

JUDICIAL CODE (42 PA.C.S.) AND PRISONS AND PAROLE CODE (61 PA.C.S.)  
- OMNIBUS AMENDMENTS

Act of Oct. 27, 2010, P.L. 931, No. 95

Cl. 42

Session of 2010

No. 2010-95

SB 1161

AN ACT

Amending Titles 42 (Judiciary and Judicial Procedure) and 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, further providing for adoption of guidelines for sentencing, for guidelines for State intermediate punishment; providing for adoption of risk assessment instrument; further providing for sentencing generally, for revocation of State intermediate punishment sentence; in general administration, providing for definitions and for powers and duties of department; in county jail oversight board in counties of the second class and second class A, further providing for scope, for definitions and for county jail oversight board; in inmate labor, further providing for disposition of proceeds of labor and providing for State correctional institutions; providing for evaluation in motivational boot camps; in State intermediate punishment, further providing for evaluation; further providing for recidivism reports; providing for confidentiality of victim information; in administration, further providing for board action, providing for offenders in group-based homes and further providing for general powers, parole power, terms of parole, victim participation in hearings and supervision of offenders; in interstate compacts, further providing for administration and providing for a compact application fee; making a related repeal; and making editorial changes.

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

Section 1. Sections 2154 and 2154.2 of Title 42 of the Pennsylvania Consolidated Statutes are amended to read:

§ 2154. Adoption of guidelines for sentencing.

(a) General rule.--The commission shall adopt guidelines for sentencing within the limits established by law which shall be considered by the sentencing court in determining the appropriate sentence for defendants who plead guilty or nolo contendere to, or who were found guilty of, felonies and misdemeanors. **In adopting guidelines, the commission shall recommend confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and the community and the rehabilitative needs of the offender.** The guidelines shall **address the following:**

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

(2) [Specify] **Criminal history, by specifying** a range of sentences of increased severity for [defendants] **offenders** previously convicted of or adjudicated delinquent for one or more misdemeanor or felony offenses committed prior to the current offense. [For purposes of this section "previously convicted or adjudicated delinquent" shall include any finding

of guilt or adjudication of delinquency whether or not sentence has been imposed or disposition ordered prior to the commission of the current offense.]

(3) [Specify] **Criminal behavior, by specifying** a range of sentences of increased severity for [defendants] **offenders who pose a substantial risk to public safety, including those** who possessed or used a deadly weapon during the commission of the current conviction offense.

(4) [Prescribe] **Aggravated and mitigated ranges, by specifying** variations from the range of sentences applicable on account of aggravating or mitigating circumstances.

(5) [Consider the] **The** impact of any amendments to section 9756 (relating to sentence of total confinement).

(b) [Definition.--As used in this section the term "possessed" means on the defendant's person or within his immediate physical control.] **Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:**

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

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

§ 2154.2. Adoption of guidelines for State intermediate punishment.

The commission shall adopt guidelines to identify offenders who would be appropriate for participation in State intermediate punishment programs. These guidelines shall be considered by the attorney for the Commonwealth and the sentencing court in determining whether to commit a defendant for evaluation and whether to sentence an eligible offender pursuant to [Chapter 99] **61 Pa.C.S. Ch. 41** (relating to State intermediate punishment). The guidelines shall:

(1) Use the description of "eligible offender" provided in [Chapter 99] **61 Pa.C.S. Ch. 41**.

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

Section 2. Title 42 is amended by adding a section to read:

§ 2154.7. Adoption of risk assessment instrument.

(a) **General rule.--The commission shall adopt a sentence risk assessment instrument for the sentencing court to use to help determine the appropriate sentence within the limits established by law for defendants who plead guilty or nolo contendere to or who were found guilty of felonies and misdemeanors. The risk assessment instrument may be used as an aide in evaluating the relative risk that an offender will reoffend and be a threat to public safety.**

(b) **Sentencing guidelines.--The risk assessment instrument may be incorporated into the sentencing guidelines under section 2154 (relating to adoption of guidelines for sentencing).**

(c) **Presentence investigation report.--Subject to the provisions of the Pennsylvania Rules of Criminal Procedure, the sentencing court may use the risk assessment instrument to determine whether a more thorough assessment is necessary and to order a presentence investigation report.**

(d) **Alternative sentencing.--Subject to the eligibility requirements of each program, the risk assessment instrument may be an aide to help determine appropriate candidates for alternative sentencing, including the recidivism risk reduction incentive, State and county intermediate punishment programs and State motivational boot camps.**

(e) **Definition.--As used in this section, the term "risk assessment instrument" means an empirically based worksheet which uses factors that are relevant in predicting recidivism.**

Section 3. Sections 9721(a.1) and 9774(a) of Title 42 are amended to read:

§ 9721. Sentencing generally.

\* \* \*

(a.1) Exception.--

(1) Unless specifically authorized under section 9763 (relating to a sentence of county intermediate punishment) or [Chapter 99] **61 Pa.C.S. Ch. 41** (relating to State intermediate punishment), subsection (a) shall not apply where a mandatory minimum sentence is otherwise provided by law.

(2) An eligible offender may be sentenced to State intermediate punishment pursuant to subsection (a)(7) and as described in [Chapter 99] **61 Pa.C.S. Ch. 41**, even if a mandatory minimum sentence would otherwise be provided by law.

\* \* \*

§ 9774. Revocation of State intermediate punishment sentence.

(a) General rule.--The court may at any time terminate a sentence of State intermediate punishment pursuant to [Chapter 99] **61 Pa.C.S. Ch. 41** (relating to State intermediate punishment).

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Section 4. Section 102 of Title 61 is amended by adding a definition to read:

§ 102. Definitions.

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

\* \* \*

**"Prescribed programming." An individualized treatment plan that is part of the correctional plan jointly developed by the department and the board following a diagnostic evaluation and risk and needs assessment that includes a structured set of evidence-based treatment curriculums designed to reduce the risk of reoffense by an offender.**

\* \* \*

Section 5. Title 61 is amended by adding a section to read:

§ 1105. **Powers and duties of department.**

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

(1) To establish standards for county correctional institutions, including, but not limited to, standards for physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates.

(2) To inspect county correctional institutions and to classify them in accordance with standards adopted under paragraph (1) as eligible to receive inmates sentenced to maximum terms of six months or more but less than five years.

(b) Rules and regulations.--The department may prescribe, adopt, promulgate and enforce rules and regulations in order to administer the provisions of this section.

Section 6. Subchapter B heading of Chapter 17 and sections 1721 and 1722 of Title 61 are amended to read:

SUBCHAPTER B  
COUNTY JAIL OVERSIGHT [BOARD IN  
COUNTIES OF THE SECOND CLASS  
AND SECOND CLASS A] **BOARDS**

§ 1721. Scope of subchapter.

This subchapter relates to county jail oversight boards [in counties of the second class and counties of the second class A].

§ 1722. Definitions.

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

"Board." The county jail oversight board of a county.

"County." A county of the second class or a county [of the second class A] **that has elected to be governed by the provisions of this subchapter under section 1723(d) (relating to county jail oversight board).**

Section 7. Section 1723 of Title 61 is amended by adding a subsection to read:

§ 1723. County jail oversight board.

\* \* \*

**(d) Counties that may elect to be subject to subchapter.--Any county that has adopted a home rule charter may elect by resolution of the governing body of the county to be governed by the provisions of this subchapter.**

Section 8. Subchapter C heading of Chapter 17 of Title 61 is amended to read:

SUBCHAPTER C

[ OTHER COUNTIES ] **BOARD OF INSPECTORS**

Section 9. Chapter 31 of Title 61 is amended by adding a subchapter heading to read:

**SUBCHAPTER A**

**COUNTY CORRECTIONAL INSTITUTIONS**

Section 10. Section 3102 of Title 61 is amended to read:  
§ 3102. Disposition of proceeds of labor.

All moneys received under the provisions of this [chapter] **subchapter** for labor done within county correctional institutions or the products of such labor sold shall be credited on account of the receipts and expenditures paid to and for the maintenance of the respective correctional institutions.

Section 11. Chapter 31 of Title 61 is amended by adding a subchapter to read:

**SUBCHAPTER B**

**STATE CORRECTIONAL INSTITUTIONS**

Sec.

3121. **Inmates to be employed.**

3122. **Manufacturing Fund.**

3123. **Deposit of sales receipts.**

3124. **Inmates accounts.**

3125. **Remainder of inmate accounts.**

3126. **Inmate-made goods to be branded.**

3127. **Sale of inmate-made goods.**

§ 3121. **Inmates to be employed.**

**The Chief Administrators at any correctional institution established by the Commonwealth may employ inmates under their control for and on behalf of the Commonwealth, any county, city, borough or township or for any public institution owned, managed and controlled by the Commonwealth.**

§ 3122. **Manufacturing Fund.**

**For the purchase of material, equipment and machinery to be used in the designated State correctional institutions, special appropriations shall be made, from time to time, to the Manufacturing Fund.**

§ 3123. **Deposit of sales receipts.**

**(a) General rule.--The receipts from the sales of manufactured articles, sold as authorized in this subchapter, shall be deposited into the Manufacturing Fund and used for the purchase of further material, equipment, machinery, supplies, staff compensation and inmate pay.**

**(b) Monthly reporting.--The department shall make a full monthly report of the products, sales, receipts and disbursements of the industries authorized under this subchapter to the Auditor General.**

§ 3124. Inmates accounts.

(a) Duty to maintain.--The department shall maintain an account of the labor performed by all inmates under sentence in the institution.

(b) Contents of accounts.--In the account, the department shall credit the inmate with wages for the time the inmate is actually engaged in work. The rate of the wage and the amount credited to each inmate shall be determined at the discretion of the department.

§ 3125. Remainder of inmate accounts.

(a) Payment on discharge.--All sums credited to an inmate shall be for the benefit of the inmate and paid to the inmate on the inmate's discharge.

(b) Use for present needs.--An inmate who has sums to the inmate's credit may, subject to the rules and regulations of the department, draw upon the balance of the wages for present needs.

§ 3126. Inmate-made goods to be branded.

(a) General rule.--All goods, wares, merchandise or other article or thing made by inmate labor in any correctional institution or other establishment in which inmate labor is employed, whether for the direct benefit and maintenance of the correctional institution or other establishment or upon contract by the authorities of the same with any third person, immediately upon the completion of the same, shall be branded as provided in this section and may not be taken into or exposed in any place for sale at wholesale or retail without that brand.

(b) Style and place of brand.--

(1) The brand required by this section shall be in plain English lettering and shall contain at the head or top of the brand the words "inmate made," followed by the year and name of the department, correctional institution or other establishment in which made.

(2) The brand shall in all cases, when the nature of the article will permit, be placed on the article and only where the branding is impossible may it be on the box or other receptacle or covering in which it is contained.

(3) The brand shall be affixed to the article by casting, burning, pressing or other such process or means so that the article may not be defaced and in all cases shall be upon the most conspicuous place upon the article or the box, receptacle or covering containing the article.

(c) Applicability.--This section shall not apply to goods, wares and merchandise shipped to points outside this Commonwealth.

§ 3127. Sale of inmate-made goods.

The department may contract to sell or sell the articles manufactured or produced in any correctional institution which cannot be used therein to the Commonwealth or to any political subdivision thereof, or to any State, municipality or county authority created by or under any law of this Commonwealth or to any State correctional institution or to any educational or charitable institution receiving aid from the Commonwealth, or to the Federal Government or any department, bureau, commission, authority or agency thereof, or to any other state or political subdivision or authority thereof, or to any institution receiving aid from the Federal Government or of any other state.

Section 12. Title 61 is amended by adding a section to read:

§ 3909. Evaluation.

The department and the commission shall monitor and evaluate the motivational boot camp program to ensure that the programmatic objectives are met.

Section 13. Section 4109 of Title 61 is repealed:

[§ 4109. Evaluation.

The department and the commission shall monitor and evaluate the motivational boot camp program under Chapter 39 (relating to

motivational boot camp) to ensure that the programmatic objectives are met. In even-numbered years, the department shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. In odd-numbered years, the commission shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. ]

Section 14. Section 4510(a) of Title 61 is amended to read:  
§ 4510. Reports.

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

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

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

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

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

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

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

(vi) Any other information the department deems relevant.

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

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

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

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

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

(v) Any other information the commission deems relevant.

\* \* \*

Section 15. Title 61 is amended by adding a section to read:  
§ 5906. **Confidentiality of victim information.**

(a) **General rule.-- Notwithstanding any other provision of law, any and all statements or testimony of the victim or family member submitted to the department shall be:**

(1) **Deemed confidential and privileged.**

(2) **Not be subject to subpoena or discovery.**

(3) **Not be introduced into evidence in any judicial or administrative proceeding.**

(4) Not be released to the inmate.

(b) Records.--All records maintained by the department pertaining to victims shall be kept separate. Current address, telephone numbers and any other personal information of the victim and family members shall be deemed confidential.

(c) Disclosure prohibited.--Notwithstanding any other provision of law, no person who has had access to a report, record or any other information under this section shall disclose the content of the report, record or other information or testify in a judicial or administrative proceeding without the written consent of the victim.

Section 16. Section 6113 of Title 61 is amended by adding a subsection to read:

§ 6113. Board action.

\* \* \*

(f) Decision accountability.--The board shall develop, adopt and periodically update as deemed necessary, a parole decisional instrument that is tested prior to implementation, which incorporates evidence-based practices to assist and inform the board's professional judgment in the parole decision-making process.

Section 17. Title 61 is amended by adding a section to read:

§ 6124. Certain offenders residing in group-based homes.

(a) Notification requirement.--

(1) A group-based home located within a county of the sixth, seventh or eighth class that agrees to provide housing to an individual knowing that the individual has been previously convicted of an offense under 18 Pa.C.S. § 2502 (relating to murder) or a substantially similar offense committed in another jurisdiction shall notify the head of the governing body of the municipality and the county in which the group-based home is located that the individual is staying at the group-based home.

(2) The notification required under paragraph (1) shall be sent by certified mail within 48 hours of the individual's arrival at the group-based home and shall include the following information:

(i) Name of the individual, including all known aliases.

(ii) Date of the individual's arrival at the group-based home.

(iii) The individual's expected length of stay at the group-based home.

(iv) Contact information for the group-based home.

(b) Public hearing.--

(1) The governing body of a municipality or county receiving notification from a group-based home provider under subsection (a) may conduct a public hearing concerning the group-based home provider, its site and its operations.

(2) A governing body conducting a public hearing under this subsection shall provide public notice of the hearing via posting on its official Internet website no less than two weeks prior to the hearing. The notice shall provide information regarding the purpose, location and time of the public hearing and a contact number for interested persons to call in order to obtain additional information about the hearing. Nothing in this paragraph shall be construed to prohibit the governing body from providing public notice via any other means.

(3) At a public hearing under this subsection, the group-based home provider shall explain the operation of the group-based home and the governing body conducting the hearing shall permit public questions and comments.

(c) Definition.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Group-based home." Any nonprofit or for-profit entity that maintains a facility that provides housing to inmates with prerelease status, individuals on probation or parole or other individuals previously convicted of crimes. The term shall not include a correctional institution or a facility maintained by a domestic violence program.

"Official Internet website." The official Internet location designated by a municipality or county as its primary method of electronically communicating with the public about its official business.

Section 18. Section 6131(a) of Title 61 is amended by adding paragraphs and the section is amended by adding a subsection to read:

§ 6131. General powers of board.

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

\* \* \*

(13) To incorporate evidence-based practices into parole decision making, supervision and the supervision of technical violators.

(14) To coordinate the reentry of offenders into the community using evidence-based practices that are effective in reducing recidivism.

(15) To conduct research to identify, to be informed of and to apply recognized evidence-based parole practices that promote public safety and reduce recidivism.

(16) To conduct outcome and performance analyses on implemented board programs and practices to enhance public safety through reduced recidivism.

\* \* \*

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

"Evidence-based practices." Interventions and treatment approaches that have been proven effective through appropriate empirical analysis.

Section 19. Section 6137(a) (1), (2) and (3), (e) and (g) of Title 61 are amended and subsection (a) is amended by adding a paragraph to read:

§ 6137. Parole power.

(a) General criteria for parole.--

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

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

(ii) It does not appear that the interests of the Commonwealth will be injured by the inmate's parole.

(2) Parole shall be subject in every instance to the Commonwealth's right to immediately retake and hold in custody without further proceedings any parolee charged after his parole with an additional offense until a determination can be made whether to continue his parole status.

(3) The power to parole granted under this section to the board may not be exercised in the board's discretion at any time before, but only after, the expiration of the minimum term of imprisonment fixed by the court in its sentence or by the Board of Pardons in a sentence which has been reduced by commutation.

(3.1) (i) Following the expiration of the inmate's minimum term of imprisonment, if the primary reason for not paroling

the inmate is the inmate's inability to access and complete prescribed programming within the correctional institution, the board may release the inmate on parole with the condition that the inmate complete the prescribed programming while on parole.

(ii) This paragraph shall not apply to offenders who are currently serving a term of imprisonment for a crime of violence as defined in 42 Pa.C.S. § 9714 (relating to sentences for second and subsequent offenses) or for a crime requiring registration under 42 Pa.C.S. § 9795.1 (relating to registration).

(iii) For those inmates to whom subparagraph (ii) is applicable, the board may release the inmate on parole if the inmate is subject to another jurisdiction's detainer, warrant or equivalent writ.

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(e) [Preparole drug] **Drug screening tests.--**

(1) The board may not release a person on parole unless the person achieves a negative result within 45 days prior to the date of release in a screening test approved by the Department of Health for the detection of the presence of controlled substances or designer drugs under the act of April 14, 1972 (P.L.233, No.64) , known as The Controlled Substance, Drug, Device and Cosmetic Act.

(2) The cost of these preparole drug screening tests for inmates subject to the parole release jurisdiction of the board, whether confined in a correctional institution or county prison, shall be paid by the board. The board shall establish rules and regulations for the payment of these costs and may limit the types and cost of these screening tests that would be subject to payment by the board.

(3) (i) The board shall establish, as a condition of continued parole for a parolee who, as an inmate, tested positive for the presence of a controlled substance or a designer drug or who was paroled from a sentence arising from a conviction under The Controlled Substance, Drug, Device and Cosmetic Act or from a drug-related crime, the parolee's achievement of negative results in such screening tests randomly applied.

(ii) The random screening tests shall be performed at the discretion of the board, and the parolee undergoing the tests shall be responsible for the costs of the tests.

(iii) The funds collected for the tests shall be applied against the contract for such testing [between the board and a testing laboratory approved by the Department of Health].

**(4) For a parolee who was not paroled from a sentence arising from a conviction under The Controlled Substance, Drug, Device and Cosmetic Act or from a drug-related crime, the board may establish, as a condition of parole, that the parolee achieve negative results in screening tests randomly conducted. The parolee shall be responsible for testing costs.**

\* \* \*

(g) Procedure.--

(1) The department shall identify all inmates committed to the custody of the department that meet the definition of an eligible offender.

(2) Upon identification of an inmate as an eligible offender, the department shall send notice to the board. The board shall send notice to the prosecuting attorney and the court no less than six months before the expiration of the inmate's minimum sentence indicating that the department has preliminarily identified the inmate as an eligible offender.

The notice shall be sent by United States mail unless the board, the court and the prosecutor have consented to receipt of notice via electronic means. For inmates committed to the department whose expiration of the minimum sentence is six months or less from the date of admission, the department shall give prompt notice.

(3) Within [60] **30** days of receipt of notice under paragraph (2), the court or prosecuting attorney may file a written objection to the department's preliminary identification of the inmate as an eligible offender. Notice of the objection shall be provided to the department and the board.

(4) If no notice of objection has been filed under paragraph (3), the board or its designee shall approve for parole at the expiration of the eligible offender's minimum date upon a determination that all of the following apply:

(i) The department certified that the inmate has maintained a good conduct record and continues to remain an eligible offender.

(ii) The reentry plan for the inmate is adequate.

(iii) Individual conditions and requirements for parole have been established.

(iv) There is no reasonable indication that the inmate poses a risk to public safety.

(5) If the court or prosecuting attorney files a timely objection under paragraph (3), the board shall make a determination as to whether the inmate is an eligible offender. The board shall notify the department, prosecuting attorney and court of its determination no later than [60] **30** days prior to the minimum parole date. If the board determines that the inmate is an eligible offender under this chapter, the board shall follow the provisions under paragraph (4). If the board determines that the inmate is not an eligible offender under section 4503 (relating to definitions), the board shall retain exclusive jurisdiction to grant parole and shall determine whether the inmate should be paroled at the minimum date, paroled at a later date or denied parole.

(6) Nothing in this subsection shall be construed as granting a right to be paroled to any person, and any decision by the board and its designees or the department, under this section shall not be considered an adjudication under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(7) Except as provided under this subsection, nothing in this chapter shall otherwise affect the powers and duties of the board or the department.

\* \* \*

Section 20. Sections 6138(a), (c) and (d), 6140(h)(8) and (10) and 6153(a) of Title 61 are amended to read:

§ 6138. Violation of terms of parole.

(a) Convicted violators.--

(1) A parolee under the jurisdiction of the board released from a correctional facility who, during the period of parole or while delinquent on parole, commits a crime punishable by imprisonment, for which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere at any time thereafter in a court of record, may at the discretion of the board be recommitted as a parole violator.

(2) If the parolee's recommitment is so ordered, the parolee shall be reentered to serve the remainder of the term which the parolee would have been compelled to serve had the parole not been granted and shall be given no credit for the time at liberty on parole.

(3) The board may, in its discretion, reparole whenever, in its opinion, the best interests of the inmate justify or require the inmate's release on parole and it does not appear that the interests of the Commonwealth will be injured thereby.

(4) The period of time for which the parole violator is required to serve shall be computed from and begin on the date that the parole violator is taken into custody to be returned to the institution as a parole violator.

(5) If a new sentence is imposed on the parolee, the service of the balance of the term originally imposed **by a Pennsylvania court** shall precede the commencement of the new term imposed in the following cases:

(i) If a person is paroled from a State correctional institution and the new sentence imposed on the person is to be served in the State correctional institution.

(ii) If a person is paroled from a county prison and the new sentence imposed upon him is to be served in the same county prison.

(iii) In all other cases, the service of the new term for the latter crime shall precede commencement of the balance of the term originally imposed.

**(5.1) If the parolee is sentenced to serve a new term of total confinement by a Federal court or by a court of another jurisdiction because of a verdict or plea under paragraph (1), the parolee shall serve the balance of the original term before serving the new term.**

(6) Where the new term is to be served last or the balance of the term originally imposed **by a Pennsylvania court** is to be served last, and the service is, in either case, in any correctional facility:

(i) Any person upon recommitment shall be sent to the institution as shall be designated by the Secretary of Corrections or his designee.

(ii) Any female person shall be recommitted to the State Correctional Institution at Muncy.

\* \* \*

(c) Technical violators.--

(1) A parolee under the jurisdiction of the board who is released from a correctional facility and who, during the period of parole, violates the terms and conditions of his parole, other than by the commission of a new crime of which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere in a court of record, may be recommitted after a hearing before the board.

(2) If the parolee is so recommitted, the parolee shall be given credit for the time served on parole in good standing but with no credit for delinquent time and may be reentered to serve the remainder of the original sentence or sentences.

(3) The remainder shall be computed by the board from the time the parolee's delinquent conduct occurred for the unexpired period of the maximum sentence imposed by the court without credit for the period the parolee was delinquent on parole. The parolee shall serve the remainder so computed from the date the parolee is taken into custody on the warrant of the board.

(4) The parolee shall be subject to reparole by the board whenever in its opinion the best interests of the inmate justify or require the parolee being reparaoled and it does not appear that the interests of the Commonwealth will be injured reparaoling the parolee.

**(5) Parole violators shall be supervised in accordance with evidence-based practices that may include:**

**(i) Consideration of whether the offender poses a risk of safety to the community or himself.**

(ii) The board's capacity to deliver programs that address criminal thinking behavior and related crime-producing factors.

(iii) Use of community-based sanctioning alternatives to incarceration.

(iv) Use of a graduated violation sanctioning process.

(v) Recommitment to a correctional facility.

(6) The board shall divert technical parole violators from confinement in a State correctional institution unless the parolee's diversion poses an undue risk to public safety.

(d) Recommitment.--A technical violator under subsection (c) shall be recommitted to a correctional facility, **unless placed at a parole violator center**, as follows:

(1) If paroled from a county prison, to the same institution or to any other institution to which the violator may be legally transferred.

(2) If paroled from a State correctional institution, any male person upon recommitment shall be sent to the nearest State correctional institution for service of the remainder of the original term at the institution as shall be designated by the department. Any female person shall be recommitted to the State Correctional Institution at Muncy or other State correctional institution as designated by the department.

§ 6140. Victim statements, testimony and participation in hearing.

\* \* \*

(h) Hearing procedure.--

\* \* \*

(8) [Except as otherwise provided by law or this section] **Notwithstanding any other provision of law**, any and all statements or testimony of the victim or family member submitted to the board pertaining to:

(i) the continuing nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim;

(ii) the extent of any loss of earnings or ability to work suffered by the victim; and

(iii) the continuing effect of the crime upon the victim's family :

(A) Shall be deemed confidential and privileged.

(B) Shall not be subject to subpoena or discovery.

(C) Shall not be introduced into evidence in any judicial or administrative proceeding.

(D) Shall not be released to the inmate.

\* \* \*

(10) [Except as otherwise provided by] **Notwithstanding any other provision of law**, no person who has had access to a report, record or any other information under this section shall disclose the content of the report, record or other information or testify in a judicial or administrative proceeding without the written consent of the victim.

\* \* \*

§ 6153. Supervisory relationship to offenders.

(a) General rule.--Agents are in a supervisory relationship with their offenders. The purpose of this supervision is to assist the offenders in their rehabilitation and reassimilation into the community and to protect the public. **Supervision practices shall reflect the balance of enforcement of the conditions of parole and case management techniques to maximize successful parole completion through effective reentry to society.**

\* \* \*

Section 21. Section 7103 of Title 61 is amended to read:  
§ 7103. Powers.

The [ Attorney General ] **secretary** or his designee is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular except that no contract for the confinement of inmates in the institutions of this State shall be entered into unless the [ Attorney General or the Secretary of Corrections ] **secretary** has first determined that the inmates are acceptable, notwithstanding the provisions of Article IX-B of the act of April 9, 1929 (P.L.177, No.175) , known as the Administrative Code of 1929. The [ Attorney General ] **secretary** or his designee shall not enter into a contract pursuant to Article III of the compact relating to inmates who are mentally ill or mentally retarded without consultation with the Secretary of Public Welfare.

Section 22 . Title 61 is amended by adding a section to read:  
**§ 7115. Interstate Compact for the Supervision of Adult Offenders application fee.**

(a) **Duty to pay.--**

(1) A person on county probation or parole who applies for a transfer of supervision to another state through the Interstate Compact for the Supervision of Adult Offenders shall be required to pay an application fee with each application for transfer, unless the court finds that the application fee should be reduced, waived or deferred based upon the person's inability to pay. The application fees shall be collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge.

(2) A person on State probation or parole who applies for a transfer to another state through the interstate compact shall be required to pay an application fee to the board with each application for transfer, unless the board finds that the application fee should be reduced, waived or deferred based upon the person's inability to pay.

(b) **Amount of application fee.--**The State council shall establish the amount of the application fee which shall not exceed \$150. The application fee shall be nonrefundable and shall be assessed for each application for transfer to another state.

(c) **Application fee collected by county.--**For administrative expenses, the county shall be entitled to retain a percentage of each application fee collected under this section which shall be deposited in the county's general fund. The percentage of the application fee that may be retained shall be determined by the State council 60 days prior to the beginning of each Commonwealth fiscal year commencing on July 1 and ending on June 30. The remaining portion of each application fee collected by the county shall be transmitted to the Commonwealth under subsection (d).

(d) **Disposition.--**Money received from the collection of the application fee shall be paid into the State Treasury and shall be credited to the general government operations of the board for expenses incurred in the administration of the interstate compact.

(e) **Application fee.--**The application fee as of the effective date of this subsection shall be \$100, and the counties shall retain 100% of the fee collected until the application fee and county percentage are determined prior to the beginning of the next Commonwealth fiscal year in accordance with subsections (b) and (c).

Section 23. The regulations adopted under the former act of December 27, 1965 (P.L.1237, No.502), entitled "An act establishing regional correctional facilities administered by the Bureau of Correction as part of the State correctional system; establishing standards for county jails, and providing for inspection and classification of county jails and for commitment to State correctional facilities and county jails," and the former act of

October 16, 1972 (P.L.913, No.218), entitled "An act establishing regional community treatment centers for women administered by the Bureau of Correction of the Department of Justice as part of the State Correctional System, providing for the commitment of females to such centers and their temporary release therefrom for certain purposes, restricting confinement of females in county jails and conferring powers and duties upon the Department of Justice and the Bureau of Correction," prior to the effective date of this section shall continue to have the force and effect of law and shall be construed to be consistent with the provisions of 61 Pa.C.S. § 1105.

Section 24. The addition of 61 Pa.C.S. Ch. 31 Subch. B is a continuation of the act of June 1, 1915 (P.L.656, No.289), entitled "An act providing a system of employment and compensation for the inmates of the Eastern Penitentiary, Western Penitentiary, and the Pennsylvania Industrial Reformatory at Huntingdon, and for such other correctional institutions as shall be hereafter established by the Commonwealth, and making an appropriation therefor." The following apply:

(1) Except as otherwise provided in 61 Pa.C.S. Ch. 31 Subch. B, all activities initiated under the act of June 1, 1915 (P.L.656, No.289), shall continue and remain in full force and effect and may be completed under 61 Pa.C.S. Ch. 31 Subch. B. Resolutions, orders, regulations, rules and decisions which were made under the act of June 1, 1915 (P.L.656, No.289), and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 61 Pa.C.S. Ch. 31 Subch. B. Contracts, obligations and agreements entered into under the act of June 1, 1915 (P.L.656, No.289), are not affected nor impaired by the repeal of the act of June 1, 1915 (P.L.656, No.289).

(2) Any difference in language between 61 Pa.C.S. Ch. 31 Subch. B and the act of June 1, 1915 (P.L.656, No.289), is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administrative interpretation and implementation of the act of June 1, 1915 (P.L.656, No.289).

Section 25. The following act is repealed:

(1) The General Assembly finds and declares that the repeal under paragraph (2) is necessary to effectuate the addition of 61 Pa.C.S. Ch. 31 Subch. B.

(2) The act of June 1, 1915 (P.L.656, No.289), entitled "An act providing a system of employment and compensation for the inmates of the Eastern Penitentiary, Western Penitentiary, and the Pennsylvania Industrial Reformatory at Huntingdon, and for such other correctional institutions as shall be hereafter established by the Commonwealth, and making an appropriation therefor," is repealed.

Section 26. The following provisions shall apply retroactively to November 9, 2009:

(1) The addition of 61 Pa.C.S. §§ 1105 and 7115.

(2) Section 23 of this act.

Section 27. The following shall apply retroactively to October 12, 2009:

(1) The amendment of 61 Pa.C.S. §§ 1721, 1722, and 1723.

(2) The amendment of the headings of Subchapters B and C of Chapter 17.

Section 28. This act shall take effect immediately.

EDWARD G. RENDELL