LIBERTY INTEREST.
18 THE COMMONWEALTH AND ITS AGENCIES SHALL NOT BE SUBJECT TO SUIT
19 FOR FAILURE TO GRANT PAROLE UNDER 61 PA.C.S. § 6137.1.

20 Section ~~22~~ 27. This act shall take effect as follows: <--

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

22 (i) The amendment of 42 Pa.C.S. §§ 2154, 2154.1 and
23 2154.7.

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

25 (iii) The amendment of 61 Pa.C.S. §§ 4101, 4103,
26 4104, 4105 and 4107.

27 (iv) The amendment of 61 Pa.C.S. Ch. 61 Subch. B
28 heading.

29 (v) The amendment of 61 Pa.C.S. §§ 6101, 6111,
30 6131(a) (3), (4) and (5) and 6133(c) and (d).

1 ~~(vi) The repeal of 61 Pa.C.S. § 6123.~~ <--
2 (2) ~~The following shall take effect in 120 days:~~ <--
3 ~~(i) The amendment OR ADDITION of 61 Pa.C.S. §§~~ <--
4 6137(a)(1), ~~6138(e) 6138(C) (8)~~ 6138(A)(1.1) AND (C)(1.2) <--
5 AND (1.3) and 6139(a)(6) and (b) SHALL TAKE EFFECT IN 120 <--
6 DAYS.
7 ~~(ii) The addition of 61 Pa.C.S. § 6137.5.~~ <--
8 (3) THE AMENDMENT OF 61 PA.C.S. §§ 6303 AND 6304 SHALL <--
9 TAKE EFFECT IN ONE YEAR.
10 ~~(3)~~ (4) The remainder of this act shall take effect <--
11 immediately.