

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 645 Session of 2011

INTRODUCED BY DeLUCA, KOTIK, BOYD, D. COSTA, DERMODY, HARKINS, HARRIS, HESS, HORNAMAN, KAVULICH, W. KELLER, METCALFE, MILLARD, MILLER, MOUL, MURT, SCAVELLO, STABACK, STERN, SWANGER AND YOUNGBLOOD, FEBRUARY 14, 2011

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 14, 2011

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 61  
 2 (Prisons and Parole) of the Pennsylvania Consolidated  
 3 Statutes, further providing for sentence of total confinement  
 4 and for prerelease plan for inmates.

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

7 Section 1. Section 9756(b) and (e) of Title 42 of the  
 8 Pennsylvania Consolidated Statutes are amended to read:

9 § 9756. Sentence of total confinement.

10 \* \* \*

11 (b) Minimum sentence.--

12 (1) [The] Except as provided in paragraph (1.1), the  
 13 court shall impose a minimum sentence of confinement which  
 14 shall not exceed one-half of the maximum sentence imposed.

15 (1.1) For any defendant being sentenced for commission  
 16 of a violent crime, the court shall impose all of the  
 17 following:

18 (i) A minimum sentence of confinement which shall

1 not exceed 85% of the maximum sentence imposed.

2 (ii) Notwithstanding the provisions of 18 Pa.C.S.  
3 (relating to crimes and offenses) and this title, a  
4 consecutive two-year term of probation.

5 (2) The minimum sentence imposed under this section may  
6 not be reduced through parole prior to the expiration of the  
7 minimum sentence unless otherwise authorized by this section  
8 or other law.

9 (3) Except where the maximum sentence imposed is two  
10 years or more, and except where a mandatory minimum sentence  
11 of imprisonment or total confinement is required by law, the  
12 court shall, at the time of sentencing, state whether or not  
13 the defendant is eligible to participate in a reentry plan at  
14 any time prior to the expiration of the minimum sentence or  
15 at the expiration of a specified portion of the minimum  
16 sentence. For maximum sentences of less than two years as  
17 defined under section 9762(f) (relating to sentencing  
18 proceeding; place of confinement), a court may parole a  
19 defendant prior to the expiration of the minimum sentence  
20 only if the defendant was made eligible to participate in a  
21 reentry plan at the time of sentencing. The court shall  
22 provide at least ten days' written notice and an opportunity  
23 to be heard, pursuant to section 9776 (relating to judicial  
24 power to release inmates), to the prosecuting attorney before  
25 granting parole pursuant to this subsection. The reentry plan  
26 eligibility shall be considered a part of the sentence and  
27 subject to the requirements relating to the entry, recording  
28 and reporting of sentences.

29 \* \* \*

30 (e) Definitions.--[As used in this section, the term

1 "reentry plan" is a] The following words and phrases when used  
2 in this section shall have the meanings given to them in this  
3 subsection unless the context clearly indicates otherwise:

4 "Reentry release." A release plan that may include drug and  
5 alcohol treatment, behavioral health treatment, job training,  
6 skills training, education, life skills or any other condition  
7 deemed relevant by the court.

8 "Violent crime." As defined in 61 Pa.C.S. § 3702(e)  
9 (relating to prerelease plan for inmates).

10 Section 2. Section 3702(a) of Title 61 is amended and the  
11 section is amended by adding a subsection to read:

12 § 3702. Prerelease plan for inmates.

13 (a) Transfer authorization.--

14 (1) [The] Except as provided in paragraphs (2) and (3),  
15 the secretary may transfer an inmate incarcerated in any  
16 prerelease center or in any prerelease center located in any  
17 State correctional institution who has not been sentenced to  
18 death or life imprisonment to any prerelease center.

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

22 (3) No inmate who is serving a period of incarceration  
23 that includes a sentence imposed for commission of a violent  
24 crime shall be eligible for prerelease status. This section  
25 shall not apply to inmates described under this paragraph.

26 \* \* \*

27 (e) Definition.--As used in this section, the term "violent  
28 crime" means any of the following offenses:

29 (1) 18 Pa.C.S. § 901 (relating to criminal attempt)  
30 involving an attempt to commit murder or any of the offenses

1 in paragraph (4), (5), (6), (7), (8), (9), (10), (11), (12),  
2 (13), (14), (15), (16), (17) or (18).

3 (2) 18 Pa.C.S. § 902 (relating to criminal solicitation)  
4 involving a solicitation to commit murder or any of the  
5 offenses in paragraph (4), (5), (6), (7), (8), (9), (10),  
6 (11), (12), (13), (14), (15), (16), (17) or (18).

7 (3) 18 Pa.C.S. § 903 (relating to criminal conspiracy)  
8 involving a conspiracy to commit murder or any of the  
9 offenses in paragraph (4), (5), (6), (7), (8), (9), (10),  
10 (11), (12), (13), (14), (15), (16), (17) or (18).

11 (4) 18 Pa.C.S. § 2502(c) (relating to murder).

12 (5) 18 Pa.C.S. § 2503 (relating to voluntary  
13 manslaughter).

14 (6) 18 Pa.C.S. § 2507(c) or (d) (relating to criminal  
15 homicide of law enforcement officer).

16 (7) 18 Pa.C.S. § 2702(a)(1) or (2) (relating to  
17 aggravated assault).

18 (8) 18 Pa.C.S. § 2702.1 (relating to assault of law  
19 enforcement officer).

20 (9) 18 Pa.C.S. § 2901 (relating to kidnapping).

21 (10) 18 Pa.C.S. § 3121 (relating to rape).

22 (11) 18 Pa.C.S. § 3123 (relating to involuntary deviate  
23 sexual intercourse).

24 (12) 18 Pa.C.S. § 3124.1 (relating to sexual assault).

25 (13) 18 Pa.C.S. § 3125 (relating to aggravated indecent  
26 assault).

27 (14) 18 Pa.C.S. § 3301(a) (relating to arson and related  
28 offenses).

29 (15) 18 Pa.C.S. § 3502 (relating to burglary) if at the  
30 time of the offense the structure entered was adapted for

1 overnight accommodation.

2 (16) 18 Pa.C.S. § 3701 (relating to robbery).

3 (17) 18 Pa.C.S. § 3702 (relating to robbery of motor  
4 vehicle).

5 (18) 18 Pa.C.S. § 4302 (relating to incest).

6 (19) A crime equivalent to an offense in paragraph (1),  
7 (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),  
8 (13), (14), (15), (16), (17) or (18) under the laws of this  
9 Commonwealth in effect at the time of the commission of the  
10 offense.

11 (20) A crime equivalent to an offense in paragraph (1),  
12 (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),  
13 (13), (14), (15), (16), (17), (18) or (19) under Federal law  
14 or in a jurisdiction outside this Commonwealth.

15 Section 3. This act shall take effect in 60 days.