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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 339 Session of  
2001

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INTRODUCED BY BIRMELIN, JOSEPHS, ARGALL, ARMSTRONG, BASTIAN,  
BELFANTI, BENNINGHOFF, CALTAGIRONE, CAWLEY, CLARK, CLYMER,  
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STABACK, STEELMAN, STURLA, E. Z. TAYLOR, YEWCIC AND  
YOUNGBLOOD, JANUARY 31, 2001

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REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 31, 2001

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AN ACT

1 Establishing community reparative disposition programs for  
2 offenders and community reparative disposition boards; and  
3 providing for the powers and duties of the Pennsylvania  
4 Commission on Crime and Delinquency and for expungement of  
5 criminal arrest records in certain circumstances.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Community  
10 Reparative Disposition Program Act.

11 Section 2. Definitions.

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

15 "Board." The community reparative disposition board of a  
16 county established under this act and administered by the court

1 of common pleas of the county.

2 "Commission." The Pennsylvania Commission on Crime and  
3 Delinquency.

4 "Offender." A person charged with the commission of a  
5 criminal offense in this Commonwealth and graded as a  
6 misdemeanor of third degree or a summary offense who has never  
7 been convicted of a felony or a misdemeanor. The term does not  
8 include a person charged with a violation of a protection from  
9 abuse order entered pursuant to 23 Pa.C.S. (relating to domestic  
10 relations).

11 "Panel." A community reparative panel which shall consist of  
12 at least three members selected by the community reparative  
13 disposition board.

14 "Program." A community reparative disposition program  
15 implemented in accordance with this act.

16 "Reparative activity." An act to be performed by an  
17 offender, the objective of which is to repair the harm caused to  
18 a victim or the community by the offender or to rehabilitate the  
19 offender.

20 Section 3. Community reparative disposition program.

21 (a) Establishment.--The county commissioners of each county  
22 may establish a community reparative disposition program, which  
23 program shall be administered in a manner prescribed and  
24 approved by the community reparative disposition board of the  
25 county and in accordance with guidelines promulgated by the  
26 commission relating to the program. Once established, a  
27 community reparative disposition board may be dissolved at any  
28 time, at the discretion of the county commissioners.

29 (b) Purposes.--The purposes of the program shall be:

30 (1) To provide a mechanism for the victims of crime and

1 the community to receive restitution from offenders.

2 (2) To educate offenders about the impact their crimes  
3 have made on victims and the community.

4 (3) To provide a means, including rehabilitation, by  
5 which offenders may become law-abiding, productive citizens  
6 in the future.

7 (4) To provide offenders with an incentive to engage in  
8 reparative activities as an alternative to prosecution for  
9 the criminal offenses committed by them.

10 (c) Program guidelines.--The commission shall promulgate  
11 guidelines relating to:

12 (1) The operation of community reparative disposition  
13 boards.

14 (2) The composition of panels within the boards.

15 (3) The types of reparative and rehabilitative  
16 activities deemed acceptable for community reparative  
17 disposition programs.

18 (4) The criteria to be used by the boards in the  
19 development of reparative activities for offenders.

20 Section 4. Community reparative disposition boards.

21 (a) Composition.--In order to conduct business, each  
22 community reparative disposition board shall be composed of at  
23 least ten members who shall be citizens of the county. Members  
24 of the board shall serve for a term of two years and the board  
25 shall consist of the following:

26 (1) The president judge of the court of common pleas or  
27 that person's designee.

28 (2) The chairman of the county commissioners or that  
29 person's designee; or in counties of the first class, the  
30 mayor or that person's designee.

1           (3) The district attorney or that person's designee.

2           (4) A victim's service representative or representative  
3 of a victim's service organization, selected by the district  
4 attorney.

5           (5) The single county authority for alcohol and drugs or  
6 that person's designee.

7           (6) A representative selected by the chiefs of police in  
8 the county.

9           (7) A representative of a faith-based community,  
10 selected by the county commissioners or, in counties of the  
11 first class, the mayor.

12           (8) A representative of the business community, selected  
13 by the county commissioners or, in counties of the first  
14 class, the mayor.

15           (9) A public defender or assistant public defender.

16           (10) The county mental health/mental retardation  
17 administrator or that person's designee.

18       (b) Duties.--The board shall perform the following duties:

19           (1) Select persons for participation on panels.

20           (2) Define the categories of cases appropriate for  
21 referral of offenders to the panel.

22           (3) Establish and implement appropriate training of  
23 panels.

24           (4) Oversee the activities of the panels.

25           (5) Report on activities of the board and panels to the  
26 commission.

27       (c) Panels.--The panels selected by the board shall conduct  
28 meetings with offenders and victims for the purpose of  
29 negotiating and entering into written agreements. The panels  
30 shall:

1 (1) Report to the board regarding the conditions of  
2 agreements or reparative activities entered into with  
3 offenders who seek participation in the program.

4 (2) Supervise offenders' compliance with the conditions  
5 of the program.

6 (3) Certify, at the request of the offender, whether the  
7 offender has satisfactorily completed the conditions of the  
8 program.

9 Section 5. Referral of offenders.

10 (a) Procedures.--The board shall establish procedures for  
11 the referral of offenders by the charging authority to a panel,  
12 which procedures shall contain the following provisions:

13 (1) Referrals shall be made as early as practicable  
14 after the arrest.

15 (2) A referral shall be contingent upon the offender's  
16 admission that he committed the offense.

17 (b) Use of offender information or statements.--No  
18 admission, information or statements provided by an offender or  
19 the offender's attorney to the attorney for the Commonwealth  
20 relating to consideration for participation in the program shall  
21 be admissible against the offender for any purpose in any  
22 criminal proceeding, except in a prosecution based on the  
23 falsity of such information or statements.

24 (c) Continuance of proceedings.--Any court proceedings  
25 relating to the offense shall be continued pending completion or  
26 breach of the agreement between the panel and the offender.

27 Section 6. Meeting of panels.

28 (a) General rule.--After referral of an offender to a panel,  
29 the panel shall conduct a meeting between the panel, the  
30 offender and the victim, if available. At the meeting, the panel

1 shall attempt to enter into a written agreement of reparative  
2 activities with the offender.

3 (b) Written statement by victim.--The victim may, at his  
4 option, provide a written statement to the panel in lieu of  
5 appearing at the panel hearing or meeting.

6 (c) Panel report to board and court.--

7 (1) After the meeting is concluded, the panel shall  
8 report to the board, the court, the charging authority and  
9 the victim whether an agreement of reparative activities has  
10 been reached with the offender and the provisions of the  
11 agreement, if any.

12 (2) Where an agreement has not been reached, the case  
13 shall proceed as if no referral had been made to the panel.

14 (d) Understanding of offender.--In the course of developing  
15 the agreement, the panel shall determine whether the offender  
16 understands the following:

17 (1) Acceptance into and satisfactory completion of the  
18 program provides the offender an opportunity to dismiss the  
19 pending charges.

20 (2) Should the offender fail to complete the program  
21 satisfactorily, the offender may be prosecuted for the  
22 offense charged as provided by law.

23 (3) The offender must agree that if accepted into the  
24 program, the offender waives, in writing:

25 (i) The appropriate statute of limitations for the  
26 offense charged.

27 (ii) The offender's right to the speedy filing of  
28 charges and to a speedy trial under any applicable  
29 Federal or State constitutional provision, statute or  
30 rule of court during the period of participation in the

1           program.

2       (e) Use of offender information or statements.--No  
3 admission, information or statements provided by an offender to  
4 the panel shall be admissible against the offender for any  
5 purpose in any criminal proceeding, except in a prosecution  
6 based on the falsity of such information or statements.

7       (f) No appeal.--No appeal shall be taken from any panel  
8 decision.

9 Section 7. Breach of conditions by offender.

10       If the panel, in its discretion, determines that the offender  
11 has not completed the conditions, the panel shall declare the  
12 agreement breached. The panel shall notify in writing the  
13 charging authority, the board, the court and the victim of the  
14 breach.

15 Section 8. Conditions of program participation.

16       (a) General rule.--It shall be a condition of program  
17 participation that the offender shall not be arrested for, nor  
18 commit, any crime. The conditions of participation in the  
19 program shall also consist of:

20           (1) Reparative activities mandated by the panel, after  
21 input from the victim, if available, and the offender.

22           (2) The imposition of costs and a reasonable charge  
23 relating to the expense of administering the program.

24           (3) Such other conditions as may be imposed with respect  
25 to probation after conviction of a criminal offense,  
26 including, but not limited to, restitution.

27           (4) Such other terms and conditions as agreed to by the  
28 panel and the offender.

29           (5) Referral to assessment for drug and alcohol, mental  
30 health, vocational or other rehabilitative services, as

1 deemed appropriate by the panel.

2 (6) Any other conditions as required by law.

3 (b) Duration of participation.--An offender shall be  
4 required to participate in the program for a period of not more  
5 than one year.

6 Section 9. Dismissal of charges for completion of program.

7 When an offender satisfactorily completes the conditions of  
8 the program, the panel shall notify in writing the charging  
9 authority, the board, the court and the victim. The court shall  
10 dismiss any charges relating to the underlying offense.

11 Section 10. Expungement.

12 (a) General rule.--Except as provided in subsection (b),  
13 when a court orders the dismissal of charges under section 9,  
14 the court may also order the expungement of the offender's  
15 arrest record relating to the dismissed charges, upon motion of  
16 the offender.

17 (b) Objection by the Commonwealth.-- The Commonwealth may  
18 file any objection to an expungement under subsection (a). A  
19 copy of the objections under this section shall be served on the  
20 offender, the offender's attorney and the victim.

21 (c) Hearing on objections.--The court shall conduct a  
22 hearing on the objections and shall permit the offender and the  
23 victim an opportunity to be heard.

24 Section 11. Duties of commission.

25 In addition to any other duties imposed under this act the  
26 commission shall:

27 (1) Develop models and promulgate guidelines to assist  
28 community reparative boards in the establishment of community  
29 reparative disposition programs.

30 (2) Provide technical assistance and funding for the



1 establishment and operation of community reparative  
2 disposition programs.

3 (3) Monitor the effect of the community reparative  
4 disposition programs on recidivist rates.

5 (4) Monitor the effect of the community reparative  
6 disposition programs' court expenditures.

7 (5) Establish a curriculum and training program to  
8 support the establishment and operation of community  
9 reparative disposition programs.

10 Section 12. Effective date.

11 This act shall take effect July 1, 2001, or immediately,  
12 whichever is later.