

**CRIMES CODE (18 PA.C.S.), JUDICIAL CODE (42 PA.C.S.) AND PRISONS
AND PAROLE CODE (61 PA.C.S.) - OMNIBUS AMENDMENTS**

Act of Jul. 5, 2012, P.L. 1050, No. 122

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No. 2012-122

SB 100

AN ACT

Amending Titles 18 (Crimes and Offenses), 42 (Judiciary and Judicial Procedure) and 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, in burglary and other criminal intrusion, further providing for the offense of burglary; in other offenses, further providing for drug trafficking sentencing and penalties; in Pennsylvania Commission on Sentencing, further providing for powers and duties and for publication of guidelines; in sentencing, further providing for sentences for second and subsequent offenses; in sentencing, providing for sentencing for certain paroled offenders; in sentencing, further providing for sentencing generally, for disposition under guilty but mentally ill, for partial confinement, for total confinement and for proceedings and location; in sentencing, providing for court-imposed sanctions for offenders violating probation; in county intermediate punishment, further providing for definitions and for programs; in correctional institutions administration, further providing for drug distribution definitions; in inmate confinement visitation, further providing for Gubernatorial visitors, for official visitors and for rights of official visitors; in inmate confinement prerelease plans, further providing for establishment of prerelease centers, for prerelease plan for inmates, for regulations and for compensation of inmates; in inmate confinement motivational boot camps, further providing for definitions and for selection of inmate participants; in inmate confinement State intermediate punishment, further providing for definitions and for referral to State intermediate punishment program; in inmate confinement recidivism risk reduction incentive, further providing for definitions; in inmate confinement community corrections facilities, further providing for definitions; in inmate confinement, providing for safe community reentry and for community corrections centers and community corrections facilities; in probation and parole administration, further providing for certain offenders residing in group-based homes, for administrative powers over parolees, for general court criteria for parole, for parole power, for parole violation and for parole procedure; in probation and parole administration, providing for early parole subject to Federal order; making a related repeal; and abrogating regulations.

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

Section 1. Sections 3502 and 7508(c) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 3502. Burglary.

[(a) Offense defined.--A person is guilty of burglary if he enters a building or occupied structure, or separately

secured or occupied portion thereof, with intent to commit a crime therein, unless the premises are at the time open to the public or the actor is licensed or privileged to enter.

(b) Defense.--It is a defense to prosecution for burglary that the building or structure was abandoned.]

(a) Offense defined.--A person commits the offense of burglary if, with the intent to commit a crime therein, the person:

(1) enters a building or occupied structure, or separately secured or occupied portion thereof that is adapted for overnight accommodations in which at the time of the offense any person is present;

(2) enters a building or occupied structure, or separately secured or occupied portion thereof that is adapted for overnight accommodations in which at the time of the offense no person is present;

(3) enters a building or occupied structure, or separately secured or occupied portion thereof that is not adapted for overnight accommodations in which at the time of the offense any person is present; or

(4) enters a building or occupied structure, or separately secured or occupied portion thereof that is not adapted for overnight accommodations in which at the time of the offense no person is present.

(b) Defense.--It is a defense to prosecution for burglary if any of the following exists at the time of the commission of the offense:

(1) The building or structure was abandoned.

(2) The premises are open to the public.

(3) The actor is licensed or privileged to enter.

(c) Grading.--

(1) Except as provided in paragraph (2), burglary is a felony of the first degree.

(2) [If the building, structure or portion entered is not adapted for overnight accommodation and if no individual is present at the time of entry, burglary is a felony of the second degree.] **An offense under subsection (a)(4) is a felony of the second degree.**

(d) Multiple convictions.--A person may not be [convicted] **sentenced** both for burglary and for the offense which it was his intent to commit after the burglarious entry or for an attempt to commit that offense, unless the additional offense constitutes a felony of the first or second degree.

§ 7508. Drug trafficking sentencing and penalties.

* * *

(c) Mandatory sentencing.--There shall be no authority in any court to impose on an offender to which this section is applicable a lesser sentence than provided for herein or to place the offender on probation, parole[,] **or** work release [or prerelease] or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than provided herein. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided herein. Disposition under section 17 or 18 of The Controlled Substance, Drug, Device and Cosmetic Act shall not be available to a defendant to which this section applies.

* * *

Section 1.1. Sections 2153(a)(14) and (15) and 2155 of Title 42 are amended to read:

§ 2153. Powers and duties.

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

* * *

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

(i) Promulgating forms which document the application of sentencing, resentencing and parole guidelines, mandatory sentencing laws, **risk assessment instrument**, releases pursuant to a county reentry plan, recommitment ranges and recidivism risk reduction incentive minimum sentences and collecting information on all parole and reparole decisions by the board and any other paroling authority.

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

(15) Prior to adoption of changes to guidelines for sentencing, resentencing and parole, **risk assessment instrument** and recommitment ranges following revocation, use a correctional population simulation model to determine:

(i) Resources that are required under current guidelines, **risk assessment instrument** and ranges.

(ii) Resources that would be required to carry out any proposed changes to the guidelines, **risk assessment instrument** and ranges.

* * *

§ 2155. Publication of guidelines for sentencing, resentencing and parole, **risk assessment instrument** and recommitment ranges following revocation.

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

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

(i) Pennsylvania District Attorneys Association.

(ii) Chiefs of Police Associations.

(iii) Fraternal Order of Police.

(iv) Public Defenders Organization.

(v) Law school faculty members.

(vi) State Board of Probation and Parole.

(vii) Department of Corrections.

(viii) Pennsylvania Bar Association.

(ix) Pennsylvania Wardens Association.

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

(xi) Pennsylvania Conference of State Trial Judges.

(xii) Any other interested person or organization.

(2) Publish in the Pennsylvania Bulletin sentencing guidelines, **resentencing guidelines following revocation of probation, county intermediate punishment and State intermediate punishment, parole guidelines, risk assessment**

instrument and recommitment ranges following revocation by the board of paroles granted as adopted by the commission.

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

(c) Effective date.--

(1) Sentencing guidelines, resentencing guidelines following revocation of probation, county intermediate punishment and State intermediate punishment, parole guidelines, **risk assessment instrument** and recommitment ranges following revocation by the board of paroles granted, adopted by the commission shall become effective 90 days after publication in the Pennsylvania Bulletin pursuant to subsection (a)(2) unless disapproved pursuant to subsection (b) and shall apply to sentences and resentences and parole decisions made after the effective date of the guidelines.

(2) If not disapproved, the [commissioners] **commission** shall conduct training and orientation for trial court judges and board members prior to the effective date of the guidelines, **risk assessment instrument** and recommitment ranges.

Section 1.2. Section 9714(g) of Title 42, amended July 7, 2011 (P.L.220, No.40), is amended to read:

§ 9714. Sentences for second and subsequent offenses.

* * *

(g) Definition.--As used in this section, the term "crime of violence" means murder of the third degree, voluntary manslaughter, **manslaughter of a law enforcement officer as defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal homicide of law enforcement officer)**, murder of the third degree involving an unborn child as defined in 18 Pa.C.S. § 2604(c) (relating to murder of unborn child), aggravated assault of an unborn child as defined in 18 Pa.C.S. § 2606 (relating to aggravated assault of unborn child), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), **assault of law enforcement officer as defined in 18 Pa.C.S. § 2702.1 (relating to assault of law enforcement officer)**, use of weapons of mass destruction as defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2) (relating to terrorism), trafficking of persons when the offense is graded as a felony of the first degree as provided in 18 Pa.C.S. § 3002 (relating to trafficking of persons), rape, involuntary deviate sexual intercourse, aggravated indecent assault, incest, sexual assault, arson as defined in 18 Pa.C.S. § 3301(a) (relating to arson and related offenses), **ecoterrorism as defined in 18 Pa.C.S. § 3311(b)(2) (relating to ecoterrorism)**, kidnapping, burglary [of a structure adapted for overnight accommodation in which at the time of the offense any person is present] **as defined in 18 Pa.C.S. § 3502(a)(1) (relating to burglary)**, robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or robbery of a motor vehicle, drug delivery resulting in death as defined in 18 Pa.C.S. § 2506(a) (relating to drug delivery resulting in death), or criminal attempt, criminal conspiracy or criminal solicitation to commit murder or any of the offenses listed above, or an equivalent crime under the laws of this

Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction.

Section 1.3. Title 42 is amended by adding a section to read:

§ 9720.3. Sentencing for certain paroled offenders.

A person unlawfully present in the United States who is convicted in a court of this Commonwealth of an offense committed subsequent to being paroled under 61 Pa.C.S. § 6143 (relating to early parole of inmates subject to Federal removal order) may be imprisoned for a term up to twice the term of sentence otherwise authorized, fined an amount equal to twice the fine otherwise authorized or both.

Section 2. Sections 9721(a.1), 9727(d), 9755(g) and 9756(d) 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** or to **State motivational boot camp as described in 61 Pa.C.S. Ch. 39 (relating to motivational boot camp)**, even if a mandatory minimum sentence would otherwise be provided by law.

(3) **An eligible offender may be sentenced to total confinement pursuant to subsection (a)(4) and a recidivism risk reduction incentive minimum sentence pursuant to section 9756(b.1) (relating to sentence of total confinement), even if a mandatory minimum sentence would otherwise be provided by law.**

* * *

§ 9727. Disposition of persons found guilty but mentally ill.

* * *

(d) [Prerelease and parole] **Parole** conditions.--An offender who is discharged from treatment may be placed on [prerelease or] parole status under the same terms and laws applicable to any other offender. Psychological and psychiatric counseling and treatment may be required as a condition of such status. Failure to continue treatment, except by agreement of the supervising authority, shall be a basis for [terminating prerelease status or] instituting parole violation hearings.

* * *

§ 9755. Sentence of partial confinement.

* * *

(g) Prisoner release plans.--This section shall not be interpreted as limiting [the authority of the Bureau of Correction as set forth in the act of July 16, 1968 (P.L.351, No.173), as amended, relating to prisoner pre-release centers and release plans, or] the authority of the court as set forth in [the act of August 13, 1963 (P.L.774, No.390), as amended, relating to prisoner release for occupational and other purposes] **section 9755.1 (relating to temporary release from county correctional institution).**

* * *

§ 9756. Sentence of total confinement.

* * *

(d) Prisoner release plans.--This section shall not be interpreted as limiting [the authority of the Bureau of Correction as set forth in the act of July 16, 1968 (P.L.351, No.173), as amended, relating to prisoner pre-release centers and release plans, or] the authority of the court as set forth in [the act of August 13, 1963 (P.L.774, No.390), as amended, relating to prisoner release for occupational and other purposes] **section 9755.1 (relating to temporary release from county correctional institution).**

* * *

Section 3. Section 9762 of Title 42 is amended by adding subsections to read:

§ 9762. Sentencing proceeding; place of confinement.

* * *

(i) Prohibition.--Notwithstanding any other provision of law, no person sentenced to total or partial confinement after the effective date of this subsection shall be committed to the Department of Corrections unless:

(1) the aggregate sentence consists of a conviction for an offense graded as a misdemeanor of the second degree or higher; or

(2) the Secretary of Corrections or the secretary's designee has consented to the commitment.

(j) Applicability.--18 Pa.C.S. § 106(b)(8) and (9) (relating to classes of offenses) applies to subsection (i).

Section 3.1. Title 42 is amended by adding a section to read:

§ 9771.1. Court-imposed sanctions for offenders violating probation.

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

(b) Coordination with other officials.--The court shall work with probation administrators and officers, jail administrators, prosecutors, public defenders and law enforcement in the judicial district to develop and implement the program.

(c) Eligibility.--

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

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

(d) Warning hearing.--

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

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

(3) The court shall put the participant on notice that each probation violation, including missed appointments and

positive drug tests, will result in jail time as provided for under subsection (g).

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

(f) Violation hearing.--If a participant commits a probation violation, the participant shall promptly be arrested, and a hearing shall be held no later than two business days after the arrest date.

(g) Sanctions.--

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

- (i) three days for a first violation;
- (ii) seven days for a second violation;
- (iii) fourteen days for a third violation; and
- (iv) twenty-one days for a fourth or subsequent

violation of probation.

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

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

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

(i) Revocation of probation.--

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

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

(j) Local rules.--

(1) The court may adopt local rules for the administration of this program. Except as provided for under paragraph (2), the local rules may not be inconsistent with this section or any rules adopted by the Supreme Court.

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

Section 3.2. The definition of "eligible offender" in section 9802 of Title 42 is amended to read:
§ 9802. Definitions.

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

* * *

"Eligible offender." Subject to section 9721(a.1) (relating to sentencing generally), a person convicted of an offense who would otherwise be sentenced to a county correctional facility, who does not demonstrate a present or past pattern of violent behavior and who would otherwise be sentenced to partial confinement pursuant to section 9724 (relating to partial confinement) or total confinement pursuant to section 9725 (relating to total confinement). The term does not include an offender who has been convicted or adjudicated delinquent of a crime requiring registration under Subchapter H of Chapter 97 (relating to registration of sexual offenders) or an offender with a current conviction or a prior conviction within the past ten years for any of the following offenses:

18 Pa.C.S. § 2502 (relating to murder).
18 Pa.C.S. § 2503 (relating to voluntary manslaughter).
18 Pa.C.S. § 2702 (relating to aggravated assault).
18 Pa.C.S. § 2703 (relating to assault by prisoner).
18 Pa.C.S. § 2704 (relating to assault by life prisoner).
18 Pa.C.S. § 2901(a) (relating to kidnapping).
[18 Pa.C.S. § 3121 (relating to rape).]
18 Pa.C.S. § 3122.1(a)(1) (relating to statutory sexual assault).
[18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
18 Pa.C.S. § 3124.1 (relating to sexual assault).
18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
18 Pa.C.S. § 3126 (relating to indecent assault).]
18 Pa.C.S. § 3301 (relating to arson and related offenses).
18 Pa.C.S. § 3502 (relating to burglary) when graded as a felony of the first degree.
18 Pa.C.S. § 3701 (relating to robbery).
18 Pa.C.S. § 3923 (relating to theft by extortion).
18 Pa.C.S. § 4302(a) (relating to incest).
18 Pa.C.S. § 5121 (relating to escape).

* * *

Section 4. Section 9804(b)(1) of Title 42 is amended to read:

§ 9804. County intermediate punishment programs.

* * *

(b) Eligibility.--

(1) (i) No person other than the eligible offender shall be sentenced to a county intermediate punishment program.

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

(iii) **The court, after considering victim input, may refuse to accept the prosecuting attorney's waiver of the eligibility requirements.**

* * *

Section 5. The definition of "correctional facility" in section 1172 of Title 61 is amended to read:
§ 1172. 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:

"Correctional facility." A correctional institution, group home, [prerelease center,] community corrections center, parole center or any facility that houses a person convicted of a criminal offense, or awaiting trial, sentencing or extradition in a criminal proceeding. The term does not include any facility or institution operated, supervised or licensed under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

* * *

Section 5.1. Subchapter A heading of Chapter 35 of Title 61 is amended to read:

SUBCHAPTER A
[GENERAL PROVISIONS]

(Reserved)

Section 6. Sections 3501, 3502, 3503, 3701, 3702, 3703 and 3704 of Title 61 are amended to read:

§ 3501. [Gubernatorial visitor for philanthropic purposes.

The Governor may appoint a person to visit, for philanthropic purposes, correctional institutions. No expense shall be incurred to the Commonwealth for the implementation of this section.] **(Reserved)** .

§ 3502. [Official visitors.

(a) General rule.--Subject to the provisions of subsection (b), the active or visiting committee of any society incorporated for the purpose of visiting and instructing inmates are hereby made official visitors of any correctional institution, with the same powers, privileges and functions as are vested in the official visitors of correctional institutions as now prescribed by law.

(b) Notice required.--No active or visiting committee as identified in subsection (a) may visit a correctional institution under this section unless notice of the names of the members of the committee and the terms of their appointment are given by the society, in writing, under its corporate seal, to the chief administrator of the correctional institution.]

(Reserved) .

§ 3503. [Rights of official visitors.

(a) Visiting hours.--A person designated by law to be an official visitor of a correctional institution may enter and visit any correctional institution on any and every day, including Sundays, between the hours of 9 a.m. and 5 p.m. and at such other times with the special permission of the chief administrator.

(b) Confirmation of role.--All powers, functions and privileges granted to official visitors of correctional institutions under prior law are hereby confirmed. No official visitor shall have the right or power to give or deliver to an inmate during such visit any chattel or object whatsoever, except objects and articles of religious or moral instruction or use.

(c) Effect of violation.--

(1) If an official visitor violates any provision of this section, a chief administrator may apply to the court of common pleas in the county wherein the correctional institution is situated for a rule upon the official visitor to show cause why he should not be deprived of his office.

(2) Upon proof to the satisfaction of the court, the court shall enter a decree against the official visitor depriving him of all rights, privileges and functions of an official visitor.] **(Reserved)** .

[§ 3701. Establishment of prerelease centers.

The department shall establish, with the approval of the Governor, prisoner prerelease centers at such locations throughout this Commonwealth as it deems necessary to carry out effective prisoner prerelease programs.

§ 3702. Prerelease plan for inmates.

(a) Transfer authorization.--

(1) The secretary may transfer an inmate incarcerated in any prerelease center or in any prerelease center located in any State correctional institution who has not been sentenced to death or life imprisonment to any prerelease center.

(2) The transfer of the inmate to the prerelease center shall not occur where the transfer is not appropriate due to a certified terminal illness.

(b) Temporary release.--An inmate transferred to and confined in a prerelease center may be released temporarily with or without direct supervision at the discretion of the department, in accordance with rules and regulations as provided in section 3703 (relating to rules and regulations), for the purposes of gainful employment, vocational or technical training, academic education and such other lawful purposes as the department shall consider necessary and appropriate for the furtherance of the inmate's individual prerelease program subject to compliance with subsection (c).

(c) Conditions for release of certain inmates.--

(1) An inmate who has not served his minimum sentence may not be transferred to a prerelease center unless:

(i) more than 20 days have elapsed after written notice of the proposed transfer, describing the inmate's individual prerelease program, has been received by the sentencing judge or, in the event the sentencing judge is unavailable, the sentencing court and the prosecuting district attorney's office and no written objection by the judge containing the reason therefor has been received by the department;

(ii) the judge withdraws his objection after consultation with representatives of the department; or

(iii) approval of the proposed transfer is given by the Board of Pardons.

(2) In the event of a timely objection by the judge, representatives of the department shall meet with the judge and attempt to resolve the disagreement.

(3) If, within 20 days of the department's receipt of the objection:

(i) the judge does not withdraw his objection;

(ii) the department does not withdraw its proposal for transfer; or

(iii) the judge and the department do not agree on an alternate proposal for transfer, the matter shall be listed for hearing at the next session of the Board of Pardons to be held in the hearing district in which the judge is located.

(4) During the hearing before the Board of Pardons, representatives of the judge, the department, the district attorney of the county where the inmate was prosecuted and any victim involved shall have the opportunity to be heard.

(d) Notice of release.--

(1) An inmate who has served his minimum sentence may be released by the department only after notice to the judge that the privilege is being granted.

(2) Notice of the release of an inmate shall be given to the Pennsylvania State Police, the probation officer and the sheriff or chief of police of the county and the chief of police of the municipality or township of the locality to which the inmate is assigned or of the inmate's authorized destination.

§ 3703. Rules and regulations.

The department shall establish rules and regulations for granting and administering release plans and shall determine those inmates who may participate in any plan. If an inmate violates the rules or regulations prescribed by the department, the inmate's release privileges may be withdrawn. Failure of an inmate to report to or return from the assigned place of employment, training, education or other authorized destination shall be deemed an offense under 18 Pa.C.S. § 5121 (relating to escape).

§ 3704. Salaries and wages of inmates.

(a) General rule.--The salaries or wages of inmates gainfully employed under a plan established under this chapter shall be collected by the department or its designated agents or employees. The wages shall not be subject to garnishment or attachment for any purpose either in the hands of the employer or the department during the inmate's term of imprisonment and shall be disbursed only as provided in this section, but for tax purposes they shall be income of the inmate.

(b) Use of salaries or wages.--The salaries or wages of an inmate participating in a plan established under this chapter shall be disbursed by the department in the following order:

(1) The board of the inmate, including food and clothing.

(2) Necessary travel expense to and from work and other incidental expenses of the inmate.

(3) Support of the inmate's dependents, if any.

(4) Payment, either in full or ratably, of the inmate's obligations acknowledged by him in writing or which have been reduced to judgment.

(5) The balance, if any, to the inmate upon his discharge.]

Section 7. (Reserved).

Section 8. The definition of "eligible inmate" in section 3903 of Title 61 is amended to read:

§ 3903. Definitions.

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

* * *

"Eligible inmate." A person sentenced to a term of confinement under the jurisdiction of the Department of Corrections who is serving a term of confinement, the minimum of which is not more than two years and the maximum of which is five years or less, or an inmate who is serving a term of confinement, the minimum of which is not more than three years where that inmate is within two years of completing his minimum term, and who has not reached [35] **40** years of age at the time he is approved for participation in the motivational boot camp program. The term shall not include any inmate who is subject to a sentence the calculation of which included an enhancement for the use of a deadly weapon as defined pursuant to the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing [or any inmate serving a sentence for any violation of one or more of the following provisions], **any inmate who has been convicted or adjudicated delinquent of any crime requiring registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or any inmate with a current conviction or a prior conviction within the past ten years for any of the following offenses:**

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

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

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

18 Pa.C.S. § [2901] **2901(a)** (relating to kidnapping).

[18 Pa.C.S. § 3121 (relating to rape).

18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

18 Pa.C.S. § 3124.1 (relating to sexual assault).

18 Pa.C.S. § 3125 (relating to aggravated indecent assault).]

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

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

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

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

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

* * *

Section 9. Section 3904 of Title 61 is amended by adding a subsection to read:

§ 3904. Selection of inmate participants.

* * *

(d) Waiver of eligibility requirements.--

(1) The prosecuting attorney, in the prosecuting attorney's sole discretion, may advise the court that the Commonwealth has elected to waive the eligibility requirements of this chapter if the victim has been given notice of the prosecuting attorney's intent to waive the eligibility requirements and an opportunity to be heard on the issue.

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

Section 10. The definitions of "community corrections center," "defendant," "eligible offender" and "group home" in section 4103 of Title 61 are amended to read:

§ 4103. Definitions.

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

* * *

"Community corrections center." A residential program that is supervised and operated by the Department of Corrections [for inmates with prerelease status or who are on parole] **in accordance with Chapter 50 (relating to community corrections centers and community corrections facilities).**

* * *

"Defendant." An individual charged with a drug-related offense, **including an individual convicted of violating section 13(a)(14), (30) or (37) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, where the sentence was imposed pursuant to 18 Pa.C.S. § 7508(a)(1)(i), (2)(i), (3)(i), (4)(i) or (7)(i) (relating to drug trafficking sentencing and penalties).**

* * *

"Eligible offender." Subject to 42 Pa.C.S. § 9721(a.1) (relating to sentencing generally), a defendant designated by the sentencing court as a person convicted of a drug-related offense who:

(1) Has undergone an assessment performed by the Department of Corrections, which assessment has concluded that the defendant is in need of drug and alcohol addiction treatment and would benefit from commitment to a drug offender treatment program and that placement in a drug offender treatment program would be appropriate.

(2) Does not demonstrate a history of present or past violent behavior.

(3) Would be placed in the custody of the department if not sentenced to State intermediate punishment.

(4) Provides written consent permitting release of information pertaining to the defendant's participation in a drug offender treatment program.

The term shall not include a defendant who is subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon, as defined pursuant to law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing, **a defendant who has been convicted or adjudicated delinquent of any crime requiring registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders)** or a defendant [who has been convicted of a personal injury crime as defined in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, or an attempt or conspiracy to commit such a crime or who has been convicted of violating 18 Pa.C.S. § 4302 (relating to incest), 5901 (relating to open lewdness), 6312 (relating to sexual abuse of children), 6318 (relating to unlawful contact with minor) or 6320 (relating to sexual exploitation of children) or Ch. 76 Subch. C (relating to Internet child pornography)] **with a current conviction or a prior conviction within the past ten years for any of the following offenses:**

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

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

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

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

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

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

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

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

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

* * *

"Group home." A residential program that is contracted out by the Department of Corrections to a private service provider for inmates [with prerelease status or] who are on parole.

* * *

Section 11. Section 4104(a)(1) and (d) of Title 61 are amended, subsection (a) is amended by adding a paragraph and the section is amended by adding subsections to read:

§ 4104. Referral to State intermediate punishment program.

(a) Referral for evaluation.--

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

(1.1) (i) The prosecuting attorney, in the prosecuting attorney's sole discretion, may advise the court that the Commonwealth has elected to waive the eligibility requirements of this chapter if the victim has been given notice of the prosecuting attorney's intent to waive the

eligibility requirements and an opportunity to be heard on the issue.

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

* * *

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

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

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

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

* * *

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

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

Section 12. The definition of "eligible offender" in section 4503 of Title 61 is amended to read:

§ 4503. Definitions.

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

* * *

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

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

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

(3) Has not been found guilty of or previously convicted of or adjudicated delinquent for or an attempt or conspiracy to commit a personal injury crime as defined under section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, **except for an offense under 18 Pa.C.S. § 2701 (relating to simple assault) when the offense is a misdemeanor of the third degree,** or an equivalent offense under the laws of the United States or one of its

territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

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

18 Pa.C.S. § [4302] **4302(a)** (relating to incest).

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

[18 Pa.C.S. § 6312 (relating to sexual abuse of children).

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

18 Pa.C.S. § 6320 (relating to sexual exploitation of children).]

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

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

Any [sexually violent offense as defined in] **offense for which registration is required under** 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

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

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

* * *

Section 12.1. Section 4701 of Title 61 is amended to read: § 4701. Definitions.

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

"Community corrections facility." A residential facility operated by a private [vendor] **contractor** that:

(1) houses [inmates with prerelease status or individuals who are on parole] **offenders** pursuant to a contract [entered into between] **with** the Department of Corrections [and the private vendor]; **and**

(2) **is operated in accordance with Chapter 50 (relating to community corrections centers and community corrections facilities).**

Section 13. Title 61 is amended by adding chapters to read:

CHAPTER 49

SAFE COMMUNITY REENTRY

Sec.

4901. Scope of chapter.

4902. Definitions.

4903. Safe Community Reentry Program.

4904. Contract for services.

4905. Rules and regulations.

§ 4901. Scope of chapter.

This chapter relates to the Safe Community Reentry Program.
§ 4902. Definitions.

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

"Community-based programs." Programs which are administered and operated outside of a correctional institution.

"Community organization." A community, faith-based or other private charitable organization which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of the United States or this Commonwealth which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth.

"Institutional-based programs." Programs which are administered and operated within a correctional institution.

"Offender." An inmate in a correctional institution or a person released from incarceration. The term shall not include an inmate serving a sentence of life imprisonment or death.

"Program." The Safe Community Reentry Program established in this chapter.

§ 4903. Safe Community Reentry Program.

(a) Program established.--The department and the board shall jointly establish a Safe Community Reentry Program to reduce recidivism and ensure the successful reentry of offenders into the community.

(b) Assessment and plan.--

(1) The department shall assess each offender entering into the State correctional system to determine which treatment services, programs and skills the offender needs to develop to be successful in the community following the offender's release.

(2) The department or the board shall assist each offender in developing a reentry plan for the offender. The reentry plan shall include the offender's educational, employment, housing and treatment needs as appropriate and necessary to encourage the successful transition and reintegration of the offender into the community.

(3) The department or the board shall endeavor to coordinate the specifics of the offender's reentry plan with the educational, vocational training and treatment services that will be provided to the offender during the offender's incarceration.

(c) Transition and reintegration programs.--The department may identify a comprehensive network of transition and reintegration programs to address the needs of offenders released from incarceration.

(d) Community organizations.--

(1) The department and the board may use community organizations and other nonprofit and for-profit entities to assist the department and the board in meeting the needs of offenders reentering the community.

(2) The department and the board may develop and maintain a list of community organizations and other nonprofit and for-profit entities available to provide services. Community organizations and other nonprofit and for-profit entities may provide services, including education, vocational training, treatment services, support with finding housing and employment and may help with family issues and other elements of life after incarceration.

(3) The department and the board may refer offenders to community organizations and other nonprofit and for-profit entities on the list.

(e) Sharing of information.--The department and the board may share information about offenders with the entities the department and the board contract with under section 4904 (relating to contract for services) and other agencies and providers of services as necessary to adequately assess and address the needs of each offender. The following shall apply:

(1) No person having access to any report, record or other information prepared or assembled under this chapter shall disclose the report, record or information without the permission of the department or the board.

(2) Nothing under this subsection shall be construed to permit the department or the board to disclose information where disclosure is prohibited under Federal or State law or regulations.

§ 4904. Contract for services.

(a) Authority.--The department and the board may contract with community organizations and other nonprofit or for-profit entities to provide programs and services under this chapter. The programs and services provided under these contracts may include:

(1) Assisting in the development of each offender's reentry plan.

(2) Coordinating the supervision and services provided to offenders in correctional institutions with any supervision and services provided to offenders who have been released from incarceration.

(3) Providing offenders awaiting release with documents that are necessary after release, including identification papers, referrals to services, medical prescriptions, job training certificates, apprenticeship papers, information on obtaining public assistance and other documents useful in achieving a successful transition from a correctional institution to the community.

(4) Involving county agencies whose programs and initiatives strengthen inmate reentry services for offenders who have been returned to the county of their jurisdiction.

(5) Providing structured programs, post-release housing and transitional housing, including group homes for recovering substance abusers, through which offenders are provided supervision and services immediately following reentry into the community.

(6) Assisting offenders in securing permanent housing upon release or following a stay in post-release or transitional housing.

(7) Continuing to link offenders with health resources for health services that were provided to them when they were under the jurisdiction of the department, including mental health, substance abuse treatment, aftercare and treatment services for contagious diseases.

(8) Providing education, job training, English as a second language programs, work experience programs, self-respect and life skills training and other skills needed to achieve self-sufficiency for a successful transition from incarceration.

(9) Facilitating collaboration among corrections administrators, technical schools, community colleges and the work force development and employment service sectors so that there are efforts to:

(i) Promote, where appropriate, the employment of offenders released from correctional institutions and facilitate the creation of job opportunities, including transitional jobs, for such offenders that will also benefit communities.

(ii) Connect offenders to employment, including supportive employment and employment services, before their release from correctional institutions.

(iii) Address barriers to employment, including obtaining a driver's license.

(10) Assessing the literacy and educational needs of offenders and providing appropriate services to meet those needs, including follow-up assessments and long-term services.

(11) Addressing systems under which family members of offenders are involved with facilitating the successful reentry of those offenders into the community, including removing obstacles to the maintenance of family relationships while the offender is in custody, strengthening the family's capacity to establish and maintain a stable living situation during the reentry process where appropriate and involving family members in the planning and implementation of the reentry process.

(12) Facilitating visitation and maintenance of family relationships with respect to offenders by addressing obstacles such as travel, telephone costs, mail restrictions and restrictive visitation policies.

(13) Addressing barriers to the visitation of children with an incarcerated parent and maintenance of the parent-child relationship, including, but not limited to, the location of facilities in remote areas, telephone costs, mail restrictions and visitation policies.

(14) Creating mentoring programs designed to assist offenders in changing the offenders' pattern of behavior so that the offenders will not revictimize their victims or have new victims. Mentoring may occur inside the correctional institution and in the community once the offender is released. The mentor shall:

(i) Act as a role model for the offender.

(ii) Foster a caring and supportive relationship by creating an independence from and not a dependence upon the mentor or the system as a whole.

(iii) Encourage positive self-concept.

(iv) Teach and aid in goal setting.

(v) Support other positive relationships within the community.

(vi) Assist in linking the offender to community-based services.

(vii) Promote appropriate, positive family relationships.

(viii) Help develop personal accountability and personal responsibility.

(15) Facilitating and encouraging timely and complete payment of restitution and fines by offenders to victims and the community.

(b) Accountability.--To ensure accountability, any contract entered under this section shall contain specific performance measures that the department and the board shall use to evaluate compliance with the terms of the contract.

§ 4905. Rules and regulations.

The department and board may promulgate rules and regulations as deemed necessary to implement this chapter.

CHAPTER 50
COMMUNITY CORRECTIONS CENTERS AND COMMUNITY
CORRECTIONS FACILITIES

Sec.

- 5001. Definitions.
- 5002. Department.
- 5003. Offenders who may be housed.
- 5004. Authority of Commonwealth employees.
- 5005. Authority of chairman.
- 5006. Escape.

§ 5001. Definitions.

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

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

"Chairman." The chairman of the Pennsylvania Board of Probation and Parole.

"Community corrections center." A residential program that is supervised and operated by the department in accordance with this chapter.

"Community corrections facility." A residential facility operated by a private contractor that:

(1) houses offenders pursuant to a contract with the department; and

(2) is operated in accordance with this chapter.

§ 5002. Department.

The department may do all of the following:

(1) Establish community corrections centers at locations throughout this Commonwealth approved by the Governor.

(2) Enter into contracts with private vendors to operate community corrections facilities.

§ 5003. Offenders who may be housed.

The following offenders may be housed in community corrections centers and community corrections facilities:

(1) A parolee under the jurisdiction of the board who is in good standing with the board.

(2) A parolee in accordance with the following:

(i) Except as provided in subparagraph (ii), a parolee under the jurisdiction of the board who is detained or awaiting a hearing or who has been recommitted for a technical violation of the conditions of parole established by the board if the parolee is eligible to be housed in a community corrections center or community corrections facility under section 6138 (relating to violation of terms of parole).

(ii) Subparagraph (i) shall not apply to a parolee under the jurisdiction of the board who is detained or awaiting a hearing or who has been recommitted for a technical violation of the conditions of parole established by the board as a result of 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.

(3) An offender who is serving the community-based portion of a sentence of State intermediate punishment.

(4) An offender who has been granted clemency by the Governor.

(5) Inmates transferred by the department under Chapter 37 (relating to inmate prerelease plans). This paragraph shall expire July 1, 2013.

§ 5004. Authority of Commonwealth employees.

Commonwealth employees of community corrections centers and Commonwealth employees, while present in community corrections facilities, have the authority to do all of the following:

(1) In order to maintain security and to enforce the rules of the community corrections center or community corrections facility:

(i) search the person and property of an offender residing in the community corrections center or community corrections facility;

(ii) seize property from an offender residing in the community corrections center or community corrections facility; and

(iii) if necessary, use reasonable force against an offender residing in the community corrections center or community corrections facility.

(2) Detain, by using reasonable force if necessary, an offender residing in the community corrections center or community corrections facility in order to maintain control of the offender pending the arrival of a parole agent, police officer or other appropriate law enforcement officer.

§ 5005. Authority of chairman.

The chairman has the following authority:

(1) Designate community corrections centers or community corrections facilities where parolees are to be housed.

(2) Determine whether parolees are to be housed in a secured or unsecured portion of a community corrections center or community corrections facility.

(3) Determine, jointly with the Secretary of the Department of Corrections, using evidence-based practices designed to reduce the likelihood of recidivism and improve public safety, the appropriate treatment and programming for parolees who are housed at community corrections centers and community corrections facilities.

(4) Audit, jointly with the secretary, the performance of treatment and services provided by community corrections centers and community corrections facilities.

§ 5006. Escape.

An individual committed to a community corrections center or a community corrections facility shall be deemed to be in official detention under 18 Pa.C.S. § 5121 (relating to escape).

Section 14. Sections 6124(c), 6132(a)(2)(ii) and (b), 6134.1(c)(1) and (2) and 6137(a)(4) of Title 61 are amended to read:

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

* * *

(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.

§ 6132. Specific powers of board involving parolees.

(a) General rule.--The board shall have exclusive power:

* * *

(2) * * *

(ii) Except for such special cases, the powers and duties conferred by this section shall not extend to persons sentenced for a maximum period of less than two years and shall not extend to those persons committed to county confinement within the jurisdiction of the court pursuant to 42 Pa.C.S. § [9762(b)(2)] **9762** (relating to sentencing proceeding; place of confinement).

(b) Construction.--Nothing contained in this section shall be construed to prevent a court from paroling any person sentenced by it for a maximum period of less than two years or from paroling a person committed to county confinement within the jurisdiction of the court pursuant to 42 Pa.C.S. § [9762(b)(2)] **9762**.

* * *

§ 6134.1. General criteria for parole by court.

* * *

(c) Procedure.--

(1) Prior to making a decision to parole a person committed to county confinement within the jurisdiction of the court pursuant to 42 Pa.C.S. § [9762(b)(2)] **9762** (relating to sentencing [procedure] **proceeding**; place of confinement) from a sentence of imprisonment imposed following conviction for a personal injury crime, each victim who has registered to receive victim services in connection with the personal injury crime shall be given an opportunity by the court to submit a preparole statement to the court expressing concerns or recommendations regarding the parole or parole supervision of the person.

(2) The district attorney shall, immediately following sentence in cases where a sentence of confinement has been imposed and the sentenced person remains within the jurisdiction of the court pursuant to 42 Pa.C.S. § [9762(b)(2)] **9762**, notify all registered victims that they shall have the opportunity to submit a preparole statement to the court.

* * *

§ 6137. Parole power.

(a) General criteria for parole.--

* * *

(4) Unless the inmate has served at least one year in a [prerelease center] **community corrections center or community corrections facility**, the board shall not act upon an application of an inmate who is granted clemency by the Governor, is subject to parole supervision and:

(i) whose term of imprisonment was commuted from life to life on parole;

(ii) who was serving a term of imprisonment for a crime of violence; or

(iii) who is serving a sentence under 42 Pa.C.S. § 9712 (relating to sentences for offenses committed with firearms).

* * *

Section 15. Section 6138(a)(2), (c)(1), (2), (4), (5)(v) and (6) and (d) introductory paragraph and (2) of Title 61 are amended, subsections (a), (c) and (d) are amended by adding paragraphs and the section is amended by adding subsections to read:

§ 6138. Violation of terms of parole.

(a) Convicted violators.--

* * *

(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, **except as provided under paragraph (2.1)**, shall be given no credit for the time at liberty on parole.

(2.1) The board may, in its discretion, award credit to a parolee recommitted under paragraph (2) for the time spent at liberty on parole, unless any of the following apply:

(i) The crime committed during the period of parole or while delinquent on parole is a crime of violence as defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses) or a crime requiring registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

(ii) The parolee was recommitted under section 6143 (relating to early parole of inmates subject to Federal removal order).

* * *

(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 **detained pending a hearing before the board or waiver of the hearing or recommitted after a hearing before the board[.] or a waiver of the hearing. Detention and recommitment under this paragraph shall be in a community corrections center or community corrections facility, unless the board determines that one of the following conditions is present:**

(i) The violation was sexual in nature.

(ii) The violation involved assaultive behavior.

(iii) The violation involved possession or control of a weapon.

(iv) The parolee has absconded, and the parolee cannot be safely diverted to a community corrections center or community corrections facility.

(v) There exists an identifiable threat to public safety, and the parolee cannot be safely diverted to a community corrections center or community corrections facility.

(1.1) If the board determines that a condition under paragraph (1) applies, the parolee shall be detained in or recommitted to a State correctional institution or contracted county jail.

(2) If the parolee is [so] recommitted **under this subsection**, 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.

* * *

(4) [The] **Subject to subsection (e)**, 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 repared and it does not appear that the interests of the Commonwealth will be injured reparing the parolee.

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

* * *

(v) Recommitment to:

- (A) a **State** correctional [facility] institution;
- (B) a **contracted county jail**;
- (C) a **community corrections center**; or
- (D) a **community corrections 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.]

(7) A parolee detained or recommitted to a community corrections center or community corrections facility under paragraph (1) shall be segregated from other offenders located at the facility.

(d) **Recommitment to correctional facility.**--A technical violator [under subsection (c) shall be recommitted to a correctional facility, unless placed at a parole violator center,] **recommitted to a State correctional institution or a contracted county jail under subsection (c) shall be recommitted as follows:**

* * *

(2) If paroled from a State correctional institution, **to** 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] **or contracted county jail** designated by the department.

(3) **Except as set forth in paragraph (4) or (5), the parolee shall be recommitted for one of the following periods, at which time the parolee shall automatically be reparaoled without further action by the board:**

(i) For the first recommitment under this subsection, a maximum period of six months.

(ii) For the second recommitment under this subsection for the same sentence, a maximum of nine months.

(iii) For the third or subsequent recommitment under this subsection for the same sentence, a maximum of one year.

(4) The parolee may be reparaoled by the board prior to expiration of the time period under paragraph (3) if the board determines that it is in the best interest of the Commonwealth and the parolee.

(5) The time limit under paragraph (3) shall not be applicable to a parolee who:

(i) committed a disciplinary infraction involving assaultive behavior, sexual assault, a weapon or controlled substances;

(ii) spent more than 90 days in segregated housing due to one or more disciplinary infractions; or

(iii) refused programming or a work assignment.

(e) **Recommitment to community corrections center or community corrections facility.**--

(1) A technical violator recommitted to a community corrections center or community corrections facility under subsection (c) shall be recommitted for a maximum period of six months, after which the parolee shall automatically be reparaoled without further action by the board.

(2) A parolee under paragraph (1) may be reparaoled by the board prior to expiration of the six-month period if the board determines that it is in the best interest of the Commonwealth and the parolee.

(3) This subsection shall not apply to a parolee who is not in good standing with the board.

(f) 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:

"Community corrections center." A residential program that is supervised and operated by the department in accordance with Chapter 50 (relating to community corrections centers and community corrections facilities).

"Community corrections facility." A residential facility operated by a private contractor that:

(1) houses offenders pursuant to a contract with the department; and

(2) is operated in accordance with Chapter 50.

"Contracted county jail." A county correctional facility which has contracted with the department to provide correctional or other services.

"State correctional institution." Any of the following owned and operated by the Commonwealth:

(1) A correctional facility.

(2) A prison.

(3) A jail.

Section 16. Title 61 is amended by adding a section to read: § 6143. Early parole of inmates subject to Federal removal order.

(a) Eligibility.--Notwithstanding any other provision of law, the board may parole an inmate into the custody of the United States Immigration and Customs Enforcement for deportation prior to the expiration of the inmate's minimum term of imprisonment if all of the following requirements are satisfied:

(1) The board has received a final order of removal for the inmate from the United States Immigration and Customs Enforcement.

(2) The inmate is at least 18 years of age and is not a native or citizen of the United States.

(3) The offender has never been convicted or adjudicated delinquent of a crime of violence or a crime requiring registration under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).

(4) The board certifies that removal of the inmate is appropriate and in the best interests of the Commonwealth.

(5) The inmate has been advised of all of the following:

(i) Unlawful reentry into the United States will result in the inmate's return to the department to serve the remainder of the inmate's maximum term of imprisonment without the possibility of parole.

(ii) If the inmate reenters the United States and commits a criminal offense, upon conviction the inmate shall be subject to 42 Pa.C.S. § 9720.3 (relating to sentencing for certain paroled offenders).

(iii) Reentry into the United States may subject the inmate to prosecution by the United States under 8 U.S.C. § 1326 (relating to reentry of removed aliens).

(b) Parole discretionary.--The decision to parole an inmate under subsection (a) shall be within the sole discretion of the board. Nothing under this section shall be construed to confer a legal right upon the inmate to parole under subsection (a).

(c) Return of inmate by United States.--If the United States Immigration and Customs Enforcement is unable to or does not deport the inmate, the inmate shall be returned to the custody of the department and the board shall rescind the inmate's parole.

(d) Unlawful reentry.--An inmate paroled under this section who returns unlawfully to the United States shall be given a hearing before the board and recommitted as a parole violator upon a determination by the board that the inmate did unlawfully return to the United States. Upon recommitment, the inmate shall be required to serve the remainder of the inmate's maximum term of imprisonment without the possibility of parole. The inmate shall not be entitled to credit for any time on parole under this section.

(e) Definition.--As used in this section, the term "crime of violence" shall be defined as provided in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses).

Section 17. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the repeal of 61 Pa.C.S. §§ 3701, 3702, 3703 and 3704.

(2) The following acts or parts of acts are repealed:

(i) Section 909(f) and (g) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(ii) Section 441.1(b) and the definition of "correctional institution" in section 1401-A of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

Section 18. The regulations at 37 Pa. Code Ch. 94 are abrogated insofar as they are inconsistent with the repeal of 61 Pa.C.S. §§ 3701, 3702, 3703 and 3704.

Section 19. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) (Reserved).

(ii) The amendment of 61 Pa.C.S. § 6132(a)(2)(ii) and (b).

(iii) The amendment of 61 Pa.C.S. § 6134.1(c)(1) and (2).

(iv) (Reserved).

(v) This section.

(1.1) The addition of 42 Pa.C.S. § 9762(i) and (j) shall take effect in 30 days.

(2) The following provisions shall take effect in 180 days:

(i) The addition of 61 Pa.C.S. Ch. 50.

(ii) The amendment or addition of 61 Pa.C.S. § 6138(c)(1), (1.1), (2), (4), (5)(v), (6) and (7), (d) introductory paragraph, (2), (3), (4) and (5), (e) and (f).

(3) The following provisions shall take effect July 1, 2013:

(i) The amendment of 18 Pa.C.S. § 7508(c).

(ii) The amendment of 42 Pa.C.S.:

(A) § 9727(d);

(B) § 9755(g); and

(C) § 9756(d).

(iii) The amendment of the definition of "correctional facility" in 61 Pa.C.S. § 1172.

(iv) The repeal of 61 Pa.C.S.:

- (A) § 3701;
- (B) § 3702;
- (C) § 3703; and
- (D) § 3704.

(v) The amendment of the definitions of "community corrections center," "defendant," "eligible offender" and "group home" in 61 Pa.C.S. § 4103.

(vi) (Reserved).

(vii) The amendment of 61 Pa.C.S. § 4701.

(viii) The amendment of 61 Pa.C.S. § 6124(c).

(ix) The amendment of 61 Pa.C.S. § 6137(a)(4).

(x) Section 17 of this act.

(xi) Section 18 of this act.

(4) The remainder of this act shall take effect in 60 days.

APPROVED--The 5th day of July, A.D. 2012.

TOM CORBETT