

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, YOUNGBLOOD AND CALTAGIRONE, FEBRUARY 14, 2011

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 6, 2012

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 AMENDING TITLES 42 (JUDICIARY AND JUDICIAL PROCEDURE) AND 61 ←  
6 (PRISONS AND PAROLE) OF THE PENNSYLVANIA CONSOLIDATED  
7 STATUTES, FURTHER PROVIDING FOR SENTENCES FOR SECOND AND  
8 SUBSEQUENT OFFENSES AND FOR GENERAL CRITERIA FOR PAROLE.

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

11 ~~Section 1. Section 9756(b) and (c) of Title 42 of the ←~~  
12 ~~Pennsylvania Consolidated Statutes are amended to read:~~

13 ~~§ 9756. Sentence of total confinement.~~

14 ~~\* \* \*~~

15 ~~(b) Minimum sentence.~~

16 ~~(1) [The] Except as provided in paragraph (1.1), the~~  
17 ~~court shall impose a minimum sentence of confinement which~~  
18 ~~shall not exceed one half of the maximum sentence imposed.~~

19 ~~(1.1) For any defendant being sentenced for commission~~

1 ~~of a violent crime, the court shall impose all of the~~  
2 ~~following:~~

3 ~~(i) A minimum sentence of confinement which shall~~  
4 ~~not exceed 85% of the maximum sentence imposed.~~

5 ~~(ii) Notwithstanding the provisions of 18 Pa.C.S.~~  
6 ~~(relating to crimes and offenses) and this title, a~~  
7 ~~consecutive two year term of probation.~~

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

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

1 ~~and reporting of sentences.~~

2 \* \* \*

3 ~~(e) Definitions. [As used in this section, the term~~  
4 ~~"reentry plan" is a] The following words and phrases when used~~  
5 ~~in this section shall have the meanings given to them in this~~  
6 ~~subsection unless the context clearly indicates otherwise:~~

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

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

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

15 SECTION 1. SECTION 9714(G) OF TITLE 42 OF THE PENNSYLVANIA ←  
16 CONSOLIDATED STATUTES, AMENDED JULY 7, 2011 (P.L.220, NO.40), IS  
17 AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO  
18 READ:

19 § 9714. SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES.

20 \* \* \*

21 (A.2) PAROLE.--ANY PERSON SENTENCED UNDER SUBSECTION (A)  
22 SHALL NOT BE ELIGIBLE FOR PAROLE UNTIL HE HAS SERVED 85% OF THE  
23 MAXIMUM SENTENCE AS PROVIDED UNDER SUBSECTION (A.1).

24 \* \* \*

25 (G) DEFINITION.--[AS USED IN THIS SECTION, THE TERM "CRIME  
26 OF VIOLENCE" MEANS MURDER OF THE THIRD DEGREE, VOLUNTARY  
27 MANSLAUGHTER, AGGRAVATED ASSAULT AS DEFINED IN 18 PA.C.S. §  
28 2702(A)(1) OR (2) (RELATING TO AGGRAVATED ASSAULT), RAPE,  
29 INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, AGGRAVATED INDECENT  
30 ASSAULT, INCEST, SEXUAL ASSAULT, ARSON AS DEFINED IN 18 PA.C.S.

1 § 3301(A) (RELATING TO ARSON AND RELATED OFFENSES), KIDNAPPING,  
2 BURGLARY OF A STRUCTURE ADAPTED FOR OVERNIGHT ACCOMMODATION IN  
3 WHICH AT THE TIME OF THE OFFENSE ANY PERSON IS PRESENT, ROBBERY  
4 AS DEFINED IN 18 PA.C.S. § 3701(A)(1)(I), (II) OR (III)  
5 (RELATING TO ROBBERY), OR ROBBERY OF A MOTOR VEHICLE, DRUG  
6 DELIVERY RESULTING IN DEATH AS DEFINED IN 18 PA.C.S. § 2506(A)  
7 (RELATING TO DRUG DELIVERY RESULTING IN DEATH), OR CRIMINAL  
8 ATTEMPT, CRIMINAL CONSPIRACY OR CRIMINAL SOLICITATION TO COMMIT  
9 MURDER OR ANY OF THE OFFENSES LISTED ABOVE, OR AN EQUIVALENT  
10 CRIME UNDER THE LAWS OF THIS COMMONWEALTH IN EFFECT AT THE TIME  
11 OF THE COMMISSION OF THAT OFFENSE OR AN EQUIVALENT CRIME IN  
12 ANOTHER JURISDICTION.] AS USED IN THIS SECTION, THE FOLLOWING  
13 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
14 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

15 "CRIMES OF VIOLENCE." AN OFFENSE UNDER ANY OF THE FOLLOWING:

16 (1) 18 PA.C.S. § 901 (RELATING TO CRIMINAL ATTEMPT),  
17 INVOLVING AN ATTEMPT TO COMMIT AN OFFENSE UNDER 18 PA.C.S. §  
18 2502(A) OR (B) (RELATING TO MURDER), 2507(A) OR (B) (RELATING  
19 TO CRIMINAL HOMICIDE OF LAW ENFORCEMENT OFFICER) OR ANY OF  
20 THE OFFENSES UNDER PARAGRAPH (4), (5), (6), (7), (8), (9),  
21 (10), (11), (12), (13), (14), (15), (16), (17), (18), (19),  
22 (19.1), (19.2) OR (19.3).

23 (2) 18 PA.C.S. § 902 (RELATING TO CRIMINAL  
24 SOLICITATION), INVOLVING SOLICITATION TO COMMIT AN OFFENSE  
25 UNDER 18 PA.C.S. § 2502(A) OR (B), 2507(A) OR (B) OR ANY OF  
26 THE OFFENSES UNDER PARAGRAPH (4), (5), (6), (7), (8), (9),  
27 (10), (11), (12), (13), (14), (15), (16), (17), (18), (19),  
28 (19.1), (19.2) OR (19.3).

29 (3) 18 PA.C.S. § 903 (RELATING TO CRIMINAL CONSPIRACY),  
30 INVOLVING CONSPIRACY TO COMMIT AN OFFENSE UNDER 18 PA.C.S. §

1 2502(A) OR (B), 2507(A) OR (B) OR ANY OF THE OFFENSES UNDER  
2 PARAGRAPH (4), (5), (6), (7), (8), (9), (10), (11), (12),  
3 (13), (14), (15), (16), (17), (18), (19), (19.1), (19.2) OR  
4 (19.3).

5 (4) 18 PA.C.S. § 2502(C).

6 (5) 18 PA.C.S. § 2503 (RELATING TO VOLUNTARY  
7 MANSLAUGHTER).

8 (6) 18 PA.C.S. § 2506 (RELATING TO DRUG DELIVERY  
9 RESULTING IN DEATH).

10 (7) 18 PA.C.S. § 2507(C) OR (D).

11 (8) 18 PA.C.S. § 2701(A) (3) OR (4) (RELATING TO SIMPLE  
12 ASSAULT).

13 (9) 18 PA.C.S. § 2702(A) (1) OR (2) (RELATING TO  
14 AGGRAVATED ASSAULT).

15 (10) 18 PA.C.S. § 2702.1 (RELATING TO ASSAULT OF LAW  
16 ENFORCEMENT OFFICER).

17 (11) 18 PA.C.S. § 2901 (RELATING TO KIDNAPPING).

18 (12) 18 PA.C.S. § 3121 (RELATING TO RAPE).

19 (13) 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE  
20 SEXUAL INTERCOURSE).

21 (14) 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL ASSAULT).

22 (15) 18 PA.C.S. § 3125 (RELATING TO AGGRAVATED INDECENT  
23 ASSAULT).

24 (16) 18 PA.C.S. § 3301(A) (RELATING TO ARSON AND RELATED  
25 OFFENSES).

26 (17) 18 PA.C.S. § 3502 (RELATING TO BURGLARY), IF AT THE  
27 TIME OF THE OFFENSE THE STRUCTURE ENTERED WAS ADAPTED FOR  
28 OVERNIGHT ACCOMMODATION.

29 (18) 18 PA.C.S. § 3701(A) (1) (I), (II) OR (III) (RELATING  
30 TO ROBBERY).

1           (19) 18 PA.C.S. § 3702 (RELATING TO ROBBERY OF MOTOR  
2 VEHICLE).

3           (19.1) 18 PA.C.S. § 4302 (RELATING TO INCEST).

4           (19.2) 18 PA.C.S. § 4952 (RELATING TO INTIMIDATION OF  
5 WITNESSES OR VICTIMS), INVOLVING A WITNESS TO OR A VICTIM OF  
6 A VIOLATION OF 18 PA.C.S. § 2502 OR 2507 OR ANY OF THE  
7 OFFENSES UNDER PARAGRAPH (1), (2), (3), (4), (5), (6), (7),  
8 (8), (9), (10), (11), (12), (13), (14), (15), (16), (17),  
9 (18), (19), (19.1), (19.3), (20) OR (21) OR A VIOLATION OF  
10 SECTION 13(A) (30) OF THE ACT OF APRIL 14, 1972 (P.L.233,  
11 NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND  
12 COSMETIC ACT.

13           (19.3) 18 PA.C.S. § 4953 (RELATING TO RETALIATION  
14 AGAINST WITNESS, VICTIM OR PARTY), INVOLVING A WITNESS TO,  
15 VICTIM OF OR PARTY TO A PROCEEDING ALLEGING A VIOLATION OF 18  
16 PA.C.S. § 2502 OR 2507 OR ANY OF THE OFFENSES UNDER PARAGRAPH  
17 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11),  
18 (12), (13), (14), (15), (16), (17), (18), (19), (19.1),  
19 (19.2), (20) OR (21) OR A VIOLATION OF SECTION 13(A) (30) OF  
20 THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT.

21           (20) A CRIME EQUIVALENT TO ONE LISTED UNDER PARAGRAPH  
22 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11),  
23 (12), (13), (14), (15), (16), (17), (18), (19), (19.1),  
24 (19.2) OR (19.3) UNDER THE LAWS OF THIS COMMONWEALTH IN  
25 EFFECT AT THE TIME OF THE COMMISSION OF THE OFFENSE.

26           (21) A CRIME EQUIVALENT TO ONE LISTED UNDER PARAGRAPH  
27 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11),  
28 (12), (13), (14), (15), (16), (17), (18), (19), (19.1),  
29 (19.2) OR (19.3) UNDER FEDERAL LAW OR IN A JURISDICTION  
30 OUTSIDE THIS COMMONWEALTH.

1 SECTION 2. SECTION 3702(A) OF TITLE 61 IS AMENDED TO READ:

2 § 3702. Prerelease plan for inmates.

3 (a) Transfer authorization.--

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

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

12 (3) No inmate who is serving a period of incarceration  
13 that includes a sentence imposed for commission of a violent ←  
14 crime ANY OF THE CRIMES OF VIOLENCE AS DEFINED IN 42 PA.C.S. ←  
15 § 9714(G) (RELATING TO SENTENCES FOR SECOND AND SUBSEQUENT  
16 OFFENSES) shall be eligible for prerelease status. This  
17 section shall not apply to inmates described under this  
18 paragraph.

19 \* \* \*

20 (e) Definition. As used in this section, the term "violent ←  
21 crime" means any of the following offenses:

22 (1) 18 Pa.C.S. § 901 (relating to criminal attempt)  
23 involving an attempt to commit murder or any of the offenses  
24 in paragraph (4), (5), (6), (7), (8), (9), (10), (11), (12),  
25 (13), (14), (15), (16), (17) or (18).

26 (2) 18 Pa.C.S. § 902 (relating to criminal solicitation)  
27 involving a solicitation to commit murder or any of the  
28 offenses in paragraph (4), (5), (6), (7), (8), (9), (10),  
29 (11), (12), (13), (14), (15), (16), (17) or (18).

30 (3) 18 Pa.C.S. § 903 (relating to criminal conspiracy)

1 ~~involving a conspiracy to commit murder or any of the~~  
2 ~~offenses in paragraph (4), (5), (6), (7), (8), (9), (10),~~  
3 ~~(11), (12), (13), (14), (15), (16), (17) or (18).~~

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

5 ~~(5) 18 Pa.C.S. § 2503 (relating to voluntary~~  
6 ~~manslaughter).~~

7 ~~(6) 18 Pa.C.S. § 2507(c) or (d) (relating to criminal~~  
8 ~~homicide of law enforcement officer).~~

9 ~~(7) 18 Pa.C.S. § 2702(a)(1) or (2) (relating to~~  
10 ~~aggravated assault).~~

11 ~~(8) 18 Pa.C.S. § 2702.1 (relating to assault of law~~  
12 ~~enforcement officer).~~

13 ~~(9) 18 Pa.C.S. § 2901 (relating to kidnapping).~~

14 ~~(10) 18 Pa.C.S. § 3121 (relating to rape).~~

15 ~~(11) 18 Pa.C.S. § 3123 (relating to involuntary deviate~~  
16 ~~sexual intercourse).~~

17 ~~(12) 18 Pa.C.S. § 3124.1 (relating to sexual assault).~~

18 ~~(13) 18 Pa.C.S. § 3125 (relating to aggravated indecent~~  
19 ~~assault).~~

20 ~~(14) 18 Pa.C.S. § 3301(a) (relating to arson and related~~  
21 ~~offenses).~~

22 ~~(15) 18 Pa.C.S. § 3502 (relating to burglary) if at the~~  
23 ~~time of the offense the structure entered was adapted for~~  
24 ~~overnight accommodation.~~

25 ~~(16) 18 Pa.C.S. § 3701 (relating to robbery).~~

26 ~~(17) 18 Pa.C.S. § 3702 (relating to robbery of motor~~  
27 ~~vehicle).~~

28 ~~(18) 18 Pa.C.S. § 4302 (relating to incest).~~

29 ~~(19) A crime equivalent to an offense in paragraph (1),~~  
30 ~~(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),~~



1 ~~(13), (14), (15), (16), (17) or (18) under the laws of this~~  
2 ~~Commonwealth in effect at the time of the commission of the~~  
3 ~~offense.~~

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

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

9 SECTION 3. SECTION 6137(A) OF TITLE 61 IS AMENDED BY ADDING  
10 A PARAGRAPH TO READ:

11 § 6137. PAROLE POWER.

12 (A) GENERAL CRITERIA FOR PAROLE.--

13 \* \* \*

14 (1.1) THE BOARD MAY NOT RELEASE ON PAROLE ANY INMATE  
15 SERVING A SENTENCE IMPOSED UNDER 42 PA.C.S. § 9714(A)  
16 (RELATING TO SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES)  
17 UNTIL HE HAS SERVED AT LEAST 85% OF THE MAXIMUM SENTENCE AS  
18 PROVIDED UNDER 42 PA.C.S. § 9714(A.1).

19 \* \* \*

20 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.