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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 4**

Session of  
2007

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INTRODUCED BY D. O'BRIEN, MARSICO, MANDERINO, BAKER, BASTIAN,  
BENNINGHOFF, BRENNAN, CAPPELLI, CLYMER, DALLY, DENLINGER,  
EVERETT, FABRIZIO, FAIRCHILD, GIBBONS, HALUSKA, HARHAI,  
HARPER, HERSHEY, HICKERNELL, KENNEY, KIRKLAND, KOTIK, KULA,  
MAHONEY, MANN, McGEEHAN, O'NEILL, RAPP, ROHRER, SABATINA,  
SCAVELLO, SCHRODER, SHAPIRO, SIPTROTH, SONNEY, STAIRS,  
THOMAS, TRUE, WANSACZ, WATSON, YUDICHAK, JAMES, WALKO AND  
CALTAGIRONE, AUGUST 21, 2007

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SENATE AMENDMENTS TO HOUSE AMENDMENTS, SEPTEMBER 16, 2008

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AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 44  
2 (Law and Justice) of the Pennsylvania Consolidated Statutes,  
3 imposing a central or regional booking fee on criminal  
4 convictions to fund the start-up, operation or maintenance of  
5 a central or regional booking center; providing for a  
6 countywide booking center plan; providing for definitions of  
7 "board" and "department"; further providing for composition  
8 of the Pennsylvania Commission on Sentencing, for powers and  
9 duties and for adoption of guidelines for sentencing;  
10 providing for adoption of guidelines for resentencing,  
11 adoption of guidelines for parole and adoption of  
12 recommitment ranges following revocation of parole by the  
13 Pennsylvania Board of Probation and Parole; further providing  
14 for publication of guidelines, for sentencing generally, for  
15 sentence of total confinement, for sentencing proceeding and  
16 place of confinement and for information required upon  
17 commitment and subsequent disposition and for referral to  
18 State intermediate punishment program; providing for work  
19 release or other court order and for recidivism risk  
20 reduction incentive; and making a related repeal.

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

23 Section 1. Title 42 of the Pennsylvania Consolidated

1 Statutes is amended by adding sections to read:

2 § 1725.5. Booking center fee.

3 (a) Imposition.--Following the adoption of a countywide  
4 booking center plan, a person may, in addition to any other  
5 finer, penalties or costs imposed by law, be required by the  
6 court to pay a booking center fund fee of no more than \$200 \$300 ←  
7 if the person:

8 (1) Is placed on probation without verdict pursuant to  
9 section 17 of the act of April 14, 1972 (P.L.233, No.64),  
10 known as The Controlled Substance, Drug, Device and Cosmetic  
11 Act.

12 (2) Receives Accelerated Rehabilitative Disposition for,  
13 pleads guilty to or nolo contendere to or is convicted of a  
14 crime under the following:

15 (i) 18 Pa.C.S. § 106(a) (relating to classes of  
16 offenses).

17 (ii) 75 Pa.C.S. § 3735 (relating to homicide by  
18 vehicle while driving under influence).

19 (iii) 75 Pa.C.S. § 3802 (relating to driving under  
20 influence of alcohol or controlled substance).

21 (iv) A violation of The Controlled Substance, Drug,  
22 Device and Cosmetic Act.

23 (b) Disposition.--The fee under subsection (a) shall be paid  
24 to the county and deposited into a special central or regional  
25 booking center fund established in the county. Moneys in the  
26 special fund shall be used solely for the implementation of a  
27 countywide booking center plan under section 1725.6 (relating to  
28 countywide booking center plan) and the start-up, operation or  
29 maintenance of a booking center.

30 (c) Other laws.--The booking center fee shall be imposed

1 notwithstanding any other provision of law to the contrary.

2 § 1725.6. Countywide booking center plan.

3 (a) Development.--

4 (1) A court in a county that has developed and adopted a  
5 countywide booking center plan may impose the fee established  
6 under section 1725.5 (relating to booking center fee).

7 (2) A county with a criminal justice advisory board  
8 shall develop the plan in conjunction with the criminal  
9 justice advisory board.

10 (3) A county that does not have a criminal justice  
11 advisory board shall develop the plan in conjunction with the  
12 district attorney, local police departments and  
13 municipalities within the county.

14 (b) Requirements.--The plan adopted under subsection (a)  
15 shall do all of the following:

16 (1) Ensure coordination and collaboration of all  
17 criminal justice agencies within the county.

18 (2) Comply with all applicable Federal and State  
19 technology standards for the collection and transmission of  
20 offender identification information.

21 (3) Make recommendations regarding the number, funding  
22 and operations of booking centers within the county. The plan  
23 shall prioritize the recommendations.

24 ~~(c) Submission. The plan shall be submitted to the~~ <—

25 (C) SUBMISSION.-- <—

26 (1) THE PLAN SHALL BE SUBMITTED TO THE Pennsylvania  
27 Commission on Crime and Delinquency for review and  
28 certification that the plan complies with the requirements of  
29 subsection (b)(2).

30 (2) THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY <—

1 SHALL PROVIDE A LIST OF ALL CERTIFIED COUNTY PLANS TO THE  
2 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS UPON EACH  
3 COUNTY'S CERTIFICATION. THE PENNSYLVANIA COMMISSION ON CRIME  
4 AND DELINQUENCY SHALL UPDATE THIS LIST AND PROVIDE IT TO THE  
5 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS WHENEVER A  
6 COUNTY IS ADDED OR SUBTRACTED FROM THE LIST.

7 (d) Duties of commission.--The Pennsylvania Commission on  
8 Crime and Delinquency shall do all of the following:

9 (1) Determine and certify if a countywide booking center  
10 plan submitted by a county criminal justice advisory board or  
11 the county commissioners complies with subsection (b)(2).

12 (2) Adopt guidelines within 90 days of the effective  
13 date of this section relating to technology standards for the  
14 collection and transmission of offenders' identification. The  
15 guidelines shall be published in the Pennsylvania Bulletin.

16 (e) Implementation.--Following certification by the  
17 Pennsylvania Commission on Crime and Delinquency under  
18 subsection (d), the county may appropriate moneys in the special  
19 central or regional booking center fund to implement the plan to  
20 the greatest extent possible.

21 (f) Limitation.--No more than 5% of moneys in the special  
22 central or regional booking center fund may be appropriated by  
23 the county for the county's administrative costs related to the  
24 collection of the fee under section 1725.5.

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

28 "Booking center." A facility utilized for the processing and  
29 identification of individuals arrested, charged or accused of a  
30 crime.

1       "County criminal justice advisory board." A county criminal  
2 justice planning board which meets the minimum standard for  
3 those boards established by the Pennsylvania Commission on Crime  
4 and Delinquency.

5       "Countywide booking center plan." A written plan that  
6 includes a comprehensive strategy to improve the collection,  
7 transfer and maintenance of electronic offender identification  
8 information.

9       Section 1.1. Section 2151.1 of Title 42 is amended by adding  
10 definitions to read:

11 § 2151.1. Definitions.

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

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

16       \* \* \*

17       "Department." The Department of Corrections of the  
18 Commonwealth.

19       Section 2. Section 2152 of Title 42 is amended by adding a  
20 subsection to read:

21 § 2152. Composition of commission.

22       \* \* \*

23       (a.1) Ex officio members.--The Secretary of Corrections, the  
24 victim advocate appointed under section 301 of the act of  
25 November 24, 1998 (P.L.882, No.111), known as the Crime Victims  
26 Act, and the chairman of the board, during their tenure in their  
27 respective positions, shall serve as ex officio nonvoting  
28 members of the commission.

29       \* \* \*

30       Section 3. Section 2153(a)(7), (9), (10), (11), (12), (13)

1 and (14) of Title 42 are amended and the subsection is amended  
2 by adding a paragraph to read:

3 § 2153. Powers and duties.

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

6 \* \* \*

7 (7) Establish a research and development program within  
8 the commission for the purpose of:

9 (i) Serving as a clearinghouse and information  
10 center for the collection, preparation and dissemination  
11 of information on Commonwealth sentencing, resentencing  
12 and parole practices.

13 (ii) Assisting and serving in a consulting capacity  
14 to the board, State courts, departments and agencies in  
15 the development, maintenance and coordination of sound  
16 sentencing [practices], resentencing and parole  
17 practices.

18 \* \* \*

19 (9) Publish data concerning the sentencing and parole  
20 processes.

21 (10) Collect systematically and disseminate information  
22 concerning parole dispositions and sentences actually  
23 imposed[.], including initial sentences and any subsequent  
24 modification of sentences or resentences following revocation  
25 or remand, and parole and reparole decisions by the board and  
26 any other paroling authority.

27 (11) Collect systematically and disseminate information  
28 regarding effectiveness of parole dispositions and sentences  
29 imposed.

30 (12) Make recommendations to the General Assembly

1 concerning modification or enactment of sentencing, parole  
2 and correctional statutes which the commission finds to be  
3 necessary and advisable to carry out an effective, humane and  
4 rational sentencing, resentencing and parole policy.

5 (13) Establish a plan and timetable to collect and  
6 disseminate information relating to incapacitation,  
7 recidivism, deterrence and overall effectiveness of sentences  
8 and parole dispositions imposed.

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

17 (i) Promulgating forms which document the  
18 application of [the] sentencing, resentencing and parole  
19 guidelines, mandatory sentencing laws, [or both.]  
20 releases pursuant to a county reentry plan, recommitment  
21 ranges and recidivism risk reduction incentive minimum  
22 sentences, and collecting information on all parole and  
23 reparole decisions by the board and any other paroling  
24 authority.

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

27 (15) Prior to adoption of changes to guidelines for  
28 sentencing, resentencing and parole, and recommitment ranges  
29 following revocation, use a correctional population  
30 simulation model to determine:

1           (i) Resources that are required under current  
2           guidelines and ranges.

3           (ii) Resources that would be required to carry out  
4           any proposed changes to the guidelines and ranges.

5           \* \* \*

6           Section 3.1. Section 2154(a) of Title 42 is amended by  
7 adding a paragraph to read:

8           § 2154. Adoption of guidelines for sentencing.

9           (a) General rule.--The commission shall adopt guidelines for  
10 sentencing within the limits established by law which shall be  
11 considered by the sentencing court in determining the  
12 appropriate sentence for defendants who plead guilty or nolo  
13 contendere to, or who were found guilty of, felonies and  
14 misdemeanors. The guidelines shall:

15           \* \* \*

16           (5) Consider the impact of any amendments to section  
17           9756 (relating to sentence of total confinement).

18           \* \* \*

19           Section 4. Title 42 is amended by adding sections to read:

20           § 2154.4. Adoption of guidelines for resentencing.

21           The commission shall adopt guidelines that shall be  
22           considered by the court when resentencing an offender following  
23           revocation of probation, county intermediate punishment or State  
24           intermediate punishment. The guidelines shall take into account  
25           factors considered in adopting the sentencing guidelines, the  
26           seriousness of the violation and the rehabilitative needs of the  
27           defendant.

28           § 2154.5. Adoption of guidelines for parole.

29           (a) Adoption.--The commission shall adopt guidelines that  
30           shall be considered by the board and any other paroling entity

1 when exercising its power to parole and reparole all persons  
2 sentenced by any court in this Commonwealth to imprisonment in  
3 any State or county penitentiary, prison or penal institution.

4 The guidelines shall do all of the following:

5 (1) Give primary consideration to the protection of the  
6 public and to victim safety.

7 (2) Provide for due consideration of victim input.

8 (3) Be designed to encourage inmates and parolees to  
9 conduct themselves in accordance with conditions and rules of  
10 conduct set forth by the department or other prison  
11 facilities and the board.

12 (4) Be designed to encourage inmates and parolees to  
13 participate in programs that have been demonstrated to be  
14 effective in reducing recidivism, including appropriate drug  
15 and alcohol treatment programs.

16 (5) Provide for prioritization of incarceration,  
17 rehabilitation and other criminal justice resources for  
18 offenders posing the greatest risk to public safety.

19 (6) Use validated risk assessment tools, be evidence  
20 based and take into account available research relating to  
21 the risk of recidivism, minimizing the threat posed to public  
22 safety and factors maximizing the success of reentry.

23 (b) Discretionary authority.--Notwithstanding any other  
24 provision of law, this section shall not remove the  
25 discretionary parole authority of the board and any other  
26 paroling entity when exercising its power to parole and  
27 reparole.

28 § 2154.6. Adoption of recommitment ranges following revocation  
29 of parole by board.

30 (a) Recommitment ranges.--The commission shall adopt

1 recommitment ranges that shall be considered by the board when  
2 exercising its power to reparole, commit and recommit for  
3 violations of parole any person sentenced by a court in this  
4 Commonwealth to imprisonment in any prison or penal institution  
5 of this Commonwealth, including State or county penitentiaries,  
6 prisons or penal institutions. The recommitment ranges shall  
7 take into account the seriousness of the initial conviction  
8 offense, the level of seriousness of the violation and the  
9 rehabilitative needs of the defendant. At the end of the  
10 recommittal period, the parole violator shall be reviewed for  
11 parole or, without further review, shall be reparoled.

12 (b) Deviation.--In every case in which the board deviates  
13 from the recommitment ranges, the board shall provide a  
14 contemporaneous written statement of the reasons for the  
15 deviation from the recommitment ranges to the commission as  
16 established under section 2153(a)(14) (relating to powers and  
17 duties).

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

21 "Recommitment range." A range of time within which a parole  
22 violator may be recommitted to serve an additional part of the  
23 term the parole violator would have been compelled to serve had  
24 the parole violator not been paroled.

25 Section 5. Sections 2155, 9718.3(a)(2)(i) and 9721(b) of  
26 Title 42 are amended to read:

27 § 2155. Publication of guidelines for sentencing[.],  
28 resentencing and parole and recommitment ranges  
29 following revocation.

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

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

10 (i) Pennsylvania District Attorneys Association.

11 (ii) Chiefs of Police Associations.

12 (iii) Fraternal Order of Police.

13 (iv) Public Defenders Organization.

14 (v) Law school faculty members.

15 (vi) State Board of Probation and Parole.

16 (vii) [Bureau of Correction] Department of  
17 Corrections.

18 (viii) Pennsylvania Bar Association.

19 (ix) Pennsylvania Wardens Association.

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

22 (xi) Pennsylvania Conference of State Trial Judges.

23 (xii) Any other interested person or organization.

24 (2) Publish in the Pennsylvania Bulletin sentencing  
25 guidelines as adopted by the commission.

26 (b) Rejection by General Assembly.--Subject to gubernatorial  
27 review pursuant to section 9 of Article III of the Constitution  
28 of Pennsylvania, the General Assembly may by concurrent  
29 resolution reject in their entirety any guidelines or  
30 recommitment ranges adopted by the commission within 90 days of

1 their publication in the Pennsylvania Bulletin pursuant to  
2 subsection (a)(2).

3 (c) Effective date.--Sentencing guidelines, resentencing  
4 guidelines following revocation of probation, county  
5 intermediate punishment and State intermediate punishment,  
6 parole guidelines and recommitment ranges following revocation  
7 by the board of paroles granted, adopted by the commission shall  
8 become effective 90 days after publication in the Pennsylvania  
9 Bulletin pursuant to subsection (a)(2) unless disapproved  
10 pursuant to subsection (b) and shall apply to sentences and  
11 resentences and parole decisions made after the effective date  
12 of the guidelines. If not disapproved, the commissioners shall  
13 conduct training and orientation for trial court judges and  
14 board members prior to the effective date of the guidelines and  
15 recommitment ranges.

16 § 9718.3. Sentence for failure to comply with registration of  
17 sexual offenders.

18 (a) Mandatory sentence.--Mandatory sentencing shall be as  
19 follows:

20 \* \* \*

21 (2) Sentencing upon conviction for a second or  
22 subsequent offense shall be as follows:

23 (i) Not less than five years for an individual who:

24 (A) was subject to section [9795.1(a)] 9795.1 or  
25 a similar provision from another jurisdiction; and

26 (B) violated 18 Pa.C.S. § 4915(a)(1) or (2).

27 \* \* \*

28 § 9721. Sentencing generally.

29 \* \* \*

30 (b) General standards.--In selecting from the alternatives

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

1 as established under section 2153(a)(14) (relating to powers and  
2 duties). Failure to comply shall be grounds for vacating the  
3 sentence or resentence and resentencing the defendant.

4 \* \* \*

5 Section 6. Section 9756(b) of Title 42 is amended and the  
6 section is amended by adding subsections to read:

7 § 9756. Sentence of total confinement.

8 \* \* \*

9 (b) Minimum sentence.--

10 (1) The court shall impose a minimum sentence of  
11 confinement which shall not exceed one-half of the maximum  
12 sentence imposed.

13 (2) The minimum sentence imposed under this section may  
14 not be reduced through parole prior to the expiration of the  
15 minimum sentence unless otherwise authorized by this section  
16 or other law.

17 (3) Except where the maximum sentence imposed is two  
18 years or more, and except where a mandatory minimum sentence  
19 of imprisonment or total confinement is required by law, the  
20 court shall, at the time of sentencing, state whether or not  
21 the defendant is eligible to participate in a reentry plan at  
22 any time prior to the expiration of the minimum sentence or  
23 at the expiration of a specified portion of the minimum  
24 sentence. For maximum sentences of less than two years as  
25 defined under section 9762(f) (relating to sentencing  
26 proceeding; place of confinement), a court may parole a  
27 defendant prior to the expiration of the minimum sentence  
28 only if the defendant was made eligible to participate in a  
29 reentry plan at the time of sentencing. The court shall  
30 provide at least ten days' written notice and an opportunity

1 to be heard, pursuant to the act of June 19, 1911 (P.L.1059,  
2 No.813), referred to as the County Jail and Workhouse Parole  
3 Law, to the prosecuting attorney before granting parole  
4 pursuant to this subsection. The reentry plan eligibility  
5 shall be considered a part of the sentence and subject to the  
6 requirements relating to the entry, recording and reporting  
7 of sentences.

8 (b.1) Recidivism risk reduction incentive minimum

9 sentence.--The court shall determine if the defendant is  
10 eligible for a recidivism risk reduction incentive minimum  
11 sentence under 44 Pa.C.S. Ch. 53 (relating to recidivism risk  
12 reduction incentive). If the defendant is eligible, the court  
13 shall impose a recidivism risk reduction incentive minimum  
14 sentence in addition to a minimum sentence and maximum sentence  
15 except, if the defendant was previously sentenced to two or more  
16 recidivism risk reduction incentive minimum sentences, the court  
17 shall have the discretion to impose a sentence with no  
18 recidivism risk reduction incentive minimum.

19 \* \* \*

20 (e) Definitions.--As used in this section, the term "reentry  
21 plan" is a release plan that may include drug and alcohol  
22 treatment, behavioral health treatment, job training, skills  
23 training, education, life skills or any other conditions deemed  
24 relevant by the court.

25 Section 7. Section 9762 of Title 42 is amended to read:

26 § 9762. Sentencing proceeding; place of confinement.

27 [All persons sentenced to total or partial confinement for:

28 (1) maximum terms of five or more years shall be

29 committed to the Bureau of Correction for confinement;

30 (2) maximum terms of two years or more but less than

1 five years may be committed to the Bureau of Correction for  
2 confinement or may be committed to a county prison within the  
3 jurisdiction of the court;

4 (3) maximum terms of less than two years shall be  
5 committed to a county prison within the jurisdiction of the  
6 court except that as facilities become available on dates and  
7 in areas designated by the Governor in proclamations  
8 declaring the availability of State correctional facilities,  
9 such persons may be committed to the Bureau of Correction for

10 confinement.] (a) Sentences or terms of incarceration  
11 imposed before a certain date.--For the three-year period  
12 beginning on the effective date of this subsection, all  
13 persons sentenced to total or partial confinement for the  
14 following terms shall be committed as follows:

15 (1) Maximum terms of five or more years shall be  
16 committed to the Department of Corrections for confinement.

17 (2) Maximum terms of two years or more but less than  
18 five years may be committed to the Department of Corrections  
19 for confinement or may be committed to a county prison within  
20 the jurisdiction of the court.

21 (3) Maximum terms of less than two years shall be  
22 committed to a county prison within the jurisdiction of the  
23 court.

24 (b) Sentences or terms of incarceration imposed after a  
25 certain date.--All persons sentenced three or more years after  
26 the effective date of this subsection to total or partial  
27 confinement shall be committed as follows:

28 (1) Maximum terms of five or more years shall be  
29 committed to the Department of Corrections for confinement.

30 (2) Maximum terms of two years or more but less than

1 five years shall be committed to the Department of  
2 Corrections for confinement, except upon a finding of all of  
3 the following:

4 (i) The chief administrator of the county prison, or  
5 the administrator's designee, has certified that the  
6 county prison is available for the commitment of persons  
7 sentenced to maximum terms of two or more years but less  
8 than five years.

9 (ii) The attorney for the Commonwealth has consented  
10 to the confinement of the person in the county prison.

11 (iii) The sentencing court has approved the  
12 confinement of the person in the county prison within the  
13 jurisdiction of the court.

14 (3) Maximum terms of less than two years shall be  
15 committed to a county prison within the jurisdiction of the  
16 court.

17 (c) Certification.--The chief administrator of the county  
18 prison, or the administrator's designee, may issue a  
19 certification under subsection (b)(2)(i) if the county prison  
20 population is less than 110% of the rated capacity of the county  
21 prison. The chief administrator shall revoke any previously  
22 issued certification if the prison population exceed 110% of the  
23 rated capacity. The president judge of the court, the district  
24 attorney and the chief public defender of the county shall be  
25 served with a written copy of any certification or revocation.

26 (d) County intermediate punishment.--Nothing in this section  
27 shall prevent a judge from sentencing an offender to county  
28 intermediate punishment which does not require confinement  
29 within county prison if otherwise authorized by law.

30 (e) Reimbursement.--Beginning three years after the

1 effective date of this subsection:

2       (1) The Department of Corrections shall reimburse to the  
3 counties the reasonable cost of confinement of every Level 4  
4 or 5 offender as identified in the Basic Sentencing Matrix  
5 promulgated by the Pennsylvania Commission on Sentencing who  
6 is participating in an approved work release program. The  
7 reimbursement per prisoner shall not exceed the average per-  
8 prisoner cost of confinement paid by the Commonwealth for the  
9 confinement of prisoners in the Department of Corrections. No  
10 more than \$2,500,000 shall be expended annually for this  
11 purpose. Reimbursement shall be made on a pro rata basis if  
12 the total dollar amount of eligible confinement costs exceeds  
13 \$2,500,000. Nothing in this paragraph shall prevent more than  
14 \$2,500,000 being appropriated for this purpose. Reimbursement  
15 shall be made on a pro rata basis if the total dollar amount  
16 of eligible confinement costs exceeds any additional  
17 appropriation. A county shall not be reimbursed under this  
18 section for any offender participating in an approved work  
19 release program for whom the county is being or has been  
20 reimbursed from any other State funds regardless of their  
21 source.

22       (2) County prisons may require reimbursements from other  
23 county prisons or the Department of Corrections for inmates  
24 voluntarily accepted for incarceration at mutually agreeable  
25 rates. The Department of Corrections shall maintain a list of  
26 those counties willing to accept voluntary placement of out-  
27 of-county inmates.

28       (f) Aggregation.--For purposes of this section, the  
29 sentences or terms of incarceration shall mean the entire  
30 continuous term of incarceration to which a person is subject,

1 notwithstanding whether the sentence is the result of any of the  
2 following:

3 (1) One or more sentences.

4 (2) Sentences imposed for violations of probation or  
5 intermediate punishment.

6 (3) Sentences to be served upon recommitment for  
7 violations of parole.

8 (4) Any other manner of sentence.

9 (g) Date of imposition.--For purposes of this section, if a  
10 person is subject to multiple sentences or terms of  
11 incarceration or any combination of sentences or terms, the date  
12 of the last sentence imposed or the date of recommitment,  
13 whichever is later, shall determine the place of incarceration  
14 and whether reimbursement is required.

15 (h) Transfer of prisoners.--Nothing in this section shall  
16 prohibit the transfer of prisoners otherwise authorized by law  
17 or prevent a judge from changing the place of confinement  
18 between State and county facilities to the extent that the judge  
19 would have such discretion at the time of imposition of sentence  
20 or recommitment.

21 Section 8. Section 9764 of Title 42 is amended to read:

22 § 9764. Information required upon commitment and subsequent  
23 disposition.

24 (a) General rule.--Upon commitment of an [offender] inmate  
25 to the custody of the Department of Corrections, the sheriff or  
26 transporting official shall provide to the institution's records  
27 officer or duty officer, in addition to [the court commitment  
28 order] a copy of the court commitment form DC-300B generated  
29 from the Common Pleas Criminal Court Case Management System of  
30 the Unified Judicial System, the following information:

1 (1) Record of adjustment in the county correctional  
2 facility, including, but not limited to, misconducts and  
3 escape history.

4 (2) Any current medical or psychological condition  
5 requiring treatment, including, but not limited to, suicide  
6 attempts.

7 (3) [Any medical admission testing performed by the  
8 county and the results of those tests, including, but not  
9 limited to, hepatitis, HIV/AIDS, tuberculosis or other  
10 infectious disease testing. Any release of medical  
11 information relating to HIV/AIDS shall be in accordance with  
12 the act of November 29, 1990 (P.L.585, No.148), known as the  
13 Confidentiality of HIV-Related Information Act.] All medical  
14 records of the county correctional institution relating to  
15 the inmate to the extent that those records may be disclosed  
16 under Federal and State law. The records shall include  
17 admission testing performed by the county and the results of  
18 those tests and any testing related to hepatitis, HIV/AIDS,  
19 tuberculosis or other infectious disease testing.

20 (4) Notice of current or previously administered  
21 medications.

22 (5) A 48-hour supply of current medications.

23 (6) A written statement by the county correctional  
24 institution relating to any sentencing credit to which the  
25 inmate may be entitled.

26 (7) A written statement by the county correctional  
27 institution setting forth all of the following:

28 (i) The dates on which the inmate was incarcerated.

29 (ii) The charges pending against the inmate with the  
30 offense tracking number.

1           (iii) The date on which the inmate was released on  
2           bail, if any, and a copy of the bail order.

3           (8) A copy of the sentencing order and any detainers  
4           filed against the inmate which the county has notice.

5           ~~(b) Additional information. Within ten days from the date~~ <—  
6           ~~sentence is imposed, the court shall provide to the county~~  
7           ~~correctional facility the following information pertaining to~~  
8           ~~the inmate:~~

9           (B) ADDITIONAL INFORMATION.--WITHIN TEN DAYS FROM THE DATE <—  
10          SENTENCE IS IMPOSED, THE COURT SHALL PROVIDE TO THE COUNTY  
11          CORRECTIONAL FACILITY THE FOLLOWING INFORMATION PERTAINING TO  
12          THE [OFFENDER] INMATE:

13           (1) A copy of the presentence investigation report.  
14          Where a presentence investigation report was not ordered by  
15          the court, the official version of the crime for which the  
16          [offender] inmate was convicted or a copy of the guilty plea  
17          transcript or preliminary hearing transcript.

18           (2) The criminal complaint or affidavit of probable  
19          cause accompanying the arrest warrant.

20           [(3) Where available, the police report summarizing the  
21          facts of the crime.]

22           (4) A copy of the completed guideline sentence form  
23          [issued by the Pennsylvania Commission on Sentencing].

24           (5) All of the following:

25           (i) A written, sealed sentencing order from the  
26           county.

27           (ii) The sentencing colloquy sealed by the court.

28           (iii) Court commitment orders.

29           (iv) The Court Commitment Form DC-300B generated  
30           from the Common Pleas Criminal Court Case Management

1           System of the Unified Judicial System.

2           (v) Any detainers filed against the inmate of which  
3           the county has notice.

4           (c) [Transfer of offender.--Where an offender is transferred  
5 from a county correctional facility to a State correctional  
6 facility for any reason, the information specified in subsection  
7 (b) shall be transmitted to the State correctional facility  
8 within 20 calendar days from the date on which the offender is  
9 transferred.] Transmittal of additional inmate documentation.--  
10 If a document provided by the court under subsection (b) is  
11 received by the county correctional institution after the inmate  
12 is transferred to the custody of the Department of Corrections,  
13 the document shall be transmitted to the Department of  
14 Corrections within 20 calendar days of its receipt.

15           (c.1) Implementation.--

16           (1) The Department of Corrections may refuse to accept  
17 custody of an inmate for whom the sheriff or transporting  
18 official does not provide the information under subsection  
19 (a) under the following circumstances:

20           (i) The county correctional facility has a pattern  
21 or practice of not providing the information mandated  
22 under this section.

23           (ii) The Department of Corrections has previously  
24 notified the chief administrator of the county  
25 correctional facility, the county commissioners, the  
26 county sheriff and the president judge of the county of  
27 the specific deficiencies that constitute a pattern or  
28 practice.

29           (iii) The Department of Corrections has provided the  
30 county with a reasonable period of time to provide the

1           documentation.

2           (iv) The Department of Corrections has notified the  
3           officials designated under subparagraph (ii) of the  
4           intent to refuse to accept inmates without documentation  
5           as of a specified date that shall be no sooner than 30  
6           days after the service of the notification.

7           (2) In cases of a refusal to accept custody of an inmate  
8           under this subsection, the sheriff or transporting official  
9           shall return the inmate to the sending county correctional  
10          institution, which shall accept custody of the inmate. The  
11          inmate may be recommitted to the custody of the Department of  
12          Corrections upon provision of the documentation required  
13          under subsection (a).

14          (3) The Department of Corrections, board and a county  
15          correctional facility shall not be liable for compensatory,  
16          punitive or other damages for relying in good faith on any  
17          sentencing order or court commitment form DC-300B generated  
18          from the Common Pleas Criminal Court Case Management System  
19          of the Unified Judicial System or otherwise transmitted to  
20          them.

21          (c.2) Effect of electronic transfer of information.--  
22          Notwithstanding any electronic transfer of information which may  
23          occur, the Department of Corrections, in its discretion, may  
24          require actual sealed court orders to the extent that they  
25          relate to the commitment, term of sentence, or other matter that  
26          may affect the fact or duration of confinement.

27          (d) Transfer to county facility.--Upon transfer of an inmate  
28          from a State correctional institution to a county correctional  
29          facility, the Department of Corrections shall provide to the  
30          county facility, unless the facility prior to the time of

1 transfer agrees to accept the inmate without the information,  
2 the record of the inmate's institutional adjustment, including,  
3 but not limited to, misconducts and/or escape history, and  
4 written notice of any current medical or psychological condition  
5 requiring treatment, including, but not limited to, suicide  
6 attempts, notice of current or previously ordered medication and  
7 a 48-hour supply of current medication.

8 (e) Release by Department of Corrections.--Prior to the  
9 release of an inmate from the Department of Corrections to State  
10 parole supervision, the Department of Corrections shall provide  
11 to the Board of Probation and Parole the information contained  
12 in subsections (a)(1) and (2) and (b).

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

15 (1) Prior to the release of an inmate from a county  
16 correctional facility to State probation or parole  
17 supervision, the facility shall provide to the Board of  
18 Probation and Parole the information contained in subsections  
19 (a)(1) through (4) and (b).

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

26 (g) Release from county correctional facility to county  
27 probation or parole.--

28 (1) Prior to the release of an inmate from a county  
29 correctional facility to county probation or parole  
30 supervision, the facility shall provide to the county

1       probation department the information contained in subsections  
2       (a)(1) through (4) and (b).

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

9       (h) Record of inmate moneys.--Prior to the release of an  
10      inmate from the Department of Corrections to State parole  
11      supervision, the department shall provide to the Board of  
12      Probation and Parole a record of any moneys paid by the inmate  
13      and any balance remaining towards satisfaction of restitution or  
14      any other court-ordered financial obligations. Prior to the  
15      release of an inmate from a county correctional facility to  
16      State parole supervision, the county correctional facility shall  
17      provide to the Board of Probation and Parole a record of any  
18      moneys paid by the inmate and any balance remaining towards the  
19      satisfaction of restitution or any other court-ordered financial  
20      obligations. Prior to the release of an inmate from a county  
21      correctional facility to county parole supervision, the facility  
22      shall provide to the county probation department or other agent  
23      designated by the county commissioners of the county with the  
24      approval of the president judge of the county a record of any  
25      moneys paid by the inmate and any remaining balance towards the  
26      satisfaction of restitution and any other court-ordered  
27      financial obligations.

28       (i) Continuing payments.--The Board of Probation and Parole  
29      shall require as a condition of parole that any inmate released  
30      to their supervision shall make continuing payments on

1 restitution or any other court-ordered financial obligations.  
2 The sentencing court shall require as a condition of county  
3 parole that any inmate released to the supervision of the county  
4 probation department shall make continuing payments of  
5 restitution or any other court-ordered financial obligations.

6 (j) Release after maximum sentence.--Upon release of an  
7 inmate from the Department of Corrections at the expiration of  
8 his maximum sentence, the Department of Corrections shall  
9 transmit to the county probation department or other agent  
10 designated by the county commissioners of the county with the  
11 approval of the president judge of the county in which the  
12 inmate was convicted a record of any moneys paid by the inmate  
13 and any outstanding amounts owed by the inmate towards  
14 satisfaction of restitution or any other court-ordered financial  
15 obligations.

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

19 (l) Application.--This section shall apply to offenders  
20 transferred to or released from a State or county correctional  
21 facility after the effective date of this section.

22 Section 8.1. Title 42 is amended by adding a section to  
23 read:

24 § 9813. Work release or other court order and purposes.

25 (a) Generally.--Notwithstanding any provision of law, if any  
26 offender has been sentenced to undergo imprisonment in a county  
27 jail for a term of less than five years, the court, at the time  
28 of sentence or at any time thereafter upon application made in  
29 accordance with this section, may enter an order making the  
30 offender eligible to leave the jail during necessary and

1 reasonable hours for the purpose of working at his employment,  
2 conducting his own business or other self-employed occupation,  
3 including housekeeping and attending to the needs of family,  
4 seeking employment, attending an educational institution,  
5 securing medical treatment or for other lawful purposes as the  
6 court shall consider necessary and appropriate.

7 (b) Procedure.--At the time of imposition of a county jail  
8 sentence, a crime victim receiving notice of the sentence  
9 imposed shall be informed that the offender may be eligible for  
10 an order under this section. An application for an order under  
11 this section shall be served on the attorney for the  
12 Commonwealth. Prior to granting any order under this section,  
13 the court shall ensure that the attorney for the Commonwealth  
14 and a registered crime victim have received notice of the  
15 application and had a reasonable opportunity to be heard on the  
16 application.

17 (c) Revocation or modification of previously entered  
18 order.--The county jail officials may detain and recommit the  
19 offender or preclude the offender from leaving the county jail  
20 if the offender violates the conditions set by the jail  
21 officials or the court, or if allowing the offender to leave the  
22 county jail poses a risk to community safety or the orderly and  
23 safe management of the jail. The jail officials shall notify the  
24 court of such action. In addition, the order of court may be  
25 revoked or modified at any time with notice to the prisoner.

26 Section 8.2. Section 9904 of Title 42 is amended by adding a  
27 subsection to read:

28 § 9904. Referral to State intermediate punishment program.

29 \* \* \*

30 (d.1) Resentencing.--The department may make a written

1 request to the sentencing court that an offender who is  
2 otherwise eligible but has not been referred for evaluation or  
3 originally sentenced to State intermediate punishment be  
4 sentenced to State intermediate punishment. The court may  
5 resentence the offender to State intermediate punishment if all  
6 of the following apply:

7 (1) The department has recommended placement in a drug  
8 offender treatment program.

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

11 (3) The court makes the findings set forth under  
12 subsection (d).

13 (4) The resentencing has occurred within 365 days of the  
14 date of the defendant's admission to the custody of the  
15 department.

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

20 \* \* \*

21 Section 9. Title 44 is amended by adding a part to read:

22 PART III

23 INCARCERATION

24 Chapter

25 51. Preliminary Provisions (Reserved)

26 53. Recidivism Risk Reduction Incentive

27 CHAPTER 51

28 PRELIMINARY PROVISIONS

29 (Reserved)

30 CHAPTER 53

1                    RECIDIVISM RISK REDUCTION INCENTIVE

2 Sec.

3 5301. Scope of chapter.

4 5302. Purpose.

5 5303. Definitions.

6 5304. Recidivism risk reduction incentive programs.

7 5305. Sentencing.

8 5306. Recidivism risk reduction incentive minimum.

9 5307. Authority of board.

10 5308. Written guidelines and regulations.

11 5309. Evaluation.

12 5310. Reports.

13 5311. Construction.

14 5312. Applicability.

15 § 5301. Scope of chapter.

16        This chapter relates to recidivism risk reduction incentive.

17 § 5302. Purpose.

18        This chapter seeks to create a program that ensures  
19 appropriate punishment for persons who commit crimes, encourages  
20 prisoner participation in evidence-based programs that reduce  
21 the risks of future crime and ensures the openness and  
22 accountability of the criminal justice process while ensuring  
23 fairness to crime victims.

24 § 5303. Definitions.

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

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

29        "Commission." The Pennsylvania Commission on Sentencing.

30        "Court." The trial judge exercising sentencing jurisdiction

1 over an eligible offender under this chapter or the president  
2 judge or the president judge's designee if the original trial  
3 judge is no longer serving as a judge of the sentencing court.

4 "Defendant." An individual charged with a criminal offense.

5 "Department." The Department of Corrections of the  
6 Commonwealth.

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

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

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

25 (3) Has not been found guilty or previously convicted or  
26 adjudicated delinquent for or an attempt or conspiracy to  
27 commit a personal injury crime as defined under section 103  
28 of the act of November 24, 1998 (P.L.882, No.111), known as  
29 the Crime Victims Act, or an equivalent offense under the  
30 laws of the United States or one of its territories or

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

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

9 (i) 18 Pa.C.S. § 4302 (relating to incest).

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

11 (iii) 18 Pa.C.S. § 6312 (relating to sexual abuse of  
12 children).

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

15 (v) 18 Pa.C.S. § 6320 (relating to sexual  
16 exploitation of children).

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

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

22 (viii) Any offense listed under 42 Pa.C.S. § 9795.1  
23 (relating to registration).

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

28 (6) Has not been found guilty or previously convicted of  
29 violating section 13(a)(14), (30) or (37) of the act of April  
30 14, 1972 (P.L.233, No.64), known as The Controlled Substance,

1 Drug, Device and Cosmetic Act, where the sentence was imposed  
2 pursuant to 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii),  
3 (4)(iii), (7)(iii) or (8)(iii) (relating to drug trafficking  
4 sentencing and penalties).

5 "Program plan." An individualized plan recommended by the  
6 department that contains approved treatment and other approved  
7 programs designed to reduce recidivism risk of a specific  
8 prisoner.

9 § 5304. Recidivism risk reduction incentive programs.

10 (a) Authorization.--Subject to the provisions of this  
11 chapter, the department is authorized to create or otherwise  
12 designate treatment or other programs as recidivism risk  
13 reduction incentive programs.

14 (b) Intent.--This chapter is intended to encourage eligible  
15 offenders committed to the custody of the department to  
16 participate in and successfully complete evidence-based programs  
17 under this chapter that reduce the likelihood of recidivism and  
18 improve public safety.

19 (c) Program requirements.--In accordance with the provisions  
20 of this chapter, the department may designate a treatment  
21 program or other program as a recidivism risk reduction  
22 incentive program if there is appropriate scientific research  
23 that demonstrates that the proposed program would likely reduce  
24 overall recidivism rates or serious crime rates of program  
25 participants. A recidivism risk reduction incentive program  
26 designed to provide treatment in the form of a therapeutic  
27 community for drug abuse or addiction shall meet the  
28 requirements of an institutional therapeutic community as  
29 defined under 42 Pa.C.S. § 9903 (relating to definitions).

30 (d) Consultation.--The department shall consult with

1 appropriate research and technical assistance organizations,  
2 such as the National Institute of Justice, the National  
3 Institute of Corrections and the American Correctional  
4 Association concerning evidence-based programs that reduce  
5 recidivism risks of prisoners and the scientific research  
6 relating to those programs.

7 (e) Program approval process.--

8 (1) The department shall publish, in a manner reasonably  
9 calculated to inform, a detailed description of the program,  
10 the types of offenders who will be eligible to participate in  
11 the program, the name and citation of research reports that  
12 demonstrate the effectiveness of the proposed program and the  
13 name and address of a department contact person responsible  
14 for receiving public comments. On the same date as  
15 publication, the department shall also deliver a copy of the  
16 list to the Judiciary Committee of the Senate, the Judiciary  
17 Committee of the House of Representatives, the board, the  
18 commission and the Victim Advocate.

19 (2) Upon consideration of the public comments and the  
20 expiration of at least 60 days from the date of publication  
21 required under paragraph (1), the department may designate  
22 any program published as approved for inclusion in the  
23 recidivism risk reduction incentive program.

24 § 5305. Sentencing.

25 (a) Generally.--At the time of sentencing, the court shall  
26 make a determination whether the defendant is an eligible  
27 offender.

28 (b) Waiver of eligibility requirements.--The prosecuting  
29 attorney, in the prosecuting attorney's sole discretion, may  
30 advise the court that the Commonwealth has elected to waive the

1 eligibility requirements of this chapter if the victim has been  
2 given notice of the prosecuting attorney's intent to waive the  
3 eligibility requirements and an opportunity to be heard on the  
4 issue. The court, after considering victim input, may refuse to  
5 accept the prosecuting attorney's waiver of the eligibility  
6 requirements.

7 (c) Recidivism risk reduction incentive minimum sentence.--  
8 If the court determines that the defendant is an eligible  
9 offender or the prosecuting attorney has waived the eligibility  
10 requirements under subsection (b), the court shall enter a  
11 sentencing order that does all of the following:

12 (1) Imposes the minimum and maximum sentences as  
13 required under 42 Pa.C.S. § 9752 (relating to sentencing  
14 proceeding generally).

15 (2) Imposes the recidivism risk reduction incentive  
16 minimum sentence. The recidivism risk reduction incentive  
17 minimum shall be equal to three-fourths of the minimum  
18 sentence imposed when the minimum sentence is three years or  
19 less. The recidivism risk reduction incentive minimum shall  
20 be equal to five-sixths of the minimum sentence if the  
21 minimum sentence is greater than three years. For purposes of  
22 these calculations, partial days shall be rounded to the  
23 nearest whole day. In determining the recidivism risk  
24 reduction incentive minimum sentence, the aggregation  
25 provisions of 42 Pa.C.S. §§ 9757 (relating to consecutive  
26 sentences of total confinement for multiple offenses) and  
27 9762(d) (relating to sentencing proceeding; place of  
28 confinement) shall apply.

29 (3) Notwithstanding paragraph (2), if the defendant was  
30 previously sentenced to two or more recidivism risk reduction

1 incentive minimum sentences, the court shall have the  
2 discretion, with the approval of the prosecuting attorney, to  
3 impose the recidivism risk reduction incentive minimum  
4 sentence as provided for in paragraph (2).

5 (4) Complies with all other applicable sentencing  
6 provisions, including provisions relating to victim  
7 notification and the opportunity to be heard.

8 § 5306. Recidivism risk reduction incentive minimum.

9 (a) Generally.--The board or its designee shall issue a  
10 decision to parole, without further review by the board, a  
11 prisoner who has been sentenced to a recidivism risk reduction  
12 incentive minimum sentence at the expiration of that recidivism  
13 risk reduction incentive minimum sentence upon a determination  
14 that all of the following apply:

15 (1) The department certified that it has conducted an  
16 appropriate assessment of the treatment needs and risks of  
17 the prisoner using nationally recognized assessment tools  
18 that have been normed and validated.

19 (2) The department has certified that it developed a  
20 program plan based on the assessment conducted under  
21 paragraph (1) that is designed to reduce the risk of  
22 recidivism through the use of recidivism risk reduction  
23 incentive programs authorized and approved under this chapter  
24 that are appropriate for that particular prisoner.

25 (3) The department advised the prisoner that the  
26 prisoner is required to successfully complete the program  
27 plan.

28 (4) The prisoner has successfully completed all required  
29 recidivism risk reduction incentive programs or other  
30 programs designated in the program plan.

1           (5) The prisoner has maintained a good conduct record  
2 following the imposition of the recidivism risk reduction  
3 incentive minimum sentence.

4           (6) The reentry plan for the prisoner is adequate.

5           (7) Individual conditions and requirements for parole  
6 have been established.

7           (8) Notice and opportunity to be heard was provided by  
8 the board to the sentencing court and the prosecuting  
9 attorney in a manner consistent with section 21(b.2) of the  
10 act of August 6, 1941 (P.L.861, No.323), referred to as the  
11 Pennsylvania Board of Probation and Parole Law.

12           (9) The department has certified that the prisoner  
13 continues to be an eligible offender. In the event that a  
14 recidivism risk reduction minimum sentence was imposed under  
15 section 5305(b) (relating to sentencing), the department  
16 certifies that it has not received additional information  
17 demonstrating a history of past or present violent behavior  
18 which was not available at the time of sentencing and the  
19 prosecuting attorney was unaware of that information at the  
20 time of sentencing.

21           (10) There is no reasonable indication that the prisoner  
22 poses a risk to public safety.

23           (b) Funding.--The department shall make all reasonable  
24 efforts to seek appropriate funding and resources in order to  
25 implement the recidivism risk reduction program.

26           (c) Program content.--Nothing in this section shall do any  
27 of the following:

28           (1) Require the department to include recidivism risk  
29 reduction programs in an individual program plan where the  
30 risk assessment indicates that such a program is unlikely to

1 reduce recidivism for that particular prisoner.

2 (2) Prohibit the department from including appropriate  
3 community works or public service projects as part of the  
4 program plan.

5 (3) Prohibit the department from making modifications to  
6 the program plan at any time in order to ensure appropriate  
7 treatment and recidivism risk reduction incentive program  
8 placement.

9 (d) Adjudication.--Nothing in this section shall be  
10 interpreted as granting a right to be paroled to any person, and  
11 any decision by the board and its designees or the department,  
12 under this section, shall not be considered an adjudication  
13 under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and  
14 procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating  
15 to judicial review of Commonwealth agency action).

16 § 5307. Authority of board.

17 If a prisoner has been sentenced by a court to a recidivism  
18 risk reduction incentive minimum sentence and the prisoner is  
19 not paroled under this chapter, the board shall have exclusive  
20 authority to grant parole. Except as otherwise provided under  
21 this chapter, the board shall retain its power and authority to  
22 parole, commit and reparole prisoners committed to the  
23 department.

24 § 5308. Written guidelines and regulations.

25 The department, upon consultation with the board, shall  
26 develop written interim guidelines to assist in the  
27 implementation of the provisions of this chapter. The interim  
28 guidelines shall not be subject to the requirements of the act  
29 of June 25, 1982 (P.L.633, No.181), known as the Regulatory  
30 Review Act, and shall be effective for a period of two years

1 after publication in the Pennsylvania Bulletin. The interim  
2 guidelines shall be replaced by regulations promulgated by the  
3 department consistent with the Regulatory Review Act on or  
4 before the date of expiration of the interim guidelines.

5 § 5309. Evaluation.

6 The department, the board and the commission shall monitor  
7 and evaluate the recidivism risk reduction incentive programs.  
8 Evaluations under this section should be scientifically rigorous  
9 and seek to determine the effectiveness of the programs,  
10 including whether specific recidivism risk reduction incentive  
11 programs have reduced the recidivism rates of the program  
12 participants as compared to previously incarcerated and  
13 similarly situated prisoners. The department, the board and the  
14 commission shall make evaluations conducted under this section  
15 and underlying data available to the public. The publicly  
16 available data and evaluations shall comply with generally  
17 accepted practices of the research community, including  
18 expectations relating to subject privacy and identifying  
19 information.

20 § 5310. Reports.

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

26 (1) In odd-numbered years, the department shall present  
27 a report of its evaluation to the Judiciary Committee of the  
28 Senate and the Judiciary Committee of the House of  
29 Representatives no later than February 1. The report shall  
30 include all of the following:

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

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

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

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

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

15          (vi) Any other information the department deems  
16          relevant.

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

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

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

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

30                (iv) Any potential changes to the program that would

1 be likely to reduce the risk of recidivism of prisoners  
2 and improve public safety.

3 (v) Any other information the commission deems  
4 relevant.

5 (b) Educational plan.--The Pennsylvania Commission on Crime  
6 and Delinquency shall publish a report of a proposed educational  
7 program plan within one year of the effective date of this  
8 section. The proposed educational program plan shall be  
9 developed in consultation with the department, commission,  
10 board, the Pennsylvania District Attorneys Association, the  
11 Victim Advocate and representatives of the judiciary and the  
12 criminal defense bar and other criminal justice stakeholders.  
13 The plan shall seek to provide cost-effective training or  
14 information through electronic means, publications or continuing  
15 educational programs that address the following topics:

16 (1) The treatment programs available through the board  
17 and the department.

18 (2) The availability of programs and eligibility  
19 requirements that can reduce recidivism risk including State  
20 intermediate punishment, the motivational boot camp and  
21 recidivism risk reduction incentives programs.

22 (3) The calculation of sentencing credit and practices  
23 that could inadvertently prevent an inmate from receiving  
24 sentence credit.

25 (4) Recent statutory changes relating to sentencing,  
26 place of confinement, medical releases, transfer of inmates  
27 and parole.

28 § 5311. Construction.

29 Notwithstanding any other provision of law, this chapter  
30 shall not be construed to do any of the following:

1           (1) Confer any legal right upon any individual,  
2           including an individual participating in or seeking to  
3           participate in a recidivism risk reduction incentive program,  
4           to do any of the following:

5                   (i) Participate in a recidivism risk reduction  
6                   incentive program.

7                   (ii) Continue participation in a recidivism risk  
8                   reduction incentive program.

9                   (iii) Modify the contents of the recidivism risk  
10                   reduction incentive program.

11                   (iv) File any cause of action in any Federal or  
12                   State court challenging the department's determination  
13                   that a participant be suspended or expelled from or that  
14                   a participant has successfully completed or failed to  
15                   successfully complete any recidivism risk reduction  
16                   incentive program.

17           (2) Confer any legal right on any individual to be  
18           released on parole under this act.

19           (3) Enlarge or limit the right of a participant to  
20           appeal the participant's sentence.

21 § 5312. Applicability.

22           This chapter shall apply to persons incarcerated under the  
23           supervision of the department.

24           Section 10. Repeals are as follows:

25                   (1) The General Assembly declares that the repeal under  
26                   paragraph (2) is necessary to effectuate the addition of 42  
27                   Pa.C.S. § 9813.

28                   (2) Section 1 of the act of August 13, 1963 (P.L.774,  
29                   No.390), referred to as the County Jail Prisoner Temporary  
30                   Release Law, is repealed.

