

**JUDICIAL CODE (42 PA.C.S.), PRISONS AND PAROLE (61 PA.C.S.) AND
STATE GOVERNMENT (71 PA.C.S.) - OMNIBUS AMENDMENTS**

Act of Jun. 30, 2021, P.L. 260, No. 59

Cl. 42

Session of 2021
No. 2021-59

SB 411

AN ACT

Amending Titles 42 (Judiciary and Judicial Procedure), 61 (Prisons and Parole) and 71 (State Government) of the Pennsylvania Consolidated Statutes, in judicial boards and commissions, further providing for definitions and for publication of guidelines for sentencing, resentencing and parole, risk assessment instrument and recommitment ranges following revocation; in depositions and witnesses, further providing for confidential communications involving law enforcement officers and for confidential communications to peer support members; in juvenile matters, further providing for inspection of court files and records; in particular rights and immunities, further providing for immunity of State parole officers and for immunity of program administrators and supervisors; in post-trial matters, further providing for postconviction DNA testing; in sentencing, further providing for mandatory period of probation for certain sexual offenders, for disposition of persons found guilty but mentally ill, for information required upon commitment and subsequent disposition, for judicial power to release inmates, for transfer of inmates in need of medical treatment, for applicability, for registry, for initial registration, for duty to inform, for enforcement, for assessments, for verification by sexual offenders and Pennsylvania State Police, for administration, for global positioning system technology, for immunity for good faith conduct, for Pennsylvania State Police, for duties of probation and parole officials, for board, for annual performance audit, for applicability, for registration, for registration procedures and applicability, for assessments, for administration, for global positioning system technology, for immunity for good faith conduct, for duties of Pennsylvania State Police, for duties of Pennsylvania Board of Probation and Parole, for board and for annual performance audit; in other criminal provisions, further providing for supervisory relationship to offenders; in preliminary provisions, further providing for definitions; in general administration, providing for powers of peace officers; in community corrections centers and community corrections facilities, further providing for definitions, for department, for offenders who may be housed, for authority of Commonwealth employees, for authority of chairman and for escape and providing for certain offenders residing in group-based homes and for reporting; in Pennsylvania Board of Probation and Parole, further providing for definitions, for operation of parole system generally, for Pennsylvania Parole Board, for board chairperson, for board action, for meetings and for offices, repealing provisions relating to district directors, to district office employees, to disciplinary action and to certain offenders residing in group-based homes, further providing for general powers of board and for specific powers of board involving parolees,

repealing provisions relating to probation services, further providing for sentencing court to transmit records to board, for general criteria for parole by court, for right of access to inmates, for parole power, for violation of terms of parole, for parole procedure, for victim statements, testimony and participation in hearing, for general rules and special regulations and for early parole of inmates subject to Federal removal order and repealing provisions relating to definitions, to status as peace officers and to supervisory relationship to offenders; providing for supervision of offenders and for agents; in county probation officers' firearm education and training, further providing for definitions; in Interstate Compacts, further providing for Interstate Compact for the Supervision of Adult Offenders application fee, for deputization and for supervision of persons paroled by other states; providing for Board of Pardons; in preliminary provisions relating to retirement for State employees and officers, further providing for definitions; conferring powers and imposing duties on the Department of Corrections; providing for the transfer of functions, powers and duties of the Pennsylvania Board of Probation and Parole and for appropriations for the Office of Victim Advocate; making related repeals; and making editorial changes.

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

Section 1. The definition of "board" in section 2151.1 of Title 42 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2151.1. 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 Pennsylvania [Board of Probation and] Parole **Board.**

* * *

Section 2. Sections 2155(a)(1) introductory paragraph and (vi), 5950(d), 5952(d), 6307(a)(6.5), 8332.7, 8340, 9543.1(f)(6), 9718.5(d) and 9727(a), (b)(1), (c) and (f)(3) of Title 42 are amended to read:

§ 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] **guidelines for restrictive conditions of probation**, 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:

* * *

(vi) [State Board of Probation and] **Pennsylvania Parole Board.**

* * *

§ 5950. Confidential communications involving law enforcement officers.

* * *

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

"Coparticipant." An individual who participates in a group critical incident stress management team intervention.

"Critical incident." A situation responded to by a law enforcement officer which presents or involves either the death or serious bodily injury of an individual or the imminent potential of such death or serious bodily injury, or any situation faced by a law enforcement officer in the course of duty which causes or may cause the law enforcement officer to experience unusually strong negative emotional reactions.

"Critical Incident Stress Management Network." A network that meets the requirements of membership with the Pennsylvania Voluntary Critical Incident Stress Management Network as administered by the Department of Health and is registered with the International Critical Incident Stress Foundation.

"Critical incident stress management services."

Consultation, risk assessment, education, intervention, briefing, defusing, debriefing, onsite services, referral and other crisis intervention services provided by a critical incident stress management team to a law enforcement officer prior to, during or after a critical incident.

"Critical incident stress management team member." An individual who is specially trained to provide critical incident stress management services as a member of a police agency or organization critical incident stress management team that holds membership in the Commonwealth's critical incident stress management network.

"Government unit." The General Assembly and its officers and agencies; the Governor and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth or other instrumentalities thereof; any political subdivision, municipality, school district or other local authority and the departments, boards, commissions, authorities and officers and agencies of such political subdivisions or other instrumentalities thereof; and any court or other officer or agency of the unified judicial system or instrumentality thereof.

"Law enforcement officer." Any of the following:

- (1) A member of the Pennsylvania State Police.
- (2) Any enforcement officer or investigator employed by the Pennsylvania Liquor Control Board.
- (3) A parole agent[, enforcement officer and investigator of the Pennsylvania Board of Probation and Parole] **of the Department of Corrections.**
- (4) A Capitol Police officer.
- (5) A Department of Conservation and Natural Resources ranger.
- (6) A drug enforcement agent of the Office of Attorney General whose principal duty is the enforcement of the drug laws of this Commonwealth and a special agent of the Office of Attorney General whose principal duty is the enforcement of the criminal laws of this Commonwealth.
- (7) Any member of a port authority or other authority police department.
- (8) Any police officer of a county, region, city, borough, town or township.
- (9) Any sheriff or deputy sheriff.
- (10) A member of the Pennsylvania Fish Commission.
- (11) A Pennsylvania Wildlife Conservation Officer.

(12) A member of a campus police force with the power to arrest under section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. As used in this paragraph, the term "campus police" has the meaning given in section 302 of the act of November 29, 2004 (P.L.1383, No.180), known as the Uniform Crime Reporting Act.

(13) A member of the Fort Indiantown Gap Police Force.
§ 5952. Confidential communications to peer support members.
* * *

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

"Coparticipant." An individual who participates in the provision of peer support services.

"Government unit." The General Assembly and its officers and agencies; the Governor and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth or other instrumentalities thereof; any political subdivision, municipality, school district, local authority and the departments, boards, commissions, authorities and officers and agencies of such political subdivisions or other instrumentalities thereof; and any court or other officer or agency of the unified judicial system or instrumentality thereof.

"Law enforcement officer." Any of the following:

- (1) A member of the Pennsylvania State Police.
- (2) Any enforcement officer or investigator employed by the Pennsylvania Liquor Control Board.
- (3) A parole agent[, enforcement officer and investigator of the Pennsylvania Board of Probation and Parole] **of the Department of Corrections.**
- (4) A Capitol Police officer.
- (5) A Department of Conservation and Natural Resources ranger.
- (6) A drug enforcement agent of the Office of Attorney General whose principal duty is the enforcement of the drug laws of this Commonwealth and a special agent of the Office of Attorney General whose principal duty is the enforcement of the criminal laws of this Commonwealth.
- (7) Any member of a port authority or other authority police department.
- (8) Any police officer of a county, region, city, borough, town or township.
- (9) Any sheriff or deputy sheriff.
- (10) A member of the Pennsylvania Fish and Boat Commission.

(11) A Pennsylvania Wildlife Conservation Officer.

(12) A member of a campus police force with the power to arrest under section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. As used in this paragraph, the term "campus police" has the meaning given in section 302 of the act of November 29, 2004 (P.L.1383, No.180), known as the Uniform Crime Reporting Act.

(13) A member of the Fort Indiantown Gap Police Force.
"Peer support member." A law enforcement officer who:

- (1) Is assigned by a law enforcement agency.
- (2) Receives a minimum of 24 hours of basic training in peer services, including listening, assessment and referral skills and basic critical incident stress management.

(3) Receives eight hours of continuing training each year.

(4) May be supervised by licensed psychologists.

§ 6307. Inspection of court files and records.

(a) General rule.--All files and records of the court in a proceeding under this chapter are open to inspection only by:

* * *

(6.5) The Department of [Public Welfare] **Human Services** for use in determining whether an individual named as the perpetrator of an indicated report of child abuse should be expunged from the Statewide database.

* * *

§ 8332.7. Immunity of State parole officers.

(a) Assistance of law enforcement personnel.--In addition to the provisions of [section 27 of the act of August 6, 1941 (P.L.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law,] **61 Pa.C.S. § 6181 (relating to status as peace officers)** or any other law, any parole officer appointed by the [Pennsylvania Board of Probation and Parole] **Department of Corrections** who, after obtaining permission in advance from a person authorized by the [Pennsylvania Board of Probation and Parole] **Secretary of Corrections**, assists Federal, State or local law enforcement officers or agents or county probation officers in the lawful performance of their duties shall be considered to be acting within the scope of his official duty for all purposes of law and shall enjoy any benefit or immunity conferred upon an employee of the Commonwealth.

(b) Assistance of criminal victims.--In addition to any other immunity provided by law, any parole officer appointed by the [Pennsylvania Board of Probation and Parole] **Secretary of Corrections** who is entitled to immunity under section 8331.3 (relating to criminal victim aid good Samaritan civil immunity) as a result of providing assistance to a victim of a crime shall be considered to be acting within the scope of his official duty while providing assistance to the victim for all purposes of law and shall enjoy any benefit or immunity conferred upon an employee of the Commonwealth.

§ 8340. Immunity of program administrators and supervisors.

Any probation officer or agent of the [Pennsylvania Board of Probation and Parole] **Department of Corrections** and any public service or charitable agency or organization or political subdivision, or any official or employee thereof, supervising or administering any restitution or community service program approved by the court of common pleas or the [Pennsylvania Board of Probation and Parole] **Department of Corrections** shall be immune from any civil action for damages brought by or on behalf of any person involved in the program or damages caused by any person involved in the program. Nothing in this section shall be construed to limit or otherwise affect or preclude liability resulting from gross negligence or intentional misconduct or reckless misconduct.

§ 9543.1. Postconviction DNA testing.

* * *

(f) Posttesting procedures.--

* * *

(6) If DNA testing conclusively identifies the DNA profile of the applicant on probative and inculpatory evidence, the court shall dismiss the petition and may make any further orders that are appropriate. An order under this paragraph may:

(i) direct that the Pennsylvania [Board of Probation and] Parole **Board** be notified of the test results; or

(ii) mandate that the applicant's DNA profile be added to the Commonwealth's convicted offender database.

* * *

§ 9718.5. Mandatory period of probation for certain sexual offenders.

* * *

(d) Direct supervision.--Nothing under this section shall limit the court's authority to direct supervision by the [Pennsylvania Board of Probation and Parole] **Department of Corrections** by special order as provided under 61 Pa.C.S. § [6133(a)] **6172(a)** (relating to probation services).

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

(a) Imposition of sentence.--A defendant found guilty but mentally ill or whose plea of guilty but mentally ill is accepted under the provisions of 18 Pa.C.S. § 314 (relating to guilty but mentally ill) may have any sentence imposed on him which may lawfully be imposed on any defendant convicted of the same offense. Before imposing sentence, the court shall hear testimony and make a finding on the issue of whether the defendant at the time of sentencing is severely mentally disabled and in need of treatment pursuant to the provisions of the act of July 9, 1976 (P.L.817, No.143), known as the ["Mental] **Mental Health Procedures [Act.] Act.**

(b) Treatment.--

(1) An offender who is severely mentally disabled and in need of treatment at the time of sentencing shall, consistent with available resources, be provided such treatment as is psychiatrically or psychologically indicated for his mental illness. Treatment may be provided by the [Bureau of Correction] **Department of Corrections**, by the county or by the Department of [Public Welfare] **Human Services** in accordance with the ["Mental] **Mental Health Procedures [Act.] Act.**

* * *

(c) Discharge report.--When a treating facility designated by either the [Bureau of Correction] **Department of Corrections** or the Department of [Public Welfare] **Human Services** discharges such a defendant from treatment prior to the expiration of his maximum sentence, that treating facility shall transmit to the Pennsylvania [Board of Probation and] Parole **Board**, the correctional facility or county jail to which the offender is being returned and the sentencing judge a report on the condition of the offender together with the reasons for its judgments, which describes:

- (1) The defendant's behavior.
- (2) The course of treatment.
- (3) The potential for recurrence of the behavior.
- (4) The potential for danger to himself or the public.
- (5) Recommendations for future treatment.

* * *

(f) Probation.--

* * *

(3) Treatment shall be provided by an agency approved by the Department of [Public Welfare] **Human Services** or, with the approval of the sentencing court and at individual expense, by private agencies, private physicians or other mental health personnel. A mental health status report, containing the information set forth in subsection (c), shall be filed with the probation officer and the sentencing court every three months during the period of probation. If a

motion on a petition to discontinue probation is made by the defendant, the probation officer shall request a report as specified from the treating facility.

Section 3. Section 9764(e), (f), (h), (i) and (k) of Title 42 are amended to read:

§ 9764. Information required upon commitment and subsequent disposition.

* * *

(e) Release by Department of Corrections.--Prior to the release of an inmate from the Department of Corrections to State parole supervision, the Department of Corrections shall provide to the [Board of Probation and] **Pennsylvania Parole Board** the information contained in subsections (a)(1) and (2) and (b).

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

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

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

* * *

(h) Record of inmate moneys.--Prior to the release of an inmate from the Department of Corrections to State parole supervision, the department shall provide to the [Board of Probation and] **Pennsylvania Parole Board** a record of any moneys paid by the inmate and any balance remaining towards satisfaction of restitution or any other court-ordered financial obligations. Prior to the release of an inmate from a county correctional facility to State parole supervision, the county correctional facility shall provide to the [Board of Probation and Parole] **Department of Corrections** a record of any moneys paid by the inmate and any balance remaining towards the satisfaction of restitution or any other court-ordered financial obligations. Prior to the release of an inmate from a county correctional facility to county parole supervision, the facility shall provide to the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county a record of any moneys paid by the inmate and any remaining balance towards the satisfaction of restitution and any other court-ordered financial obligations.

(i) Continuing payments.--The [Board of Probation and] **Pennsylvania Parole Board** shall require as a condition of parole that any inmate released to their supervision shall make continuing payments on restitution or any other court-ordered financial obligations. The sentencing court shall require as a condition of county parole that any inmate released to the supervision of the county probation department shall make continuing payments of restitution or any other court-ordered financial obligations.

* * *

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

* * *

Section 4. Sections 9776(a), 9777(d)(2), 9799.13(2), 9799.16(d), 9799.19(f), (k)(1) introductory paragraph and (iv) and (2), (l)(2)(iv) and (q)(2), 9799.20 introductory paragraph, 9799.22(d), 9799.24(a), (b) introductory paragraph, (c), (e)(4) and (g), 9799.25(f)(4), 9799.29, 9799.30 and 9799.31(6) of Title 42 are amended to read:

§ 9776. Judicial power to release inmates.

(a) General rule.--Except as otherwise provided under this chapter or if the Pennsylvania [Board of Probation and] Parole **Board** has exclusive parole jurisdiction, a court of this Commonwealth or other court of record having jurisdiction may, after due hearing, release on parole an inmate in the county correctional institution of that judicial district.

* * *

§ 9777. Transfer of inmates in need of medical treatment.

* * *

(d) Notice.--

* * *

(2) The sentencing court shall forward notice of any order entered under this section placing an inmate in a hospital, long-term care nursing facility or hospice care location to the hospital, long-term care nursing facility or hospice care location and to the Department of [Public Welfare] **Human Services**.

* * *

§ 9799.13. Applicability.

The following individuals shall register with the Pennsylvania State Police as provided in sections 9799.15 (relating to period of registration), 9799.19 (relating to initial registration) and 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police) and otherwise comply with the provisions of this subchapter:

* * *

(2) A sexual offender who is an inmate in a State or county correctional institution of this Commonwealth, including a community corrections center or a community contract facility, is being supervised by the [Pennsylvania Board of Probation and Parole] **Department of Corrections** or county probation or parole, is subject to a sentence of intermediate punishment **or restrictive conditions of probation** or has supervision transferred pursuant to the Interstate Compact for Adult Supervision in accordance with section 9799.19(g).

* * *

§ 9799.16. Registry.

* * *

(d) Cooperation.--There shall be cooperation between the Pennsylvania State Police, State and county correctional institutions, the Pennsylvania [Board of Probation and] Parole **Board**, the county office of probation and parole, any court with jurisdiction over a sexual offender, the chief juvenile probation officer of the court, juvenile probation and parole and the Department of [Public Welfare] **Human Services** to ensure that the information set forth in subsections (b) and (c) is provided and placed in the registry.

§ 9799.19. Initial registration.

* * *

(f) Initial registration if being supervised by Commonwealth under Interstate Compact for Adult Offender Supervision.--If an individual is in this Commonwealth and is being supervised by the [State Board of Probation and Parole] **Department of Corrections** or the county office of probation and parole

pursuant to the Interstate Compact for Adult Offender Supervision, the following apply:

(1) If the individual is being supervised under the compact for committing a sexually violent offense which requires registration in another jurisdiction or foreign country whether or not the sexual offense is designated as a sexually violent offense, the individual shall provide the information set forth in section 9799.16(b) (relating to registry) to the appropriate official of the [State Board of Probation and Parole] **Department of Corrections** or the county office of probation and parole for inclusion in the registry. The appropriate official shall collect the information set forth in section 9799.16(b) and forward the information to the Pennsylvania State Police. The appropriate official shall, in addition, ensure that the information set forth in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police. If the individual fails to provide the information in section 9799.16(b), the appropriate official of the [State Board of Probation and Parole] **Department of Corrections** or county office of probation and parole shall notify the Pennsylvania State Police.

* * *

(k) Registration if incarcerated within Commonwealth or by Federal court.--The following apply to an individual who committed a sexually violent offense:

(1) If the individual is incarcerated in a Federal, State or county correctional facility, the individual shall provide the information specified in section 9799.16(b) to the appropriate official of the Federal, State or county correctional facility or the [Pennsylvania Board of Probation and Parole] **Department of Corrections** for inclusion in the registry before being released due to:

* * *

(iv) special probation supervised by the [Pennsylvania Board of Probation and Parole] **Department of Corrections**.

(2) For individuals described in paragraph (1), the appropriate official of the Federal, State or county correctional facility or the [Pennsylvania Board of Probation and Parole] **Department of Corrections** shall collect and forward the information specified in section 9799.16(b) to the Pennsylvania State Police. The appropriate official shall, in addition, ensure that the information specified in section 9799.16(c) is collected and forwarded to the Pennsylvania State Police. The information specified in section 9799.16(b) and (c) shall be included in the registry. With respect to individuals released under paragraph (1) (ii), (iii) or (iv), the State or county correctional facility shall not release the individual until the State or county correctional facility receives verification from the Pennsylvania State Police that the Pennsylvania State Police has received the information specified in section 9799.16(b) and (c). Verification may take place by electronic means. With respect to individuals released under paragraph (1) (i), if the individual refuses to provide the information specified in section 9799.16(b), the State or county correctional facility shall notify the Pennsylvania State Police or the municipal police department with jurisdiction over the facility of the failure to provide the information and of the expected date, time and location of the release of the individual.

(1) Registration if sentenced to a State or county correctional facility.--If the individual committed a sexually violent offense and is sentenced to a period of incarceration in a State or county correctional facility, the individual shall provide the information specified in section 9799.16(b) as follows:

* * *

(2) If the individual is incarcerated in a State or county correctional facility, the correctional facility shall notify the Pennsylvania State Police, not more than 30 days in advance of, but not later than 10 days prior to, the individual's release from the correctional facility. The following apply:

* * *

(iv) In the case of parole, State [or county] intermediate punishment, **State drug treatment programs or restrictive conditions of probation** where the sentence is restrictive and the individual is sentenced to a period of incarceration in a State or county correctional facility or work release facility or special probation supervised by the [Pennsylvania Board of Probation and Parole] **Department of Corrections**, the correctional facility may not release the individual until the correctional facility receives verification from the Pennsylvania State Police that the Pennsylvania State Police has received the information specified in section 9799.16(b) and (c). Verification by the Pennsylvania State Police may occur by electronic means.

* * *

(q) Registration for State or county parolees.--

* * *

(2) If the individual committed a sexually violent offense and is serving a sentence of State parole, the [Pennsylvania Board of Probation and Parole] **Department of Corrections** shall register the individual within 48 hours. The appropriate official of the [Pennsylvania Board of Probation and Parole] **Department of Corrections** shall collect the information specified in section 9799.16(b) from the individual and forward the information to the Pennsylvania State Police. The Pennsylvania State Police shall ensure that the information specified in section 9799.16(c) is collected. The information specified in section 9799.16(b) and (c) shall be included in the registry. If the individual fails to comply, the appropriate official of the [Pennsylvania Board of Probation and Parole] **Department of Corrections** shall notify the Pennsylvania State Police.

§ 9799.20. Duty to inform.

In order to implement the provisions of section 9799.19 (relating to initial registration), as appropriate, the Pennsylvania State Police, the court having jurisdiction over the sexual offender, the chief juvenile probation officer of the court and the appropriate official of the [Pennsylvania Board of Probation and Parole] **Department of Corrections**, county office of probation and parole, the Department of [Public Welfare] **Human Services** or a State or county correctional institution shall:

* * *

§ 9799.22. Enforcement.

* * *

(d) Duty to inform Pennsylvania State Police.--In order to implement this subchapter, the court with jurisdiction over the sexual offender, the chief juvenile probation officer of the

court and the appropriate official of the [Pennsylvania Board of Probation and Parole] **Department of Corrections responsible for State parole supervision**, the county office of probation and parole, the Department of [Public Welfare] **Human Services** or a State or county correctional institution shall inform the Pennsylvania State Police if the individual refuses to provide the information required by this subchapter so that the Pennsylvania State Police may comply with this section.

§ 9799.24. Assessments.

(a) Order for assessment.--After conviction but before sentencing, a court shall order an individual convicted of a sexually violent offense to be assessed by the board. The order for an assessment shall be sent to the [administrative officer] **executive director** of the board within ten days of the date of conviction for the sexually violent offense.

(b) Assessment.--Upon receipt from the court of an order for an assessment, a member of the board as designated by the [administrative officer] **executive director** of the board shall conduct an assessment of the individual to determine if the individual should be classified as a sexually violent predator. The board shall establish standards for evaluations and for evaluators conducting the assessments. An assessment shall include, but not be limited to, an examination of the following:

* * *

(c) Release of information.--All State, county and local agencies, offices and entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing copies of records and information as requested by the board in connection with the court-ordered assessment and the assessment requested by the Pennsylvania [Board of Probation and] Parole **Board** or the assessment of a delinquent child under section 6358 (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board). For assessments of delinquent children conducted by the board pursuant to section 6358 from January 23, 2005, to December 19, 2012, all State, county and local agencies, offices and entities, including juvenile probation officers, are subject to the release of information requirements set forth in this subsection.

* * *

(e) Hearing.--

* * *

(4) A copy of the order containing the determination of the court shall be immediately submitted to the individual, the district attorney, the Pennsylvania [Board of Probation and] Parole **Board**, the Department of Corrections, the board and the Pennsylvania State Police.

* * *

(g) Parole assessment.--The Pennsylvania [Board of Probation and] Parole **Board** may request of the board that an assessment of a sexual offender be conducted and that a report be provided to the Pennsylvania [Board of Probation and] Parole **Board** prior to considering a sexual offender for parole.

* * *

§ 9799.25. Verification by sexual offenders and Pennsylvania State Police.

* * *

(f) Residents in group-based homes.--

* * *

(4) As used in this subsection, the term "group-based home" has the meaning given to it in 61 Pa.C.S. § [6124(c)] **5007(c)** (relating to certain offenders residing in group-based homes).

§ 9799.29. Administration.

The Governor shall direct the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the board, the Department of Corrections, the Department of Transportation and any other agency of the Commonwealth that the Governor deems necessary to collaboratively design, develop and implement an integrated and secure system of communication, storage and retrieval of information to assure the timely, accurate and efficient administration of this subchapter.

§ 9799.30. Global positioning system technology.

The Pennsylvania [Board of Probation and] Parole **Board, the Department of Corrections, the agents of the Department of Corrections** and county probation authorities may impose supervision conditions that include tracking through global positioning system technology.

§ 9799.31. Immunity for good faith conduct.

The following entities shall be immune from liability for good faith conduct under this subchapter:

* * *

(6) The Pennsylvania [Board of Probation and] Parole **Board** and its agents and employees.

* * *

Section 5. Section 9799.32 heading and paragraphs (2), (7), (8) and (9) of Title 42 are amended to read:

§ 9799.32. Pennsylvania State Police **and Department of Corrections.**

The Pennsylvania State Police have the following duties:

* * *

(2) In consultation with the Department of Corrections, the Office of Attorney General, the Juvenile Court Judges' Commission, the Administrative Office of Pennsylvania Courts[, the Pennsylvania Board of Probation and Parole] and the chairman and minority chairman of the Judiciary Committee of the Senate and the chairman and minority chairman of the Judiciary Committee of the House of Representatives, to promulgate guidelines necessary for the general administration of this subchapter. These guidelines shall establish procedures to allow an individual subject to the requirements of this subchapter, including a transient, to fulfill these requirements at approved registration sites throughout this Commonwealth. The Pennsylvania State Police shall publish a list of approved registration sites in the Pennsylvania Bulletin and provide a list of approved registration sites in any notice sent to individuals required to register under this subchapter. An approved registration site shall be capable of submitting fingerprints, palm prints, DNA samples and any other information required electronically to the Pennsylvania State Police. The Pennsylvania State Police shall require that approved registration sites submit fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in such form as the Pennsylvania State Police shall require. Approved registration sites shall not be limited to sites managed by the Pennsylvania State Police and shall include sites managed by local law enforcement agencies that meet the criteria for approved registration sites set forth in this paragraph.

* * *

(7) In consultation with the Department of Education and the [Pennsylvania Board of Probation and Parole,] **Department of Corrections**, to promulgate guidelines directing licensed day-care centers, licensed preschool

programs, schools, universities and colleges, including community colleges, on the proper use and administration of information received under section 9799.27.

(8) In consultation with the Department of Corrections [and the Pennsylvania Board of Probation and Parole], to promulgate guidelines directing State and county correctional facilities and State and county probation and parole offices regarding the completion of information, including the taking of photographs, required by sexual offenders under this subchapter.

(9) In consultation with the Administrative Office of Pennsylvania Courts, the Department of [Public Welfare] **Human Services** and the Juvenile Court Judges' Commission, to promulgate guidelines regarding the completion of information required by juvenile offenders and sexually violent delinquent children under this subchapter.

* * *

Section 6. Sections 9799.33, 9799.35(e), 9799.38, 9799.54(a)(3), 9799.55(d)(4), 9799.56(a)(4)(i), 9799.58(c), (e)(4) and (g), 9799.64, 9799.65, 9799.66(6), 9799.67(2), (5) and (6), 9799.68, 9799.69(e), 9799.72 and 9912(e.1)(10) of Title 42 are amended to read:

§ 9799.33. Duties of **Department of Corrections** and probation and parole officials.

(a) Duties.--The [Pennsylvania Board of Probation and Parole,] **Department of Corrections**, the county office of probation and parole and the chief juvenile probation officer of the court shall:

(1) Perform their respective duties set forth for the [Pennsylvania Board of Probation and Parole,] **Department of Corrections**, the county office of probation and parole and the chief juvenile probation officer of the court in accordance with section 9799.19 (relating to initial registration).

(2) On a form prescribed by the Pennsylvania State Police, notify the Pennsylvania State Police each time a sexual offender is arrested, recommitted to a State or county correctional institution for a parole violation or incarcerated.

(b) Notification form.--The [Pennsylvania Board of Probation and Parole] **Department of Corrections** shall create a notification form which will inform [State and] county prison and probation and parole personnel how to inform sexual offenders of their duties under this subchapter. In addition, the [Pennsylvania Board of Probation and Parole] **Department of Corrections** shall apply for Federal funding as provided in the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587) to support and enhance programming using global satellite positioning system technology.

§ 9799.35. Board.

* * *

(e) Staff.--[Support staff for the board shall be provided by the Pennsylvania Board of Probation and Parole.] **The board shall employ an executive director and other staff as necessary to carry out the board's duties under this chapter. The executive director shall direct the operations, management and administration of the board and organize and oversee the work of the staff. Legal counsel for the board shall be provided in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act. Upon request by the board, the Department of Corrections shall make**

available facilities, administrative support and other assistance to the board.

§ 9799.38. Annual performance audit.

(a) Duties of the Attorney General.--The Attorney General has the following duties:

(1) To conduct a performance audit annually to determine compliance with the requirements of this subchapter and Subchapter I (relating to continued registration of sexual offenders) and any guidelines promulgated under this subchapter and Subchapter I. The audit shall, at a minimum, include a review of the practices, procedures and records of the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts and any other State or local agency the Attorney General deems necessary in order to conduct a thorough and accurate performance audit.

(2) To prepare an annual report of its findings and any action that it recommends be taken by the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, other State or local agencies and the General Assembly to ensure compliance with this subchapter and Subchapter I. The first report shall be released to the general public no fewer than 18 months after December 20, 2012.

(3) To provide a copy of its report to the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, State or local agencies referenced in the report, the chairman and the minority chairman of the Judiciary Committee of the Senate and the chairman and the minority chairman of the Judiciary Committee of the House of Representatives no fewer than 30 days prior to its release to the general public.

(b) Cooperation required.--Notwithstanding any other provision of law to the contrary, the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the Department of Corrections, the board, the Administrative Office of Pennsylvania Courts, the Pennsylvania Commission on Sentencing and any other State or local agency requested to do so shall fully cooperate with the Attorney General and assist the Office of Attorney General in satisfying the requirements of this section. For purposes of this subsection, full cooperation shall include, at a minimum, complete access to unredacted records, files, reports and data systems.

§ 9799.54. Applicability.

(a) Registration.--The following individuals shall register with the Pennsylvania State Police as provided in this subchapter:

* * *

(3) An individual who committed a sexually violent offense within this Commonwealth and is an inmate in a State or county correctional facility of this Commonwealth, including a community corrections center or a community contract facility, is being supervised by the [Pennsylvania Board of Probation and Parole] **Department of Corrections** or county probation or parole, is subject to a sentence of intermediate punishment or has supervision transferred under the Interstate Compact for Adult Supervision in accordance with section 9799.62(e) (relating to other notification). The individual shall register for the period of time under

section 9799.55, except that the period required in section 9799.55 shall be tolled for any period of time the individual is recommitted for a parole violation or sentenced to a term of imprisonment.

* * *

§ 9799.55. Registration.

* * *

(d) Residents in group-based homes.--

* * *

(4) As used in this subsection, the term "group-based home" has the meaning given to it in 61 Pa.C.S. § [6124(c)] **5007(c)** (relating to certain offenders residing in group-based homes).

§ 9799.56. Registration procedures and applicability.

(a) Registration.--

* * *

(4) This paragraph shall apply to all offenders and sexually violent predators:

(i) Where the offender or sexually violent predator was granted parole by the Pennsylvania [Board of Probation and] Parole **Board** or the court or is sentenced to probation or intermediate punishment, **probation with restrictions or is placed in the State drug treatment program**, the board or county office of probation and parole shall collect registration information from the offender or sexually violent predator and forward that registration information to the Pennsylvania State Police. The Department of Corrections or county correctional facility shall not release the offender or sexually violent predator until it receives verification from the Pennsylvania State Police that the Pennsylvania State Police have received the registration information. Verification by the Pennsylvania State Police may occur by electronic means, including e-mail or facsimile transmission. Where the offender or sexually violent predator is scheduled to be released from a State or county correctional facility because of the expiration of the maximum term of incarceration, the Department of Corrections or county correctional facility shall collect the information from the offender or sexually violent predator no later than 10 days prior to the maximum expiration date. The registration information shall be forwarded to the Pennsylvania State Police.

* * *

§ 9799.58. Assessments.

* * *

(c) Release of information.--All State, county and local agencies, offices or entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing access to records and information as requested by the board in connection with the court-ordered assessment and the assessment requested by the Pennsylvania [Board of Probation and] Parole **Board** or the assessment of a delinquent child under section 6358 (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board).

* * *

(e) Hearing.--

* * *

(4) A copy of the order containing the determination of the court shall be immediately submitted to the individual, the district attorney, the Pennsylvania [Board

of Probation and] Parole **Board**, the Department of Corrections, the board and the Pennsylvania State Police.

* * *

(g) Parole assessment.--The Pennsylvania [Board of Probation and] Parole **Board** may request of the board an assessment of an offender or sexually violent predator be conducted and provide a report to the Pennsylvania [Board of Probation and] Parole **Board** prior to considering an offender or sexually violent predator for parole.

* * *

§ 9799.64. Administration.

The Governor shall direct the Pennsylvania State Police, the Pennsylvania [Board of Probation and] Parole **Board**, the [State Sexual Offenders Assessment Board] **board**, the Department of Corrections, the Department of Transportation and any other agency of this Commonwealth the Governor deems necessary to collaboratively design, develop and implement an integrated and secure system of communication, storage and retrieval of information to assure the timely, accurate and efficient administration of this subchapter.

§ 9799.65. Global positioning system technology.

The Pennsylvania [Board of Probation and] Parole **Board**, the **Department of Corrections** and county probation authorities may impose supervision conditions that include offender tracking through global positioning system technology.

§ 9799.66. Immunity for good faith conduct.

The following entities shall be immune from liability for good faith conduct under this subchapter:

* * *

(6) The Pennsylvania [Board of Probation and] Parole **Board** and its agents and employees.

* * *

§ 9799.67. Duties of Pennsylvania State Police.

The Pennsylvania State Police shall:

* * *

(2) In consultation with the Department of Corrections, the Office of Attorney General[, the Pennsylvania Board of Probation and Parole] and the chairperson and the minority chairperson of the Judiciary Committee of the Senate and the chairperson and the minority chairperson of the Judiciary Committee of the House of Representatives, promulgate guidelines necessary for the general administration of this subchapter. These guidelines shall establish procedures to allow an individual subject to the requirements of sections 9799.55 (relating to registration) and 9799.60 (relating to verification of residence) to fulfill these requirements at approved registration sites throughout this Commonwealth. This paragraph includes the duty to establish procedures to allow an individual who has a residence as defined in paragraph (2) of the definition of "residence" in section 9799.53 (relating to definitions) to fulfill the requirements regarding registration at approved registration sites throughout this Commonwealth. The Pennsylvania State Police shall publish a list of approved registration sites in the Pennsylvania Bulletin and provide a list of approved registration sites in any notices sent to individuals required to register under section 9799.55. An approved registration site shall be capable of submitting fingerprints, photographs and other information required electronically to the Pennsylvania State Police. The Pennsylvania State Police shall require that approved registration sites submit fingerprints utilizing the

Integrated Automated Fingerprint Identification System or in another manner and in the form as the Pennsylvania State Police shall require. The Pennsylvania State Police shall require that approved registration sites submit photographs utilizing the Commonwealth Photo Imaging Network or in another manner and in the form as the Pennsylvania State Police shall require. Approved registration sites shall not be limited to sites managed by the Pennsylvania State Police and shall include sites managed by local law enforcement agencies that meet the criteria for approved registration sites specified in this paragraph.

* * *

(5) In consultation with the Department of Education and the [Pennsylvania Board of Probation and Parole,] **Department of Corrections**, promulgate guidelines directing licensed day-care centers, licensed preschool programs, schools, universities and colleges, including community colleges, on the proper use and administration of information received under section 9799.62 (relating to other notification).

(6) Immediately transfer the information received from the [Pennsylvania Board of Probation and Parole] **Department of Corrections** under section 9799.68(2) and (3) (relating to duties of [Pennsylvania Board of Probation and Parole] **Department of Corrections**) and the fingerprints of a sexually violent predator to the Federal Bureau of Investigation.

* * *

§ 9799.68. Duties of [Pennsylvania Board of Probation and Parole] **Department of Corrections**.

The [Pennsylvania Board of Probation and Parole] **Department of Corrections** shall:

(1) Create a notification form which will inform State and county prison and probation and parole personnel how to inform offenders and sexually violent predators required to register under this subchapter of their duty under the law.

(2) In cooperation with [the Department of Corrections and] other Commonwealth agencies, obtain the following information regarding offenders and sexually violent predators:

(i) Name, including aliases.

(ii) Identifying factors.

(iii) Anticipated future residence.

(iv) Offense history.

(v) Documentation of treatment received for the mental abnormality or personality disorder.

(vi) Photograph of the offender or sexually violent predator.

(3) Immediately transmit the information in paragraph (2) to the Pennsylvania State Police for immediate entry into the State registry of offenders and sexually violent predators and the criminal history record of the individual as provided in 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

(4) Apply for Federal funding as provided in the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587) to support and enhance programming using satellite global positioning system technology.

§ 9799.69. Board.

* * *

(e) Staff.--[Support staff for the board shall be provided by the Pennsylvania Board of Probation and Parole.] **The board shall employ an executive director and other staff as necessary**

to carry out the board's duties under this chapter. The executive director shall direct the operations, management and administration of the board and organize and oversee the work of the staff. Legal counsel for the board shall be provided in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act. Upon request by the board, the Department of Corrections shall make available facilities, administrative support and other assistance to the board.

§ 9799.72. Annual performance audit.

(a) Duties of Attorney General.--The Attorney General shall:

(1) Conduct a performance audit annually to determine compliance with the requirements of this subchapter and guidelines promulgated under this subchapter. The audit shall, at a minimum, include a review of the practices, procedures and records of the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the Department of Corrections, the [State Sexual Offenders Assessment Board] **board**, the Administrative Office of Pennsylvania Courts and any other State or local agency the Attorney General deems necessary in order to conduct a thorough and accurate performance audit.

(2) Prepare an annual report of its findings and actions it recommends be taken by the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the Department of Corrections, the [State Sexual Offenders Assessment Board] **board**, the Administrative Office of Pennsylvania Courts, other State or local agencies and the General Assembly to ensure compliance with this subchapter. The first report shall be released to the general public **electronically on the Attorney General's publicly accessible Internet website** not less than 18 months after February 21, 2018.

(3) Provide a copy of its report to the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the Department of Corrections, the [State Sexual Offenders Assessment Board] **board**, the Administrative Office of Pennsylvania Courts, State or local agencies referenced therein, the chairperson and the minority chairperson of the Judiciary Committee of the Senate and the chairperson and the minority chairperson of the Judiciary Committee of the House of Representatives no less than 30 days prior to the report's release to the general public.

(b) Cooperation required.--Notwithstanding any other provision of law to the contrary, the Pennsylvania State Police, [the Pennsylvania Board of Probation and Parole,] the Department of Corrections, the [State Sexual Offenders Assessment Board] **board**, the Administrative Office of Pennsylvania Courts, the Pennsylvania Commission on Sentencing and any other State or local agency requested to do so shall fully cooperate with the Attorney General and assist the office in satisfying the requirements of this section. For purposes of this subsection, full cooperation shall include, at a minimum, complete access to unredacted records, files, reports and data systems.

§ 9912. Supervisory relationship to offenders.

* * *

(e.1) Status of seized items.--

* * *

(10) The [Pennsylvania Board of Probation and Parole] **Department of Corrections** may enact regulations that are necessary to implement this subsection on a uniform basis

throughout this Commonwealth. If regulations are promulgated, a county adult probation and parole department must comply with the regulations.

* * *

Section 7. The definition of "board" in section 102 of Title 61 is amended and the section is amended by adding definitions 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:

"Board." The Pennsylvania [Board of Probation and] Parole **Board.**

* * *

"Offender." An individual that has been convicted or found guilty of a criminal offense by a judge or jury or an individual that pleads guilty or nolo contendere to a criminal offense at any time in a court of record or before a magisterial district justice under section 6138(a)(1.1) (relating to violation of terms of parole).

"Parole violator center." An area within the secure perimeter or on the grounds of a State correctional institution or any contracted facility or contracted county jail that has been designated to house offenders detained or recommitted by the board for a technical parole violation.

* * *

Section 8. Title 61 is amended by adding a section to read:
§ 1106. Powers of peace officers.

A chief administrator, deputy superintendent or corrections officer of a State correctional facility may exercise the powers of a peace officer in the performance of that individual's duties generally in:

- (1) Guarding, protecting and delivering inmates.
- (2) Protecting the property of the department.
- (3) Capturing and returning inmates that may have escaped within the immediate area of a State correctional facility or mode of transport. For the purposes of this section, the immediate area of a State correctional facility or mode of transport shall encompass the curtilage up to and including one-half of one mile.

Section 9. Sections 5001, 5002, 5003, 5004, 5005 and 5006 of Title 61 are amended to read:

§ 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 **Board.**

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

"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.

(3) Establish parole violator centers.

§ 5003. Offenders who may be housed.

(a) Community corrections centers, parole violator centers and community corrections facilities.--The following offenders may be housed in community corrections centers, **parole violator centers** and community corrections facilities:

(1) [A parolee under the jurisdiction of] **An offender paroled by** the board who is in good standing [with the board] **as defined in section 6101 (relating to definitions).**

(2) [A parolee in accordance with the following] **An offender paroled by the board who:**

(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] **supervision** if the [parolee] **offender** is eligible to be housed in a community corrections center, **parole violator 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] **an offender paroled by the board** who is detained **pending resolution of criminal charges as a convicted violator under section 6138(a)** 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.]

(b) Community corrections centers and community corrections facilities.--The following offenders may be housed in community corrections centers and community corrections facilities:

(1) **An offender who is serving the community-based portion of a sentence in a State drug treatment program.**

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

§ 5004. Authority of Commonwealth employees.

Commonwealth employees of community corrections centers and **parole violator centers and other** 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, **parole violator center** or community corrections facility:

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

(ii) seize property from an offender residing in the community corrections center, **parole violator 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, **parole violator center** or community corrections facility [in order] to maintain control of the offender pending the arrival of a **department** 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] **secretary**, using evidence-based practices designed to reduce the likelihood of recidivism and improve public safety, the appropriate treatment and programming for [parolees] **offenders paroled by the board** who are housed at community corrections centers, **parole violator centers** and community corrections facilities.

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

§ 5006. Escape.

An [individual committed to] **offender detained or recommitted to** a community corrections center, **parole violator center** or a community corrections facility **as a result of a parole violation** shall be deemed to be in official detention under 18 Pa.C.S. § 5121 (relating to escape). **An offender living in a community corrections center or community corrections facility while in good standing on parole shall not be deemed to be in official detention under 18 Pa.C.S. § 5121.**

Section 10. Title 61 is amended by adding sections to read:

§ 5007. **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) All hearings shall be conducted in compliance with 65 Pa.C.S. Ch. 7 (relating to open meetings). A governing body conducting a public hearing under this subsection shall announce the hearing via posting on its official publicly accessible Internet website no less than two weeks prior to the hearing. The announcement shall provide information regarding the purpose, location, date and time of the public hearing and a contact number for interested persons to call in order to obtain additional information about the hearing.

(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) 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:

"Group-based-home." A nonprofit or for-profit entity that maintains a facility that provides housing to 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.
§ 5008. Reporting.

The department shall ensure that any crime committed within a community corrections center or community corrections facility is immediately reported to the appropriate law enforcement agency with jurisdiction over the community corrections center or community corrections facility.

Section 11. The heading of Part IV of Title 61 is amended to read:

PART IV

[PROBATION AND PAROLE] DEPARTMENT OF CORRECTIONS

Section 12. Section 6101 of Title 61 is amended to read:
§ 6101. 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:

"Agent." A State parole agent appointed by the department.

"Board." The Pennsylvania Parole Board.

"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) provides housing to offenders pursuant to a contract with the department; and

(2) is operated in accordance with Chapter 50.

"Conditions of supervision." Any terms or conditions of the offender's supervision, whether imposed by the court, the department or an agent, or promulgated by the board as a regulation, including compliance with all requirements of Federal, State and local law.

"Contraband." Any item that the offender is not permitted to possess under the conditions of supervision, including any item whose possession is forbidden by any Federal, State or local law.

"Court." A court of common pleas or any judge thereof, the Philadelphia Municipal Court or any judge thereof, the Pittsburgh Magistrates Court or any judge thereof or any magisterial district judge.

"Crime of violence." The term shall have the same meaning given to it under 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses).

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

"Exigent circumstances." The term includes, but is not limited to, suspicion that contraband or other evidence of violations of the conditions of supervision might be destroyed or suspicion that a weapon might be used. Exigent circumstances always exist with respect to a vehicle.

"In good standing." An offender who is on parole or reparole shall be considered in good standing if the offender:

- (1) is in compliance with all conditions of supervision;
- (2) has not been arrested for or charged with a crime other than one from which he has been paroled or one for which he has served the sentence imposed and otherwise complied with all the sanctions imposed other than the payment of money;
- (3) is not subject to an active protection from abuse order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or an active protection from intimidation order under 18 Pa.C.S. Ch. 49 Subch. B (relating to victim and witness intimidation); and
- (4) is in compliance with all legal requirements applicable to the offender, including, but not limited to, maintaining registration in any applicable sex offender registry.

"Personal injury crime." The term shall have the meaning given to it under section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

"Real property." Any residence or business property of a department-supervised offender, including all portions of the property to which the department-supervised offender has access.

"Supervisor." Any individual acting in a supervisory or administrative capacity.

"Victim." The term shall have the meaning given to it under section 103 of the Crime Victims Act. The term shall also include a member of the victim's family or the victim's representative if the victim is incapable of communicating or has died.

Section 13. Section 6102 of Title 61 is amended to read:
§ 6102. Operation of parole system generally.

The parole system shall operate consistently with the following provisions:

- (1) The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.
- (2) In providing these benefits to the criminal justice system, the board, **the department** and any other paroling entity shall first and foremost seek to protect the safety of the public.
- (3) In addition to this goal, the board, **the department** and any other paroling entity shall address input by crime victims, assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders, shall consider any applicable guidelines established by the commission and shall ensure that parole

proceedings, release and recommitment are administered in an efficient and timely manner.

Section 14. Section 6111(a) of Title 61 is amended to read:
§ 6111. Pennsylvania Parole Board.

(a) Establishment.--The Pennsylvania Parole Board is [an independent administrative board for the administration of the parole laws of this Commonwealth.] **established as an independent administrative board for the purpose of granting and revoking paroles to certain offenders within this Commonwealth. The board shall function independently of the department regarding all of the board's decision-making functions, as well as any other powers and duties specified in this title.**

* * *

Section 15. Sections 6112, 6113, 6116 and 6118 of Title 61 are amended to read:

§ 6112. Board chairperson.

(a) Designation by Governor.--The Governor shall, from time to time, as the occasion may arise, designate one of the members of the board to be its chairperson who shall:

(1) Direct the operations, management and administration of the board and fulfill the functions established by this chapter.

[(2) Secure the effective application of the probation system in all of the courts of this Commonwealth and the enforcement of the probation laws.]

(3) Preside at all meetings of the board.

(4) Perform all the duties and functions of chairperson, including organizing, staffing, controlling, directing and administering the work of the [staff] **board.**

(5) Administer the proceedings of the board to ensure efficient and timely procedures for parole board decisions, [parole releases,] discharges and recommitments.

(b) Alternate chairperson.--The board may designate one of its members to act as alternate chairperson during the absence or incapacity of the chairperson, and, when so acting, the member so designated shall have and perform all the powers and duties of chairperson of the board but shall not receive any additional compensation for acting as chairperson.

§ 6113. Board action.

(a) Quorum.--

(1) A majority of the board shall constitute a quorum for transacting business and, except as otherwise provided in this chapter and Chapter 45 (relating to recidivism risk reduction incentive), a majority vote of those present at any meeting shall be sufficient for any official action taken by the board. **One or more members of the board may attend and participate in any meeting via videoconferencing or similar virtual presence technology.**

(2) Except as provided in subsections (b), (c), (d) and (e) [and], Chapter 45 **and section 6137.1 (relating to short sentence parole)**, no person shall be paroled or discharged from parole or have his parole revoked, except by a majority of the entire membership of the board.

(b) Panel decisions.--The board may make decisions on parole, reparole, return or revocation in panels of two persons. A panel shall consist of one board member and one hearing examiner or of two board members. Panels shall be appointed by the chairperson or the chairperson's designee. **A panel may act without meeting. A panel may meet and take action via videoconferencing or similar virtual presence technology, with**

the exception of in-person testimony under section 502 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(c) Disagreement within panel.--

(1) If there is disagreement on a decision to parole between the members of a panel, the matter shall be decided by a board member appointed by the chairperson or the chairperson's designee, who shall concur with one of the original panel members.

(2) If there is disagreement on a revocation decision between the members of the panel, the matter shall be decided by three board members appointed by the chairperson or the chairperson's designee; at least two of these members must not have been on the disagreeing panel, if practicable.

(d) Appeal.--

(1) An interested party may appeal a revocation decision within 30 days of the board's order. The decision shall be reviewed by three board members appointed by the chairperson or the chairperson's designee.

(2) If practicable, at least two of the board members reviewing the decision must not have been on the panel whose decision is being appealed. The three board members deciding the appeal may affirm, reverse or remand the decision of the panel or may order the matter be heard de novo.

(e) Decision without review.--Subject to the provisions of section 6137(g) (relating to parole power), the board or its designee may issue a decision to parole an eligible offender as defined under section 4503 (relating to definitions) without further review by the board.

(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.

§ 6116. Meetings.

(a) General rule.--As soon as may be convenient after their appointment, the members of the board shall meet and organize.

(b) Appointment of secretary of board.--The members of the board shall appoint a secretary, who shall:

(1) [Shall not] **Not** be a member of the board.

(2) [Shall hold] **Hold** office at the pleasure of the board.

(3) [Shall have such powers] **Maintain a record of the proceedings of the board** and perform such duties not inconsistent with any law of this Commonwealth as the board shall prescribe.

(4) [Shall receive] **Receive** such compensation as the board shall determine in conformity with the rules of the Executive Board.

(c) Temporary secretary of board.--In the absence or incapacity of the secretary to act, the board may designate such other person as it may choose to perform temporarily the duties of **the secretary of the board**.

(d) Counsel.--**Legal counsel for the board shall be appointed in accordance with the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.**

(e) Hearing examiners.--**The board may appoint a sufficient number of individuals to conduct hearings as required or authorized by this title.**

§ 6118. Offices.

[(a) Principal office.--The principal office of the board] **The department** shall [be in Harrisburg, and] **provide offices for** the board. **The board** shall appoint and employ such number and character of officers, agents, clerks, stenographers and employees as may be necessary to carry out the purposes of this chapter. The salaries of persons so appointed and employed by the board shall be fixed by the board.

[(b) District offices.--The board, with the approval of the Governor, shall divide the Commonwealth for administrative purposes into a suitable number of districts, not to exceed ten, in each of which shall be a district office which shall have immediate charge of the supervision of cases of probation and parole arising in the courts of the judicial districts embraced within its territorial limits, but, as occasion may require, the supervision of particular parolees may be transferred by the board to other appropriate parole districts.

(c) Location of district offices.--

(1) The board shall fix and determine the location of the various district offices within their respective districts, having regard to local conditions in each district and to the most convenient and efficient functioning of the office established in each district.

(2) At each of the locations so fixed and determined, the board shall provide such office accommodations, furniture, equipment and supplies as may be reasonably suitable and adequate for the proper handling and dispatch of the parole business of the district.

(3) The board may enter into contracts on behalf of the Commonwealth for such office accommodations, furniture, equipment and supplies through the Department of General Services.

(d) Consideration for fixing compensation.--In fixing compensation for its officers, clerks and employees under the provisions of this chapter, the board shall have regard to the kind, grade or class of service to be rendered, and, whenever any standard compensation has been fixed by the Executive Board for any kind, grade or class of service or employment, the compensation of all persons appointed or employed by the board in the same kind, grade or class shall be fixed by it in accordance with such standard.]

Section 16. Sections 6119, 6120, 6121 and 6124 of Title 61 are repealed:

[§ 6119. District directors.

(a) Establishment.--Each district parole office shall have a district director who:

(1) Shall be appointed by the board, with the approval of the Governor.

(2) Shall receive such annual salary as the board shall determine in conformity with the rules of the Executive Board.

(b) Status and role.--The district director shall be the executive head of the district office to which the district supervisor is appointed and shall have the control, management and direction of all employees of the board assigned to the district, subject to the supervision of the board.

§ 6120. District office employees.

(a) Board to appoint.--The board shall appoint in the various district offices a sufficient number of parole officers, clerks, stenographers and other agents and employees to fully and efficiently administer the parole laws of this Commonwealth, but no employee of the board, other than its secretary and

district supervisors, shall be appointed by the board except in the manner provided by this chapter.

(b) Salaries and qualifications.--The salaries of the appointees in subsection (a) shall be fixed by the board. The board shall from time to time by appropriate rule or regulation prescribe the qualifications to be possessed by its personnel. The qualifications shall be such as will best promote the efficient operation of probation and parole.

§ 6121. Disciplinary action.

(a) General rule.--Except as otherwise provided in subsection (b), an employee of the board, excluding the secretary and district supervisors, may be removed, discharged or reduced in pay or position only for cause and after being given the reasons therefore in writing and afforded an opportunity to be heard in answer thereto.

(b) Exception.--An employee may be suspended without pay and without hearing for a period not exceeding 30 days, but the reason or reasons for the suspension must be given to the employee by the board in writing.

(c) Successive suspensions.--There shall not be any successive suspensions of the same employee under this section.

§ 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 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 17. Section 6131 of Title 61 is amended to read:
§ 6131. General powers of board.

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

[(1) To supervise and make presentence investigations and reports as provided by law.]

(2) To collect and maintain copies of all presentence investigations and reports.

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

(6) To adopt regulations establishing specific composition, functions and responsibilities for citizens advisory committees and to receive reports, recommendations or other input concerning parole policies and parole-related concerns from the committees on a regular basis.

(7) To adopt regulations establishing criteria for board acceptance of cases for supervision and presentence investigations from counties that on December 31, 1985, maintained adult probation offices and parole systems.

(8) To enter into contracts for purchasing community services to assist parolees and to supplement existing programs.

(9) To pay the cost of preparole drug screening tests for inmates within the parole release jurisdiction of the board, who are confined in a State or local correctional facility, as required under section 6137 (relating to parole power).

(10) To enter into contracts which provide for the continuous electronic monitoring of parolees.

(11) To establish and provide for intensive supervision units and day reporting centers for the supervision of parolees.]

(12) To provide information as required under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties) as requested by the commission.

(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] **recommend** 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.

(b) Court-appointed probation officers to submit information to [board] **department**.--A court that appoints a probation officer shall require the probation officer to submit to the

[board] **department** such information as the [board] **department** may require on forms prescribed and furnished by the [board] **department**.

(c) Access to county records.--The **department and the board** shall have free and ready access to all probation and parole records of any county.

[(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 18. Section 6132 heading and (a) and (b) of Title 61 are amended to read:

§ 6132. Specific powers of board involving [parolees] **offenders**.

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

(1) (i) To parole and reparole, commit and recommit for violations of parole and to discharge from parole all persons sentenced by any court at any time to imprisonment in a **State** correctional institution **pursuant to 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement)**.

(ii) This paragraph applies to inmates sentenced to definite or flat sentences.

(2) [(i) To supervise any person placed on parole, when sentenced to a maximum period of less than two years, by any judge of a court having criminal jurisdiction, when the court may by special order direct supervision by the board, in which case the parole case shall be known as a special case and the authority of the board with regard thereto shall be the same as provided in this chapter with regard to parole cases within one of the classifications set forth in this chapter.]

(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 (relating to sentencing proceeding; place of confinement).

(3) To establish special conditions of supervision for paroled offenders. Conditions of supervision must be based on the risk presented by and the rehabilitative needs of the offender. Conditions may be modified pursuant to section 6171 (relating to powers and duties of department) or if the board or its designee consents to such modification.

(4) To promulgate regulations establishing general conditions of supervision applicable to every paroled offender.

(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 **and housed in a county correctional facility** or from paroling [a person] **an offender** committed to county confinement [within the jurisdiction of the court] pursuant to 42 Pa.C.S. § 9762.

* * *

Section 19. Section 6133 of Title 61 is repealed:
[§ 6133. Probation services.

(a) General rule.--The board shall have exclusive power to supervise any person placed on probation by any judge of a court

having criminal jurisdiction, when the court by special order directs supervision by the board.

(b) Presentence investigations.--The board shall make presentence investigations when requested to do so by the court.

(c) Supervision and investigation.--Supervision and presentence investigations by court order or request shall be provided in accordance with board regulations.

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

Section 20. Sections 6134, 6134.1 and 6136 of Title 61 are amended to read:

§ 6134. Sentencing court [to transmit records to board]

recommendation.

[(a) Duty to transmit.--A court sentencing any person for a term as to which power to parole is given to the board in this chapter shall transmit to the board, within 30 days after the imposition of the sentence:

(1) A copy of the notes of testimony of the sentencing hearing that may have been filed of record in the case.

(2) Copies of any criminal identification records secured from the Federal Bureau of Investigation.

(3) Copies of presentence investigation reports and behavior clinic reports, if any were submitted to the court, the last two of which records, being confidential records of the court, shall be treated confidentially by the members of the board, who shall not permit examination of the records by anyone other than its duly appointed agents or representatives except upon court order.

(b) Recommendations from judge.--] **The following shall apply:**

(1) A judge may make at any time a recommendation to the board respecting the [person] **offender** sentenced and the term of imprisonment the judge believes that [person] **offender** should be required to serve before [a] parole is granted to that [person] **offender**.

(2) A recommendation made by a judge under paragraph (1) respecting the parole or terms of parole of [a person] **an offender** shall be advisory only. No order in respect to the recommendation made or attempted to be made as a part of a sentence shall be binding upon the board **or the department** in performing the duties and functions conferred on it by this chapter.

§ 6134.1. General criteria for parole by court.

(a) Guidelines.--The court may parole or reparole subject to consideration of guidelines established under 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole).

(b) Report of decision to commission.--If a court paroles or reparaes [a person] **an offender**, the court shall report the parole or reparole decision and shall provide a contemporaneous written statement for any deviation from the guidelines established under 42 Pa.C.S. § 2154.5, to the commission under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties).

(c) Procedure.--

(1) Prior to making a decision to parole [a person] **an offender** committed to county confinement within the jurisdiction of the court pursuant to 42 Pa.C.S. § 9762 (relating to sentencing 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] **offender**.

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

(3) Victims shall notify the court of their intention to submit a preparole statement and shall provide and keep current an appropriate mailing address.

(4) Preparole statements submitted pursuant to this subsection shall be subject to the confidentiality provisions contained in section 6140 (relating to victim statements, testimony and participation in hearing) applicable to preparole statements submitted to the board and shall be considered by the court prior to any parole decision, and each victim submitting a preparole statement shall be given notice of the court's parole decision.

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

"Personal injury crime." The term shall have the meaning set forth in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

"Victim." The term shall mean, in addition to the meaning set forth in section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, a member of the victim's family if the victim is incapable of communicating or has died.]

§ 6136. Right of access to [inmates] **offenders**.

All prison officials shall:

(1) At all reasonable times grant access to any [inmate] **offender** whom the board has power to parole to the members of the board or its properly accredited representatives.

(2) At all reasonable times provide for the board or its properly accredited representative facilities for communicating with and observing an [inmate] **offender** while imprisoned. **Such facilities may, at the discretion of the prison officials, be provided via videoconferencing or similar virtual presence technology.**

(3) Furnish to the board [from time to time such], **no fewer than 90 days prior to a scheduled parole interview or if an interview is scheduled to be held within less than 90 days, as quickly as possible after such public officials are informed of such interview,** reports concerning the conduct of [inmates] **offenders** in their custody [as the board shall by general rule or special order require,] together with any other facts deemed pertinent in aiding the board to determine whether such [inmates] **offenders** shall be paroled.

Section 21. Sections 6137 and 6138 of Title 61 are amended 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) or subject to section

6137.1 (relating to short sentence parole) **and such information developed by or furnished to the board under section 6174 (relating to right of access to offenders), or both**, and may release on parole any [inmate] **offender** to whom the power to parole is granted to the board by this chapter, except an [inmate] **offender** condemned to death or serving life imprisonment, whenever in its opinion:

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

(ii) It does not appear that the interests of the Commonwealth will be injured by the [inmate's] **offender'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] **offender** 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] **offender's** minimum term of imprisonment, if the primary reason for not paroling the [inmate] **offender** is the [inmate's] **offender's** inability to access and complete prescribed programming within the correctional institution, the board may release the [inmate] **offender** on parole with the condition that the [inmate] **offender** 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. Ch. 97 Subch. H (relating to registration of sexual offenders).

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

(4) Unless the [inmate] **offender** has served at least one year in a community corrections center or community corrections facility, the board shall not act upon an application of an [inmate] **offender** 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).

(5) Upon parole, [a parolee] **an offender** subject to paragraph (4) shall:

(i) be subject to weekly supervision for the first six months of parole; and

(ii) have any violations of a condition of parole immediately made known to the Board of Pardons. This subparagraph shall apply to all [parolees] **offenders** under supervision by other jurisdictions under Subchapter B of Chapter 71 (relating to interstate compact for the supervision of adult offenders).

(b) Cases involving deviations from guidelines.--In each case in which the board deviates from the guidelines established under 42 Pa.C.S. § 2154.5, the board shall provide a contemporaneous written statement of the reason for the deviation from the guidelines to the commission as established under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties). The board may develop and use internal decisional instruments. This subsection shall not be construed to prevent the board from also developing forms or other documents, policies and procedures consistent with this chapter, including internal decisional instruments.

[(c) Administrative parole.--

(1) An eligible offender shall be placed on administrative parole one year after release on parole and until the maximum sentence date if the board's supervision staff determines that:

(i) (A) the eligible offender has not violated the terms and conditions of the eligible offender's parole; or

(B) the eligible offender has not been subject to the extensive use of sanctions prior to the completion of one year from the date of release on parole; and

(ii) there is no substantial information indicating dangerousness or that placement on administrative parole would compromise public safety.

(2) An eligible offender placed on administrative parole shall continue to be subject to recommitment at the board's discretion and shall be subject to the board's power to recommit and reparole, recommit and review or otherwise impose sanctions at its discretion until the eligible offender's maximum sentence date.

(3) An eligible offender placed on administrative parole shall do all of the following:

(i) Make supervision contact at least one time per year.

(ii) Provide updated contact information upon a change in residence or employment.

(iii) Continue to pay any restitution owed.

(iv) Comply with other requirements imposed by the board.]

(d) Recidivism risk reduction incentive minimum.--The board shall have the power and its duty shall be to comply with the requirements of section 4506 (relating to recidivism risk reduction incentive minimum).

(d.1) Short sentence parole.--The board shall have the power and its duty shall be to comply with the requirements of section 6137.1 (relating to short sentence parole).

(e) Drug screening tests.--

(1) The [board] **department** may not release [a person] **an offender** on parole unless the [person] **offender** 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] **Every offender who is released on parole** who, [as an inmate] **prior to release**, 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] **shall, without further action of the board, be subject to an ongoing condition that the offender achieve** negative results in [such] **drug** 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.]

(4) For [a parolee] **an offender** 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] **supervision**, that the [parolee] **offender** achieve negative results in **drug** screening tests randomly conducted. The [parolee] **offender** shall be responsible for testing costs.

(f) Crimes of violence.--The board may not **order the** release [on parole a person] **of an offender on parole** who is sentenced after February 19, 1999, and is serving a sentence for a crime of violence unless the [person] **offender** has received instruction from the [Department of Corrections] **department** on the impact of crime on victims and the community.

(g) [Procedure.--] **Procedures for Recidivism Risk Reduction Incentive.--**

(1) The department shall identify all [inmates] **offenders** 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, **as defined under section 4503 (relating to definitions)**, 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] **offender's** minimum sentence indicating that the department has preliminarily identified the [inmate] **offender** 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] **offenders** 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.

(2.1) The department shall provide the board all information related to the [inmate's] **offender's** adjustment

while incarcerated, misconducts, if any, information related to programming and treatment, including success, completion or failure to complete, or any other information the department deems relevant. The board shall send such information to the prosecuting attorney and to the court no less than six months before the expiration of the [inmate's] **offender's** minimum sentence. The notice may be sent electronically. For [inmates] **offenders** committed to the department whose expiration of the minimum sentence is six months or less from the date of admission, such information shall be sent at the same time prompt notice under paragraph (2) is given.

(3) Within 30 days of receipt of notice under paragraph (2), the court or prosecuting attorney may file **with the board** a written objection to the department's preliminary identification of the [inmate] **offender** 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] **eligible offender shall be paroled at the** minimum date upon a determination **by the board or the board's designee** that all of the following apply:

(i) The department certified that the [inmate] **offender** has maintained a good conduct record and continues to remain an eligible offender **under section 4503.**

(ii) The reentry plan for the [inmate] **offender** is adequate.

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

(iv) There is no reasonable indication that the [inmate] **offender** 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] **offender** is an eligible offender. The board shall notify the department, prosecuting attorney and court of its determination no later than 30 days prior to the minimum parole date. If the board determines that the [inmate] **offender** is an eligible offender under this chapter, the board shall follow the provisions under paragraph (4). If the board determines that the [inmate] **offender** 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] **offender** 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.

(h) Power to recommit.--

(1) The board may, during the period for which an [inmate] **offender** shall have been sentenced, recommit the

[inmate] **offender**, if paroled, for violation of the terms and conditions of his parole and from time to time to reparole and recommit in the same manner and with the same procedure as in the case of an original parole or recommitment if, in the judgment of the board:

(i) There is a reasonable probability that the [inmate] **offender** will be benefited by paroling the [inmate] **offender** again.

(ii) It does not appear that the interests of the Commonwealth will be injured by paroling the [inmate] **offender** again.

(2) In exercising these powers, the board shall consider any applicable recommitment ranges established by the commission under 42 Pa.C.S. § 2154.6 (relating to adoption of recommitment ranges following revocation of parole by board).

(i) Cases involving deviations from guidelines.--In each case in which the board deviates from the recommitment ranges established under 42 Pa.C.S. § 2154.6, the board shall provide a contemporaneous written statement of the reason for the deviation from the recommitment ranges to the commission, as established under 42 Pa.C.S. § 2153(a)(14).

(j) Notice to county probation department.--When the board releases [a parolee] **an offender** from a correctional facility, the board shall provide written notice to the probation department located in the county where the sentencing order was imposed of the release and new address of the [parolee] **offender**.

[(k) Definitions.--The following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Crime of violence." As defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses).

"Eligible offender." As defined in section 4503 (relating to definitions).]

§ 6138. Violation of terms of parole.

(a) Convicted violators.--

(1) [A parolee under the jurisdiction of the board released from a correctional facility who,] **The board may, at its discretion, revoke the parole of a paroled offender if the offender**, during the period of parole or while delinquent on parole, commits a crime punishable by imprisonment, for which the [parolee] **offender** is convicted or found guilty by a judge or jury or to which the [parolee] **offender** 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].

(1.1) In addition to paragraph (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 or of any misdemeanor of the third degree or of any of the following offenses where graded as a summary offense, may at the discretion of the board be recommitted as a parole violator:

(i) Possession of a firearm in a court facility under 18 Pa.C.S. § 913(b)(3) (relating to possession of firearm or other dangerous weapon in court facility).

(ii) Harassment under 18 Pa.C.S. § 2709 (relating to harassment).

(iii) Retail theft under 18 Pa.C.S. § 3929 (relating to retail theft).

(iv) Disorderly conduct under 18 Pa.C.S. § 5503 (relating to disorderly conduct).

(v) Public drunkenness under 18 Pa.C.S. § 5505 (relating to public drunkenness and similar misconduct).

(vi) Cruelty to animals under 18 Pa.C.S. § 5533 (relating to cruelty to animal).

(vii) Aiding or abetting a minor to commit truancy under 18 Pa.C.S. § 6301 (relating to corruption of minors).

(viii) Selling or furnishing nonalcoholic beverages to minors under 18 Pa.C.S. § 6310.7 (relating to selling or furnishing nonalcoholic beverages to persons under 21 years of age).

(2) If the [parolee's recommitment is so ordered, the parolee shall be reentered] **offender's parole is revoked, the offender shall be recommitted** to serve the remainder of the term which the [parolee] **offender** 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] **an offender** 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] **listed** under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) **or I (relating to continued registration of sexual offenders).**

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

(2.2) Credit awarded under paragraph (2.1) is subject to forfeiture under this section if an offender is subsequently recommitted as a convicted parole violator.

(2.3) A parolee is at liberty on parole when the parolee is residing at a community corrections center, community corrections facility or group-based home for purposes of this section. This paragraph does not apply to parolees detained on the board's warrant or recommitted as a technical parole violator to a community corrections center or community corrections facility.

(3) The board may, in its discretion, reparole whenever, in its opinion, the best interests of the [inmate] **offender** justify or require the [inmate's] **offender'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] **offender** is required to serve shall be computed [from and] **by the board and shall** begin on the date that the parole violator is taken into custody to be returned to the institution as [a parole violator] **an offender.**

(5) If a new sentence is imposed on the [parolee] **offender**, 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] **offender** 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] **offender** 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] **offender** upon recommitment to a **correctional facility** shall be sent to the institution [as shall be] designated by the [Secretary of Corrections or his] **secretary or a** designee.

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

(b) Subsequent arrest.--

(1) The formal filing of a charge after parole against [a parolee] **an offender** within this Commonwealth for any violation of the laws of this Commonwealth shall constitute an automatic detainer and permit the [parolee] **offender** to be taken into and held in custody.

(2) The automatic detainer shall dissolve 15 days after the [parolee] **offender** is taken into custody unless sooner waived or otherwise superseded by direction of the [supervising parole office] **department or its designee**.

(3) The automatic detainer shall be in addition to and not in lieu of any other detainer that prior to the effective date of this chapter may have been lodged in such circumstances.

(c) Technical violators.--

(1) Subject to paragraph (1.3), [a parolee] **an offender** under the jurisdiction of the board who violates the terms and conditions of his parole, other than a convicted violator who has parole revoked under subsection (a), 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, community corrections facility or any secured facility operated or contracted by the department.

(1.2) Notwithstanding paragraph (1) and subject to paragraph (1.3), [a parolee] **an offender** under the jurisdiction of the board who violates the terms and conditions of his parole, other than a convicted **parole** violator who has parole revoked under subsection (a), may be arrested and detained without revocation of parole under a program to impose swift, predictable and brief sanctions. The program shall provide for immediate detention in a community corrections center, community corrections facility or any secured facility operated or contracted by the department for a period not to exceed seven days. The board shall adopt procedures governing appropriate detention under this paragraph, including identifying which offenders are

eligible for the program and providing warnings to [parolees] **offenders** to clearly communicate expectations and consequences.

(1.3) If the board determines that one of the following conditions is present regarding [a parolee] **an offender** who violates the terms and conditions of parole, the [parolee] **offender** shall not be eligible for detention under paragraph (1.2) and shall be detained in or recommitted to a State correctional institution or contracted county jail:

(i) The violation was sexual in nature.

(ii) The violation involved assaultive behavior or included a credible threat to cause bodily injury to another.

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

(iv) The [parolee] **offender** has absconded and the [parolee] **offender** cannot be safely diverted to a community corrections center, community corrections facility or any secured facility operated or contracted by the department.

(v) There exists an identifiable threat to public safety, and the [parolee] **offender** cannot be safely diverted to a community corrections center, community corrections facility or any secured facility operated or contracted by the department.

(vi) The violation involved an intentional and unexcused failure to adhere to recommended programming or conditions on more than three occasions, and the [parolee] **offender** cannot be safely diverted to a community corrections center, community corrections facility or any secured facility operated or contracted by the department.

(1.4) Every offender's placement in a community corrections center, community corrections facility or parole violator center shall be subject to a condition that the offender comply with the rules of conduct applicable to the place where the offender is housed. The department may, at its discretion, place an offender accused of violating the rules of conduct in a State correctional institution or contracted county jail, pending an investigation or disciplinary hearing, or serve a disciplinary sanction under the department's procedures, or both.

(2) If the [parolee] **offender** is recommitted under this subsection, the [parolee] **offender** 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. **Credit awarded to a technical parole violator for time served on parole in good standing is subject to forfeiture if the offender is subsequently recommitted as a convicted parole violator.**

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

(4) Subject to subsection (e), the [parolee] **offender** shall be subject to reparole by the board whenever in its

opinion the best interests of the [inmate] **offender** justify or require the [parolee] **offender** being reparaoled and it does not appear that the interests of the Commonwealth will be injured reparaoling the [parolee] **offender**.

(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] **department'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) a State correctional institution;

(B) a contracted county jail;

(C) a community corrections center; [or]

(D) a community corrections facility[.]; **or**

(E) a parole violator center.

[(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.]

(8) An offender released from a county correctional facility by a parole order issued by a sentencing court, but supervised by the department, who violates the conditions of parole other than by the commission of a new crime of which the offender is convicted or found guilty by a judge or jury or to which the offender pleads guilty or nolo contendere in a court of record may be detained pending a hearing before the sentencing court or a waiver of the hearing. Detention and recommitment under this paragraph shall be to the county correctional facility from which the offender was released.

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

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

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

(3) Except as set forth in paragraph (4) or (5), the [parolee] **offender** shall be recommitted for one of the following periods, at which time the [parolee] **offender** 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] **offender** 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] **offender**.

(5) The time limit under paragraph (3) shall not be applicable to [a parolee] **an offender** 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 **or parole violator center**.--

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

(2) [A parolee] **An offender** 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] **offender**.

(3) This subsection shall not apply to [a parolee who is not in good standing with the board.] **an offender who:**

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

(ii) **spends more than 61 days in segregated housing due to one or more disciplinary infractions;**

(iii) **refuses programming or a work assignment; or**

(iv) **is not in compliance with all legal requirements applicable to the offender, including, but not limited to, maintaining registration in any applicable sex offender registry.**

[(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 21.1. Section 6139 of Title 61, amended November 25, 2020 (P.L.1219, No.124), is amended to read:
§ 6139. Parole procedure.

(a) Specific requirements.--

(1) The board may, subject to the provisions and limitations set forth in section 6138 (relating to violation of terms of parole), grant [paroles of] **parole on** its own

motion whenever in its judgment the interests of justice require the granting of [these paroles] **parole**.

(2) The board shall consider applications for parole by an [inmate] **offender** or the [inmate's] **offender's** attorney.

(3) Notwithstanding the provisions of paragraph (2), the board shall not be required to consider nor dispose of an application by an [inmate] **offender** or an [inmate's] **offender's** attorney where a parole decision has been issued by the board on that case within one year of the date of the current application for parole.

(3.1) Notwithstanding paragraphs (2) and (3), the board shall not be required to consider nor to dispose of an application by an [inmate] **offender** or an [inmate's] **offender's** attorney in the case of an [inmate] **offender** sentenced under 18 Pa.C.S. § 1102.1 (relating to sentence of persons under the age of 18 for murder, murder of an unborn child and murder of a law enforcement officer) if a parole decision has been issued by the board within five years of the date of the current application.

(3.2) Nothing under this section shall be interpreted as granting a right to be paroled to any [person] **offender**, and a decision by the board and its designees relating to [a person] **an offender** sentenced under 18 Pa.C.S. § 1102.1 may not be considered an adjudication under 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(3.3) The following apply:

(i) Notwithstanding the provisions of paragraphs (2) and (3), if a parole decision has been issued by the board within three years of the date of the current application, the board shall not be required to consider nor dispose of an application by an [inmate] **offender** or an [inmate's] **offender's** attorney in the case of an [inmate] **offender** sentenced under any of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

Section 2502(c) (relating to murder).

Section 2503 (relating to voluntary manslaughter).

Section 2901(a.1) (relating to kidnapping).

Section 3011(b) (relating to trafficking in individuals).

Section 3012 (relating to involuntary servitude).

Section 3121 (relating to rape).

Section 3122.1(b) (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3124.2(a.1) (relating to institutional sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126(a)(7) (relating to indecent assault).

Section 4302(b) (relating to incest).

(ii) Nothing under this paragraph shall be interpreted as granting a right to be paroled to any person, and a decision by the board and its designees relating to a person sentenced to an offense as set forth

under this paragraph may not be considered an adjudication under 2 Pa.C.S. Chs. 5 Subch. A and 7 Subch. A.

(3.4) The following apply:

(i) Notwithstanding the provisions of paragraphs (2) and (3), if a parole decision has been issued by the board within three years of the date of the current application, the board shall not be required to consider nor dispose of an application by an [inmate] **offender** or an [inmate's] **offender's** attorney in the case of an [inmate] **offender** designated as a sexually violent predator under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders).

(ii) Nothing under this section shall be interpreted as granting a right to be paroled to any person, and a decision by the board and its designees relating to a person designated as a sexually violent predator may not be considered an adjudication under 2 Pa.C.S. Chs. 5 Subch. A and 7 Subch. A.

(4) Hearings of applications [shall] **may** be held by the board whenever in its judgment hearings are necessary. Reasonable rules and regulations shall be adopted by the board for the presentation and hearing of applications for parole.

(5) Whenever an [inmate] **offender** is paroled by the board, [whether of its own motion or after hearing of an application for parole,] or whenever [an application for] parole is refused by the board, a brief statement of the reasons for the board's action shall be filed of record in the offices of the board and shall be at all reasonable times open to public inspection.

(6) In no case shall [a] parole be granted[, or an application for parole be dismissed,] unless a board member, hearing examiner or other person so designated by the board shall have seen and heard the [parolee] **offender** in person in regard thereto within six months prior to the granting or dismissal thereof. **Such in-person interviews may be conducted via videoconferencing or similar virtual presence technology.** This requirement does not apply to paroles under section 6137.1 (relating to short sentence parole).

(7) The board shall dispose of [the] **an** application within six months of its filing.

(b) Reliance on reports.--In granting and revoking paroles and in discharging from parole, the members of the board acting thereon shall not be required to personally hear or see all the witnesses and evidence submitted to them for their action, but they may act on the report submitted to them by [their] **the department's** agents and employees, together with any pertinent and adequate information furnished to them by fellow members of the board or by others. In granting or revoking parole or bringing an alleged parole violator before a hearing examiner, the appearance may be conducted via videoconferencing or similar virtual presence technology. Notwithstanding any other provision of law to the contrary, a hearing examiner, hearing officer or member of the board charged with making the parole release decision shall be required to hear and see in person, without the use of videoconferencing or similar virtual presence technology, any in-person victim testimony under section 6140 (relating to victim statements, testimony and participation in hearing) or under section 502(b) of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act. Nothing

in this section shall be construed to limit or reduce the rights of victims under section 6140 or under section 502(b) of the Crime Victims Act.

(c) Notice to district attorney.--At least ten days before paroling an [inmate] **offender** on its own motion, the board shall give written notice of the contemplated parole to the district attorney of the county in which the [inmate] **offender** was sentenced, and, in cases of hearings on applications for parole as provided for in this section, at least ten days' written notice of the time and place fixed for such hearing shall be given either by the board or by the [applicant] **offender or the offender's attorney**, as the board shall direct, to the court and district attorney of the county in which the [applicant] **offender** was sentenced.

Section 22. Sections 6140, 6141 and 6143 of Title 61 are amended to read:

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

(a) Duty of district attorney to provide notice.--

(1) The victim of the offense for which an [inmate] **offender** is sentenced shall be notified by the district attorney immediately following sentencing, in cases where the defendant has been sentenced to a term of imprisonment, that the victim [or] **and** family member shall have the opportunity to present a statement for the parole report to be considered at the parole hearing or to testify to the [parole] board expressing his opinion concerning the release of the [inmate] **offender**.

(2) The district attorney shall provide notice to a member of the immediate family of the victim if the victim:

(i) is a juvenile;

(ii) is incapable of testifying; or

(iii) died as a result of the [defendant's]

offender's conduct.

(b) Notice of intent to submit statement.--In order to submit a statement under subsection (a), a victim [or] **and** family member must notify the board **through the Office of Victim Advocate** of [his] **the victim's and family member's** intention to do so and provide and keep current an appropriate mailing address with the [board] **Office of Victim Advocate**.

(c) Contents of parole [report] **statement**.--The parole [report] **statement** may include [a statement] **discussion** concerning:

(1) The continuing nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim.

(2) The extent of any loss of earnings or ability to work suffered by the victim.

(3) The continuing effect of the crime upon the victim's family.

(d) Notice to persons who previously contacted the [board] **Office of Victim Advocate**.--

(1) At the time public notice is given that an [inmate] **offender** is being considered for parole pursuant to this section, the [board] **Office of Victim Advocate** shall also notify any victim or nearest relative who has previously contacted the [board] **Office of Victim Advocate** of the [availability] **opportunity** to provide a statement for inclusion in the parole report or to present testimony for inclusion at the parole hearing.

(2) The [board] **Office of Victim Advocate** shall notify the [person] **victim and family member** identified under paragraph (1) at [the] **that** person's last known mailing address. The notification required by this section shall be given by the [board] **Office of Victim Advocate** in the case of a parole to be granted pursuant to section 6139 (relating to parole procedure) or by the court in the case of a parole to be granted pursuant to section [6133] **6172** (relating to probation services).

(e) Notice of intent to present testimony.--The victim [or] **and** family member shall notify the [board] **Office of Victim Advocate which shall notify** within 30 days from the date of the notice of his intent to present testimony at the parole hearing. This time period may be waived by the [board] **Office of Victim Advocate** for good cause.

(f) Referral to hearing [officer] **examiner**.--If the victim [or] **and** family member submits a written statement to the board **through the Office of Victim Advocate** subsequent to notice, the statement shall be made a part of the board's file on the [inmate] **offender**, and the [inmate's] **offender's** case shall be referred to a hearing [officer] **examiner** designated to conduct parole release hearings.

(g) Assignment to hearing examiner.--If the victim [or] **and** family member informs the board **through the Office of Victim Advocate** subsequent to notice being provided that [the person intends] **they intend** to testify, the chairperson shall assign the [inmate's] **offender's** case to a hearing examiner for the purpose of receiving the person's testimony.

(h) Hearing procedure.--

(1) The assigned hearing examiner shall conduct a hearing within 30 days from the date the board received notification of the intent to offer testimony.

(2) The hearing shall be conducted at a time and place and on a date determined by the chairperson or designee. Notice of the time, place and date of the hearing shall be provided **by the Office of Victim Advocate** to the victim [or] **and** family member, in writing, and shall be [mailed] **provided** at least ten days prior to the hearing date.

(3) The hearing shall be recorded by an electronic recording device.

(4) The hearing examiner shall prepare a written [report] **statement** within a reasonable [amount of] time prior to the hearing date. A copy of the [report] **statement** shall be forwarded to the person offering testimony. A copy of the report shall be made a part of the board's file on the [inmate] **offender**.

(5) Upon completion of the written [report] **statement**, the [inmate's] **offender's** case shall be referred to a hearing examiner designated to conduct parole release hearings.

(6) (i) The hearing scheduled pursuant to this section shall be conducted, when possible, prior to a parole release hearing and prior to the board rendering a decision.

(ii) Nothing in this section shall be construed to preclude the board from conducting a timely parole release hearing.

(7) After submission of the [report] **statement**, the board shall within a reasonable [amount of] time:

(i) Evaluate the information provided.

(ii) Determine whether the decision shall be affirmed or modified.

(iii) Determine whether a rescission hearing shall be conducted.

(iv) Notify the [inmate] **offender** in writing of its decision.

(8) Notwithstanding any other provision of law, any and all statements or testimony of the victim [or] **and** family member submitted to the board **or the Office of Victim Advocate** 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]

offender.

(9) All records maintained by the board **or the Office of Victim Advocate** 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.

(10) 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.

(11) A victim [or] **and** the family member who has submitted a written statement for the parole report or testified at a hearing pursuant to this section shall be notified by the board **through the Office of Victim Advocate** of the final decision rendered in the [inmate's] **offender's** case.

(12) If the final decision is to not release the [inmate] **offender** and if, subsequent to that decision, additional parole release hearings are conducted for that same [inmate] **offender**, then the victim [or] **and** family member who has submitted a written statement for the parole report or who has testified at a hearing pursuant to this section shall be notified by the board **through the Office of Victim Advocate** at the last known address if and when additional parole hearings are scheduled by the board.

(i) Victim [or] **and** family member.--The term "victim [or] **and** family member" shall be interpreted and applied to include all victims and family members and shall not be interpreted or applied to exclude any victim, victim's representative or family member who wishes to submit a statement, testify or otherwise participate under this section.

§ 6141. General rules and special regulations.

The board may make general rules for the conduct and supervision of [persons placed on parole] **offenders** and may, in particular cases, as it deems necessary to effectuate the purpose of parole, prescribe special regulations for particular persons.

§ 6143. Early parole of [inmates] **offenders** subject to Federal removal order.

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

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

(2) The [inmate] **offender** 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] **offender** is appropriate and in the best interests of the Commonwealth.

(5) The [inmate] **offender** has been advised of all of the following:

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

(ii) If the [inmate] **offender** reenters the United States and commits a criminal offense, upon conviction the [inmate] **offender** 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] **offender** 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] **offender** 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] **offender** to parole under subsection (a).

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

(d) Unlawful reentry.--An [inmate] **offender** 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] **offender** did unlawfully return to the United States. Upon recommitment, the [inmate] **offender** shall be required to serve the remainder of the [inmate's] **offender's** maximum term of imprisonment without the possibility of parole. The [inmate] **offender** 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 23. Subchapter D of Chapter 61 of Title 61 is repealed:

[SUBCHAPTER D
STATE PAROLE AGENTS

Sec.

6151. Definitions.

6152. Status as peace officers.

6153. Supervisory relationship to offenders.

§ 6151. 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:

"Agent." A State parole agent appointed by the board.

"Conditions of supervision." Any terms or conditions of the offender's supervision, whether imposed by the court, the board or an agent, including compliance with all requirements of Federal, State and local law.

"Contraband." Any item that the offender is not permitted to possess under the conditions of supervision, including any item whose possession is forbidden by any Federal, State or local law.

"Court." The court of common pleas or any judge thereof, the Philadelphia Municipal Court or any judge thereof, the Pittsburgh Magistrates Court or any judge thereof or any magisterial district judge.

"Exigent circumstances." The term includes, but is not limited to, suspicion that contraband or other evidence of violations of the conditions of supervision might be destroyed or suspicion that a weapon might be used. Exigent circumstances always exist with respect to a vehicle.

"Offender." Any person subject to the parole or probationary supervision of the board.

"Personal search." A warrantless search of an offender's person, including, but not limited to, the offender's clothing and any personal property which is in the possession, within the reach or under the control of the offender.

"Property search." A warrantless search of real property, vehicle or personal property which is in the possession or under the control of the offender.

"Real property." Any residence or business property of an offender, including all portions of the property to which the offender has access.

"Supervisor." Any individual acting in a supervisory or administrative capacity.

§ 6152. Status as peace officers.

An agent is declared to be a peace officer and is given police power and authority throughout this Commonwealth to arrest without warrant, writ, rule or process any parolee or probationer under the supervision of the board for failing to report as required by the terms of his probation or parole or for any other violation of the probation or parole.

§ 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.

(b) Searches and seizures authorized.--

(1) Agents may search the person and property of offenders in accordance with the provisions of this section.

(2) Nothing in this section shall be construed to permit searches or seizures in violation of the Constitution of the United States or section 8 of Article I of the Constitution of Pennsylvania.

(c) Effect of violation.--No violation of this section shall constitute an independent ground for suppression of evidence in any probation or parole proceeding or criminal proceeding.

(d) Grounds for personal search of offender.--

(1) A personal search of an offender may be conducted by an agent:

(i) if there is a reasonable suspicion to believe that the offender possesses contraband or other evidence of violations of the conditions of supervision;

(ii) when an offender is transported or taken into custody; or

(iii) upon an offender entering or leaving the securing enclosure of a correctional institution, jail or detention facility.

(2) A property search may be conducted by an agent if there is reasonable suspicion to believe that the real or other property in the possession of or under the control of the offender contains contraband or other evidence of violations of the conditions of supervision.

(3) Prior approval of a supervisor shall be obtained for a property search absent exigent circumstances. No prior approval shall be required for a personal search.

(4) A written report of every property search conducted without prior approval shall be prepared by the agent who conducted the search and filed in the offender's case record. The exigent circumstances shall be stated in the report.

(5) The offender may be detained if he is present during a property search. If the offender is not present during a property search, the agent in charge of the search shall make a reasonable effort to provide the offender with notice of the search, including a list of the items seized, after the search is completed.

(6) The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. In accordance with such case law, the following factors, where applicable, may be taken into account:

(i) The observations of agents.

(ii) Information provided by others.

(iii) The activities of the offender.

(iv) Information provided by the offender.

(v) The experience of agents with the offender.

(vi) The experience of agents in similar circumstances.

(vii) The prior criminal and supervisory history of the offender.

(viii) The need to verify compliance with the conditions of supervision.

(e) Nonresident offenders.--No agent shall conduct a personal or property search of an offender who is residing in a foreign state except for the limited purposes permitted under the Interstate Compact for the Supervision of Offenders and Probationers. The offender is held accountable to the rules of both the sending state and the receiving state. Any personal or property search of an offender residing in another state shall be conducted by an agent of the receiving state.

(f) When authority is effective.--The authority granted to agents under this section shall be effective upon enactment of this section, without the necessity of any further regulation by the board.]

Section 24. Chapter 61 of Title 61 is amended by adding subchapters to read:

**SUBCHAPTER F
SUPERVISION OF OFFENDERS**

Sec.

6171. Powers and duties of department.

6171.1. District offices.

6171.2. District directors.

6171.3. District office employees.

6172. Probation services.

6173. Investigation of circumstances of offense.

6174. Right of access to offenders.

6175. Investigations for the Board of Pardons.

§ 6171. Powers and duties of department.

(a) Powers and duties.--The department shall have the following powers and duties:

(1) To first and foremost seek to protect the safety of the public, to supervise any offender released on parole by order of the board and to arrest, to detain in a department facility and to report to the board for a determination whether to revoke parole and recommit an offender who fails to comply with the conditions of supervision, including, but not limited to, the alleged commission of a new crime.

(2) To enforce the conditions of supervision established by the board as well as the power to impose and enforce additional conditions of supervision on an offender and the power to, with the consent of the board, amend or terminate mandatory conditions of suspension established by the board. Conditions not designated as mandatory by the board do not require consent of the board.

(3) The imposition, modification or termination of a condition of supervision must be based on the risk presented by and the rehabilitative needs of the offender and the impact the termination or modification will have on public safety.

(4) To supervise any offender placed on parole, when sentenced to a maximum period of less than two years, by any judge of a court having criminal jurisdiction, when the court may by special order direct supervision by the department, in which case the parole case shall be known as a special case and the authority of the department with regard thereto shall be the same as provided in this chapter with regard to parole cases within one of the classifications set forth in this chapter.

(5) To furnish to the board no fewer than 90 days prior to a scheduled parole interview, or if such interview is scheduled to be held within fewer than 90 days, as quickly as possible after the department is informed of such interview, reports concerning the conduct of offenders under the department's supervision or in its custody together with any other facts deemed pertinent in aiding the board to determine whether such offenders shall be paroled.

(6) To pay the costs of preparole drug screening tests for offenders subject to the parole release jurisdiction of the board. The department shall establish rules and regulations for the payment of these costs and may limit the

types and costs of these screening tests that would be subject to payment by the department.

(7) To determine when an offender, subject to random drug screening tests as a condition of supervision, shall be tested. The offender undergoing the tests shall be responsible for the costs of the tests. The money collected for the tests shall be applied against the contract for such testing.

(8) To supervise and make presentence investigations and reports as provided by law.

(9) To collect and maintain copies of all presentence investigations and reports.

(10) To collect, compile and publish statistical and other information relating to probation and parole work in all courts and such other information the department may deem of value in probation service.

(11) To establish, by regulation, uniform Statewide standards for:

(i) Presentence investigations.

(ii) The supervision of probationers.

(iii) The qualifications for probation personnel.

(iv) Minimum salaries.

(v) Quality of probation service.

(vi) The standards for the qualifications of probation personnel shall only apply to probation personnel appointed after the date the standards are established. Should any probation personnel appointed prior to the date the standards were established fail to meet the standards, the court having jurisdiction of such personnel may request the department to establish in-service training for them in accordance with the standards.

(12) To adopt regulations establishing criteria for department acceptance of cases for supervision and presentence investigations from counties that on December 31, 1985, maintained adult probation offices and parole systems.

(13) To enter into contracts for purchasing community services to assist parolees, supplement existing programs and provide for the continuous electronic monitoring of offenders.

(14) To establish and provide for intensive supervision units and day reporting centers for the supervision of offenders.

(15) To provide information as required under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties of commission) as requested by the commission.

(16) To incorporate evidence-based practices into the supervision of offenders.

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

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

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

(20) To administer administrative parole.

(21) To adopt regulations establishing specific composition, functions and responsibilities for citizens advisory committees and to receive reports, recommendations

or other input concerning parole policies and parole-related concerns from the committees on a regular basis.

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

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

(b) Administrative parole.--

(1) An eligible offender shall be placed on administrative parole one year after release on parole and until the maximum sentence date if the department's supervision staff determines that there is no substantial information indicating dangerousness or that placement on administrative parole would compromise public safety or that continued supervision would otherwise benefit the offender and:

(i) the eligible offender has not violated the terms and conditions of the eligible offender's parole; or

(ii) the eligible offender has not been subject to the extensive use of sanctions prior to the completion of one year from the date of release on parole.

(2) An eligible offender placed on administrative parole shall continue to be subject to recommitment at the board's discretion and shall be subject to the board's power to recommit and reparole, recommit and review or otherwise impose sanctions at its discretion until the eligible offender's maximum sentence date.

(3) An eligible offender placed on administrative parole shall do all of the following:

(i) Make supervision contact at least one time per year.

(ii) Provide updated contact information upon a change in residence or employment.

(iii) Continue to pay any restitution owed.

(iv) Comply with other requirements imposed by the department.

(c) Exception.--Except in special cases, the powers and duties conferred under this section shall not extend to offenders confined in a county correctional facility under 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement).

§ 6171.1. District offices.

(a) Principal office.--The department shall provide offices for the board. The board shall appoint and employ such number and character of officers, agents, clerks, stenographers and employees as may be necessary to carry out the purposes of this chapter. The salaries of persons so appointed and employed by the board shall be fixed by the board.

(b) District offices.--The department shall divide the Commonwealth for administrative purposes into a suitable number of districts, not to exceed 10, in each of which shall be a district office which shall have immediate charge of the supervision of cases of probation and parole arising in the courts of the judicial districts embraced within its territorial limits, but, as occasion may require, the supervision of particular parolees may be transferred by the department to other appropriate parole districts.

(c) Location of district offices.--

(1) The department shall fix and determine the location of the various district offices within their respective districts, having regard to local conditions in each district

and to the most convenient and efficient functioning of the office established in each district.

(2) At each of the locations so fixed and determined, the department shall provide such office accommodations, furniture, equipment and supplies as may be reasonably suitable and adequate for the proper handling and dispatch of the parole business of the district.

(3) The department may enter into contracts on behalf of the Commonwealth for such office accommodations, furniture, equipment and supplies through the Department of General Services.

(d) Consideration for fixing compensation.--In fixing compensation for its officers, clerks and employees under the provisions of this chapter, the department shall have regard to the kind, grade or class of service to be rendered, and, whenever any standard compensation has been fixed by the Executive Board for any kind, grade or class of service or employment, the compensation of all persons appointed or employed by the department in the same kind, grade or class shall be fixed by it in accordance with such standard.

§ 6171.2. District directors.

(a) Establishment.--Each district office shall have a district director who:

(1) Shall be appointed by the department.

(2) Shall receive such annual salary as the department shall determine in conformity with the rules of the Executive Board.

(b) Status and role.--The district director shall be the executive head of the district office to which the district supervisor is appointed and shall have the control, management and direction of all employees of the department assigned to the district, subject to the supervision of the department.

§ 6171.3. District office employees.

(a) Department to appoint.--The department shall appoint in the various district offices a sufficient number of agents, clerks, stenographers and other employees to fully and efficiently administer the parole laws of this Commonwealth, but no employee of the department shall be appointed by the department except in the manner provided by this chapter.

(b) Salaries and qualifications.--The salaries of the appointees in subsection (a) shall be fixed by the department. The department shall from time to time by appropriate rule or regulation prescribe the qualifications to be possessed by its personnel. The qualifications shall be such as will best promote the efficient operation of probation and parole.

§ 6172. Probation services.

(a) General rule.--The department shall have exclusive power to supervise any offender placed on probation by any judge of a court having criminal jurisdiction when the court, by special order, consistent with the regulations of the department, directs supervision by the department.

(b) Presentence investigations.--The department shall make presentence investigations when requested to do so by the court in accordance with the regulations of the department.

(c) In-service training.--The department shall provide in-service training for personnel of county probation offices when requested to do so by the court having jurisdiction of the probation office.

§ 6173. Investigation of circumstances of offense.

(a) Duty to investigate.--The department, upon the commitment to a correctional facility of any offender whom the

board is given the power to parole, shall investigate and include in its report to the board:

- (1) The nature and circumstances of the offense committed.
- (2) Any recommendations made by the trial judge and prosecuting attorney.
- (3) The general character and background of the offender.
- (4) Participation by an offender sentenced after February 19, 1999, and who is serving a sentence for a crime of violence in a victim impact education program offered by the department.
- (5) The written or personal statement of the testimony of the victim or the victim's family submitted under section 6140 (relating to victim statements, testimony and participation in hearing).
- (6) The notes of testimony of the sentencing hearing, if any, together with such additional information regarding the nature and circumstances of the offense committed for which sentence was imposed as may be available.
- (7) The conduct of the offender while in prison and the offender's physical, mental and behavioral condition and history, in addition to history of family violence and complete criminal record.

(b) Cooperation of public officials.--A public official who possesses offender records or information shall furnish the records or information to the department upon request and without charge so far as may be practicable while the case is recent.

(c) Duty to transmit.--A court sentencing any offender to a term as to which power to parole is given to the board in this chapter shall transmit to the department, within 30 days after the imposition of the sentence:

- (1) A copy of the notes of testimony of the sentencing hearing that may have been filed or recorded in the case.
- (2) Copies of any criminal identification records secured from the Federal Bureau of Investigation.
- (3) Copies of presentence investigation reports and behavior clinic reports, if any were submitted to the court, the last two of which records, being confidential records of the court, shall be treated confidentially by the department, who shall not permit examination of the records by anyone other than its duly appointed officers and employees and the board and its officers and employees, except upon court order.

§ 6174. Right of access to offenders.

All prison officials shall:

- (1) At all reasonable times grant to the properly accredited representatives of the department access to any detainee whom the board has power to parole.
- (2) At all reasonable times provide for the board or its properly accredited representative facilities for communicating with and observing a detainee while imprisoned.

§ 6175. Investigations for the Board of Pardons.

The department shall make an investigation for the Board of Pardons in cases coming before it and upon its request. The investigation shall include all information set forth under section 6135 (relating to investigation of circumstances of offense), including a risk assessment if the applicant is incarcerated.

Sec.

6181. Status as peace officers.

6182. Supervisory relationship to offenders.

§ 6181. Status as peace officers.

An agent is declared to be a peace officer and is given police power and authority throughout this Commonwealth to arrest without warrant, writ, rule or process any department-supervised offender for failing to report as required or for any other violation of his conditions of supervision.

§ 6182. Supervisory relationship to offenders.

(a) General rule.--Agents are in a supervisory relationship with department-supervised offenders. The purpose of supervision is to assist department-supervised 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 supervision and case management techniques to maximize successful parole completion through effective reentry to society.

(b) Searches and seizures authorized.--

(1) Agents may search the person and property of department-supervised offenders in accordance with the provisions of this section.

(2) Nothing in this section shall be construed to permit searches or seizures in violation of the Constitution of the United States or section 8 of Article I of the Constitution of Pennsylvania.

(c) Effect of violation.--No violation of this section shall constitute an independent ground for suppression of evidence in any probation, parole or criminal proceeding.

(d) Grounds for personal search of a department-supervised offender.--

(1) A personal search of an offender may be conducted by an agent:

(i) if there is a reasonable suspicion to believe that the department-supervised offender possesses contraband or other evidence of violations of the conditions of supervision;

(ii) when a department-supervised offender is transported or taken into custody; or

(iii) upon a department-supervised offender entering or leaving the secure enclosure of a correctional institution, jail or detention facility.

(2) A property search may be conducted by an agent if there is reasonable suspicion to believe that the real or other property in the possession of or under the control of the department-supervised offender contains contraband or other evidence of violations of the conditions of supervision.

(3) The department-supervised offender may be detained if the department-supervised offender is present during a property search. If the department-supervised offender is not present during a property search, the agent in charge of the search shall make a reasonable effort to provide the department-supervised offender with notice of the search, including a list of the items seized, after the search is completed.

(4) The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. In accordance with such case law, the following factors, where applicable, may be taken into account:

(i) The observations of agents.

- (ii) Information provided by others.
- (iii) The activities of the department-supervised offender.
- (iv) Information provided by the department-supervised offender.
- (v) The experience of agents with the department-supervised offender.
- (vi) The experience of agents in similar circumstances.
- (vii) The prior criminal and supervisory history of the department-supervised offender.
- (viii) The need to verify compliance with the conditions of supervision.

(e) Nonresident department-supervised offenders.--No agent shall conduct a personal or property search of a department-supervised offender who is residing in a foreign state except for the limited purposes permitted under the Interstate Compact for the Supervision of Offenders and Probationers. The department-supervised offender is held accountable to the rules of both the sending state and the receiving state. Any personal or property search of a department-supervised offender residing in another state shall be conducted by an agent of the receiving state.

(f) When authority is effective.--The authority granted to agents under this section shall be effective upon enactment of this section, without the necessity of any further regulation by the department.

Section 25. The definition of "board" in section 6302 of Title 61 is amended to read:
 § 6302. 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.]
 * * *

Section 26. Sections 7115(a)(2) and (d), 7121 and 7122(a), (b), (c) and (e) of Title 61 are amended to read:

§ 7115. Interstate Compact for the Supervision of Adult Offenders application fee.

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

(2) A person on State probation or parole who applies for a transfer to another state through the [interstate compact] **Interstate Compact** shall be required to pay an application fee to the [board] **department** 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.
 * * *

(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] **department** for expenses incurred in the administration of the [interstate compact] **Interstate Compact**.
 * * *

§ 7121. Deputization.

(a) General rule.--The [chairperson of the Pennsylvania Board of Probation and Parole] **secretary** may deputize any person to act as an officer and agent of the Commonwealth in effecting the return of any person who has violated the terms and conditions of parole or probation as granted by the Commonwealth. In any matter relating to the return of such

person, an agent so deputized has all the powers of a police officer of this Commonwealth.

(b) Evidence of deputization.--A deputization under this section must be in writing and a person authorized to act as an agent of the Commonwealth under that authority shall carry formal evidence of the deputization and shall produce it on demand.

(c) Interstate contracts.--

(1) The [chairperson of the Pennsylvania Board of Probation and Parole] **secretary or a designee** may, subject to the approval of the Auditor General, enter into contracts with similar officials of any other state for the purpose of sharing an equitable portion of the cost of effecting the return of any person who has violated the terms and conditions of parole or probation as granted by the Commonwealth.

(2) **All interstate contracts entered into prior to the effective date of this paragraph are ratified and shall continue in effect according to their respective terms.**
§ 7122. Supervision of persons paroled by other states.

(a) General rule.--In compliance with the Federal interstate compact laws and the provisions of this section, the [board] **department** may supervise persons who are paroled by other states and reside in this Commonwealth, where such other states agree to perform similar services for the [board] **department**.

(b) Witness Protection Program.--The [board] **department** may relinquish jurisdiction over [a parolee] **an offender** to the proper Federal authorities where the [parolee] **offender** is placed into the Witness Protection Program of the United States Department of Justice.

(c) Applicability.--The provisions of this section shall apply only to those persons under the supervision of the [board] **department**.

* * *

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

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

"Other verifiable means of support." The term includes, but is not limited to, support by a parent, grandparent, sibling, spouse or adult child. The term does not include public assistance.

"Sexual offense."

(1) Any of the following offenses or an equivalent offense that is classified as a felony and involves a victim who is a minor:

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

18 Pa.C.S. § 5902(a) (relating to prostitution and related offenses).

18 Pa.C.S. § 5903(a) (3), (4), (5) or (6) (relating to obscene and other sexual materials and performances).

(2) Any of the following offenses or an equivalent offense that is classified as a felony and involves a victim who is younger than 13 years of age:

18 Pa.C.S. § 3126 (relating to indecent assault).

(3) Any of the following offenses or an equivalent offense, regardless of the victim's age:

18 Pa.C.S. § 3121 (relating to rape).

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

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

"Violent offense."

(1) Any of the following offenses or an equivalent offense:

- 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 (relating to kidnapping) where the victim is a minor.
- 18 Pa.C.S. § 3121 (relating to rape).
- 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- 18 Pa.C.S. § 3301 (relating to arson and related offenses).
- 18 Pa.C.S. § 3502 (relating to burglary).
- 18 Pa.C.S. § 3701 (relating to robbery).
- 18 Pa.C.S. § 3923 (relating to theft by extortion) where a threat of violence is made.

(2) A criminal attempt, criminal solicitation or criminal conspiracy to commit any offenses set forth in this definition.

["Other verifiable means of support." The term includes, but is not limited to, support by parent, grandparent, sibling, spouse or adult child. The term does not include public assistance.]

Section 26.1. Title 61 is amended by adding a chapter to read:

CHAPTER 73 BOARD OF PARDONS

Sec.

7301. Board of Pardons.

§ 7301. Board of Pardons.

(a) **Establishment.**--The Board of Pardons is established for the purposes of:

- (1) hearing applications for the remission of fines and forfeitures;
- (2) granting of reprieves, commutations of sentence and pardons, except in cases of impeachment; and
- (3) making recommendations in writing to the Governor thereon, in the manner provided under and subject to section 9 of Article IV of the Constitution of Pennsylvania.

(b) **Composition.**--The Board of Pardons shall consist of the following members:

- (1) The Lieutenant Governor, who shall be chairperson.
- (2) The Attorney General.
- (3) Three members appointed by the Governor as provided

under section 9 of Article IV of the Constitution of Pennsylvania.

(b.1) **Terms.**--Members shall serve a term of six years.

(c) **Quorum.**--Four members of the board shall constitute a quorum.

(d) **Granting of hearings.**--Hearings relating to the granting of reprieves, commutations of sentences and pardons for prisoners serving life sentences, sentences for crimes of violence or sentences for any other offense resulting in death or serious bodily injury may only be granted upon approval by a vote of a majority of the members of the Board of Pardons.

(e) **Applicants under sentence of death.**--In cases involving applicants under sentence of death, the application shall be

filed within 10 days of the Governor's issuance of a warrant specifying a week for execution.

(f) Notice to victims.--The following apply:

(1) The Board of Pardons shall provide notice through the Office of Victim Advocate to victims or next of kin, including victims who are registered with the Department of Corrections, the Office of Victim Advocate, the Pennsylvania Parole Board, the Board of Pardons and those whose whereabouts are otherwise known.

(2) Individuals notified under this subsection shall be given the opportunity to offer prior comment on any application which has been granted a hearing by the Board of Pardons pertaining to the individual's case, which may be oral or written, and shall be considered by the Board of Pardons as to the advisability of any pardon or related release and any conditions of release.

(3) The Board of Pardons through the Office of Victim Advocate shall make all reasonable efforts to effectuate notice within 30 days of the date that a hearing is granted and at least 60 days prior to the hearing. The Board of Pardons and the Office of Victim Advocate shall certify in writing to each member of the Board of Pardons:

(i) the date and manner by which notice was effectuated; or

(ii) a detailed description of all means or measures employed to locate the victims or next of kin to furnish notice.

(4) During any hearing granted under this chapter, a victim or next of kin shall be permitted to offer testimony before the Board of Pardons in person, in writing or via videoconferencing or similar virtual presence technology at the sole discretion of the victim or next of kin.

(5) If the Board of Pardons fails to comply with any of the provisions of this subsection, any action by the Board of Pardons to which the failure to comply applies, including a vote or recommendation under this chapter, shall be null and void.

(g) Hearings.--Each member of the Board of Pardons shall interview an applicant in instances where the Board of Pardons chooses to have an application submitted by the following:

(1) an inmate serving a life sentence or a sentence of death;

(2) an inmate serving a sentence for murder of the third degree, voluntary manslaughter, attempt to commit murder of the third degree or attempt to commit voluntary manslaughter; or

(3) an inmate serving a sentence for a crime of violence.

(g.1) Interview.--An interview conducted under subsection (g) shall be in person, unless any requisite travel or transport of the applicant would cause an undue medical hardship.

(h) Rules and regulations.--The Board of Pardons shall adopt rules and regulations governing actions of the board and all hearings and recommendations shall be subject to the rules and regulations.

(i) Recordkeeping.--The Board of Pardons shall keep records of all actions, which shall, at all times, be open for public inspection.

(j) Offices.--Upon request, the Department of Corrections shall make available facilities, administrative support and other assistance to the board. The Secretary of the Board of

Pardons shall employ staff as necessary to carry out the board's duties under this chapter.

(k) 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:

"Crime of violence." As defined in 42 Pa.C.S. § 9714(g) (relating to sentences for second and subsequent offenses).

Section 26.2. Paragraph (3) of the definition of "enforcement officer" in section 5102 of Title 71 is amended to read:

§ 5102. Definitions.

The following words and phrases as used in this part, unless a different meaning is plainly required by the context, shall have the following meanings:

* * *

"Enforcement officer."

* * *

(3) Parole agents, classified as such by the Executive Board and employed by the Pennsylvania Board of Probation and Parole **or the Department of Corrections.**

* * *

Section 27. The following shall apply to transfers:

(1) The Pennsylvania Parole Board and the functions, powers and duties of the Pennsylvania Parole Board, including the powers and duties contained in 61 Pa.C.S. Ch. 61 Such. F and that formerly resided within the Pennsylvania Parole Board, are transferred to the Department of Corrections.

(2) Upon approval of the Governor, the following are transferred to the Department of Corrections, to be used, employed and expended in connection with the functions, powers and duties transferred under paragraph (1):

(i) Personnel, contract obligations, records, files, property, supplies and equipment being used or held on the effective date of this section in connection with the functions, powers and duties transferred under paragraph (1).

(ii) Personnel transferred under this section who on the effective date of this section hold civil service employment status shall retain such status and protections afforded under 71 Pa.C.S. Pt. III while they remain in their current position.

(iii) Unexpended balances of appropriations, allocations and other funds available or to be made available for use in connection with the functions, powers and duties transferred under paragraph (1).

(3) To the extent that any employee of the Pennsylvania Parole Board is transferred to the Department of Corrections as a result of this act, such action shall not require the department or the Pennsylvania Parole Board to engage in collective bargaining or impact bargaining with the collective bargaining representative of the employees under the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, or any other laws of this Commonwealth.

Section 28. Any reference in law to a parole agent or supervision staff shall be deemed a reference to an agent as defined in 61 Pa.C.S. § 6101. This act does not change the status of State parole agents for the purposes of the act of July 23, 1970 (P.L.563, No.195), known as the Public Employe Relations Act, or cause State parole agents to be considered policemen for the purposes of the act of June 24, 1968 (P.L.237,

No.111), referred to as the Policemen and Firemen Collective Bargaining Act.

Section 29. The appropriation for the Pennsylvania Parole Board and the Board of Pardons must each be in a separate line item under the Department of Corrections.

Section 29.1. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 61 Pa.C.S. Ch. 73.

(2) Sections 403 and 909 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, are repealed.

Section 30. This act shall take effect immediately.

APPROVED--The 30th day of June, A.D. 2021.

TOM WOLF