

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 100 Session of 2011

INTRODUCED BY GREENLEAF, TARTAGLIONE, ERICKSON, M. WHITE, BRUBAKER, EARLL, FERLO, WOZNIAK, YUDICHAK AND BROWNE, JANUARY 12, 2011

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, JUNE 14, 2011

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 61
2 (Prisons and Parole) of the Pennsylvania Consolidated
3 Statutes, in Pennsylvania Commission on sentencing, further
4 providing for powers and duties and for publication of
5 guidelines; in sentences, further providing for sentences for
6 second and subsequent offenses, for sentencing generally and
7 for sentence of county intermediate punishment; providing for
8 court-imposed sanctions for offenders violating probation;
9 further providing for county intermediate punishment
10 programs; IN VISITATION, FURTHER PROVIDING FOR GENERAL ←
11 PROVISIONS; in inmate prerelease plans, providing for time ←
12 eligibility for prerelease; IN MOTIVATIONAL BOOT CAMP, ←
13 FURTHER PROVIDING FOR DEFINITIONS AND FOR SELECTION OF INMATE
14 PARTICIPANTS; in State intermediate punishment, further
15 providing for definitions and for referral to State
16 intermediate punishment program; in recidivism risk reduction
17 incentive, further providing for definitions; establishing ←
18 the Safe Community Reentry Program; AND providing for the ←
19 powers and duties of the Pennsylvania Board of Probation and ←
20 Parole and the Department of Corrections; and making ←
21 appropriations.

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

24 Section 1. Sections 2153(a)(14) and (15), 2155, 9714(g) and
25 9721(a.1) of Title 42 of the Pennsylvania Consolidated Statutes
26 are amended to read:

27 § 2153. Powers and duties.

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

3 * * *

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

12 (i) Promulgating forms which document the
13 application of sentencing, resentencing and parole
14 guidelines, mandatory sentencing laws, risk assessment
15 instrument, releases pursuant to a county reentry plan,
16 recommitment ranges and recidivism risk reduction
17 incentive minimum sentences and collecting information on
18 all parole and reparole decisions by the board and any
19 other paroling authority.

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

22 (15) Prior to adoption of changes to guidelines for
23 sentencing, resentencing and parole, risk assessment
24 instrument and recommitment ranges following revocation, use
25 a correctional population simulation model to determine:

26 (i) Resources that are required under current
27 guidelines, risk assessment instrument and ranges.

28 (ii) Resources that would be required to carry out
29 any proposed changes to the guidelines, risk assessment
30 instrument and ranges.

1 * * *

2 § 2155. Publication of guidelines for sentencing, resentencing
3 and parole, risk assessment instrument and
4 recommitment ranges following revocation.

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

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

- 16 (i) Pennsylvania District Attorneys Association.
- 17 (ii) Chiefs of Police Associations.
- 18 (iii) Fraternal Order of Police.
- 19 (iv) Public Defenders Organization.
- 20 (v) Law school faculty members.
- 21 (vi) State Board of Probation and Parole.
- 22 (vii) Department of Corrections.
- 23 (viii) Pennsylvania Bar Association.
- 24 (ix) Pennsylvania Wardens Association.
- 25 (x) Pennsylvania Association on Probation, Parole
26 and Corrections.
- 27 (xi) Pennsylvania Conference of State Trial Judges.
- 28 (xii) Any other interested person or organization.
- 29 (2) Publish in the Pennsylvania Bulletin sentencing
30 guidelines, resentencing guidelines following revocation of

1 probation, county intermediate punishment and State
2 intermediate punishment, parole guidelines, risk assessment
3 instrument and recommitment ranges following revocation by
4 the board of paroles granted as adopted by the commission.

5 (b) Rejection by General Assembly.--Subject to gubernatorial
6 review pursuant to section 9 of Article III of the Constitution
7 of Pennsylvania, the General Assembly may by concurrent
8 resolution reject in their entirety any guidelines, risk
9 assessment instrument or recommitment ranges adopted by the
10 commission within 90 days of their publication in the
11 Pennsylvania Bulletin pursuant to subsection (a) (2).

12 (c) Effective date.--

13 (1) Sentencing guidelines, resentencing guidelines
14 following revocation of probation, county intermediate
15 punishment and State intermediate punishment, parole
16 guidelines, risk assessment instrument and recommitment
17 ranges following revocation by the board of paroles granted,
18 adopted by the commission shall become effective 90 days
19 after publication in the Pennsylvania Bulletin pursuant to
20 subsection (a) (2) unless disapproved pursuant to subsection
21 (b) and shall apply to sentences and resentences and parole
22 decisions made after the effective date of the guidelines.

23 (2) If not disapproved, the [commissioners] commission
24 shall conduct training and orientation for trial court judges
25 and board members prior to the effective date of the
26 guidelines, risk assessment instrument and recommitment
27 ranges.

28 § 9714. Sentences for second and subsequent offenses.

29 * * *

30 (g) Definition.--As used in this section, the term "crime of

1 violence" means murder of the third degree, voluntary
2 manslaughter, manslaughter of a law enforcement officer as
3 defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal
4 homicide of law enforcement officer), murder of the third degree
5 involving an unborn child as defined in 18 Pa.C.S. § 2604(c)
6 (relating to murder of unborn child), aggravated assault of an
7 unborn child as defined in 18 Pa.C.S. § 2606 (relating to
8 aggravated assault of unborn child), aggravated assault as
9 defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to
10 aggravated assault), assault of law enforcement officer as
11 defined in 18 Pa.C.S. § 2702.1 (relating to assault of law
12 enforcement officer), use of weapons of mass destruction as
13 defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass
14 destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2)
15 (relating to terrorism), trafficking of persons when the offense
16 is graded as a felony of the first degree as provided in 18
17 Pa.C.S. § 3002 (relating to trafficking of persons), rape,
18 involuntary deviate sexual intercourse, aggravated indecent
19 assault, incest, sexual assault, arson as defined in 18 Pa.C.S.
20 § 3301(a) (relating to arson and related offenses), ecoterrorism
21 as defined in 18 Pa.C.S. § 3311(b)(2) (relating to
22 ecoterrorism), kidnapping, burglary of a structure adapted for
23 overnight accommodation in which at the time of the offense any
24 person is present, robbery as defined in 18 Pa.C.S. § 3701(a)(1)
25 (i), (ii) or (iii) (relating to robbery), or robbery of a motor
26 vehicle, or criminal attempt, criminal conspiracy or criminal
27 solicitation to commit murder or any of the offenses listed
28 above, or an equivalent crime under the laws of this
29 Commonwealth in effect at the time of the commission of that
30 offense or an equivalent crime in another jurisdiction.

1 § 9721. Sentencing generally.

2 * * *

3 (a.1) Exception.--

4 (1) Unless specifically authorized under section 9763
5 (relating to a sentence of county intermediate punishment) or
6 Chapter 99 (relating to State intermediate punishment),
7 subsection (a) shall not apply where a mandatory minimum
8 sentence is otherwise provided by law.

9 (2) An eligible offender may be sentenced to State
10 intermediate punishment pursuant to subsection (a)(7) and as
11 described in Chapter 99 or to State motivational boot camp as
12 described in 61 Pa.C.S. Ch. 39 (relating to motivational boot
13 camp), even if a mandatory minimum sentence would otherwise
14 be provided by law.

15 (3) An eligible offender may be sentenced to total
16 confinement pursuant to subsection (a)(4) and a recidivism
17 risk reduction incentive minimum sentence pursuant to section
18 9756(b.1) (relating to sentence of total confinement), even
19 if a mandatory minimum sentence would otherwise be provided
20 by law.

21 * * *

22 Section 2. Section 9763(c) heading of Title 42 is amended
23 and the section is amended by adding a subsection to read:

24 § 9763. Sentence of county intermediate punishment.

25 * * *

26 (c) Restriction for certain Vehicle Code violations.--

27 * * *

28 (c.1) Restriction for drug trafficking.--

29 (1) Any person receiving a penalty imposed pursuant to
30 18 Pa.C.S. § 7508 (relating to drug trafficking sentencing

1 and penalties) where the sentence is imposed pursuant to 18
2 Pa.C.S. § 7508(a) (1) (i), (2) (i), (3) (i), (4) (i) or (7) (i) may
3 only be sentenced to county intermediate punishment after
4 undergoing a diagnostic assessment of dependency on alcohol
5 or other drugs.

6 (2) If the defendant is determined to be in need of drug
7 and alcohol treatment, the defendant may only be sentenced to
8 county intermediate punishment which includes participation
9 in clinically prescribed drug and alcohol treatment combined
10 with one or more of the following programs:

11 (i) a residential inpatient program or a residential
12 rehabilitative center;

13 (ii) house arrest with electronic surveillance; or

14 (iii) a partial confinement program, including, but
15 not limited to, work release, work camp and halfway
16 facility.

17 (3) If the defendant is determined not to be in need of
18 drug and alcohol treatment, the defendant may only be
19 sentenced to county intermediate punishment in:

20 (i) house arrest with electronic surveillance;

21 (ii) a partial confinement program, including, but
22 not limited to, work release, work camp and halfway
23 facility; or

24 (iii) any combination of the programs specified in
25 this paragraph.

26 (4) Each day of participation in a restrictive
27 intermediate punishment program or combination of programs
28 shall be considered the equivalent of and satisfy one day of
29 total confinement required pursuant to 18 Pa.C.S. § 7508
30 where the sentence is imposed pursuant to 18 Pa.C.S. §

1 7508(a)(1)(i), (2)(i), (3)(i), (4)(i) or (7)(i).

2 * * *

3 Section 3. Title 42 is amended by adding a section to read:

4 § 9771.1. Court-imposed sanctions for offenders violating
5 probation.

6 (a) Program.--Notwithstanding the provisions of section 9771
7 (relating to modification or revocation of order of probation),
8 the court of common pleas of a judicial district may establish a
9 program to impose swift, predictable and immediate sanctions on
10 offenders who violate their probation.

11 (b) Coordination with other officials.--The court shall work
12 with probation administrators and officers, jail administrators,
13 prosecutors, public defenders and law enforcement in the
14 judicial district to develop and implement the program.

15 (c) Eligibility.--

16 (1) The court shall determine which offenders are
17 eligible for and admitted into the program. The program shall
18 focus on, but not be limited to, offenders who have committed
19 drug-related crimes.

20 (2) An offender shall be ineligible for the program if
21 the offender was convicted of a crime of violence as defined
22 in section 9714 (relating to sentences for second and
23 subsequent offenses) or of a crime requiring registration
24 under section 9795.1 (relating to registration).

25 (d) Warning hearing.--

26 (1) The court shall hold a warning hearing for each
27 participant in the program to clearly communicate program
28 expectations and consequences and to encourage the
29 participant's compliance and success.

30 (2) The court shall emphasize the expectations that the

1 participant remain drug-free and comply with any treatment or
2 services ordered by the court as a condition of the
3 participant's probation.

4 (3) The court shall put the participant on notice that
5 each probation violation, including missed appointments and
6 positive drug tests, will result in jail time as provided for
7 under subsection (g).

8 (e) Drug testing.--The program shall require, when
9 applicable, randomized drug testing.

10 (f) Violation hearing.--If a participant commits a probation
11 violation, the participant shall promptly be arrested and a
12 hearing shall be held no later than two business days after the
13 arrest date.

14 (g) Sanctions.--

15 (1) The court shall impose a term of imprisonment of up
16 to:

17 (i) three days for a first violation;

18 (ii) seven days for a second violation;

19 (iii) fourteen days for a third violation; and

20 (iv) twenty-one days for a fourth or subsequent
21 violation of probation.

22 (2) The court may allow the term of imprisonment to be
23 served on weekends or other nonwork days for employed
24 probationers who have committed a first or second violation.

25 (3) The court may increase the conditions of probation,
26 including additional substance abuse treatment for a
27 participant who has failed one or more drug tests.

28 (h) Exceptions.--If the participant is able to provide a
29 compelling reason for the probation violation, the court may
30 grant an exception to the sanctions authorized under subsection

1 (g).

2 (i) Revocation of probation.--

3 (1) After a third violation, the court may revoke the
4 order of probation.

5 (2) Upon revocation, the sentencing alternatives shall
6 be the same as were available at the time of initial
7 sentencing, due consideration being given to the time spent
8 serving the order of probation.

9 (j) Local rules.--The court may adopt local rules for the
10 administration of this program. The local rules may not be
11 inconsistent with this section or any rules adopted by the
12 Supreme Court.

13 Section 4. Section ~~9804(b)~~ 9804(B) (1) of Title 42 is amended ←

14 AND THE SUBSECTION IS AMENDED by adding a paragraph to read: ←

15 § 9804. County intermediate punishment programs.

16 * * *

17 (b) Eligibility.--

18 (1) (I) NO PERSON OTHER THAN THE ELIGIBLE OFFENDER ←
19 SHALL BE SENTENCED TO A COUNTY INTERMEDIATE PUNISHMENT
20 PROGRAM.

21 (II) THE PROSECUTING ATTORNEY, IN THE PROSECUTING
22 ATTORNEY'S SOLE DISCRETION, MAY ADVISE THE COURT THAT THE
23 COMMONWEALTH HAS ELECTED TO WAIVE THE ELIGIBILITY
24 REQUIREMENTS OF THIS CHAPTER IF THE VICTIM HAS BEEN GIVEN
25 NOTICE OF THE PROSECUTING ATTORNEY'S INTENT TO WAIVE THE
26 ELIGIBILITY REQUIREMENTS AND AN OPPORTUNITY TO BE HEARD
27 ON THE ISSUE.

28 (III) THE COURT, AFTER CONSIDERING VICTIM INPUT, MAY
29 REFUSE TO ACCEPT THE PROSECUTING ATTORNEY'S WAIVER OF THE
30 ELIGIBILITY REQUIREMENTS.

1 * * *

2 (6) (i) Any person receiving a penalty imposed pursuant
3 to 18 Pa.C.S. § 7508 (relating to drug trafficking
4 sentencing and penalties) where the sentence is imposed
5 pursuant to 18 Pa.C.S. § 7508(a)(1)(i), (2)(i), (3)(i),
6 (4)(i) or (7)(i) may only be sentenced to county
7 intermediate punishment after undergoing a diagnostic
8 assessment of dependency on alcohol or other drugs.

9 (ii) If the defendant is determined to be in need of
10 drug and alcohol treatment, the defendant may only be
11 sentenced to county intermediate punishment which
12 includes participation in clinically prescribed drug and
13 alcohol treatment combined with one or more of the
14 following programs:

15 (A) a residential inpatient program or a
16 residential rehabilitative center;

17 (B) house arrest with electronic surveillance;
18 or

19 (C) a partial confinement program, including,
20 but not limited to, work release, work camp and
21 halfway facility.

22 (iii) If the defendant is determined not to be in
23 need of drug and alcohol treatment, the defendant may
24 only be sentenced to county intermediate punishment in:

25 (A) house arrest with electronic surveillance;

26 (B) a partial confinement program, including,
27 but not limited to, work release, work camp and
28 halfway facility; or

29 (C) any combination of the programs specified in
30 this paragraph.

1 MEMBERS OF THE COMMITTEE AND THE TERMS OF THEIR APPOINTMENT ARE
2 GIVEN BY THE SOCIETY, IN WRITING, UNDER ITS CORPORATE SEAL, TO
3 THE CHIEF ADMINISTRATOR OF THE CORRECTIONAL INSTITUTION.]

4 (RESERVED).

5 § 3503. [RIGHTS OF OFFICIAL VISITORS.

6 (A) VISITING HOURS.--A PERSON DESIGNATED BY LAW TO BE AN
7 OFFICIAL VISITOR OF A CORRECTIONAL INSTITUTION MAY ENTER AND
8 VISIT ANY CORRECTIONAL INSTITUTION ON ANY AND EVERY DAY,
9 INCLUDING SUNDAYS, BETWEEN THE HOURS OF 9 A.M. AND 5 P.M. AND AT
10 SUCH OTHER TIMES WITH THE SPECIAL PERMISSION OF THE CHIEF
11 ADMINISTRATOR.

12 (B) CONFIRMATION OF ROLE.--ALL POWERS, FUNCTIONS AND
13 PRIVILEGES GRANTED TO OFFICIAL VISITORS OF CORRECTIONAL
14 INSTITUTIONS UNDER PRIOR LAW ARE HEREBY CONFIRMED. NO OFFICIAL
15 VISITOR SHALL HAVE THE RIGHT OR POWER TO GIVE OR DELIVER TO AN
16 INMATE DURING SUCH VISIT ANY CHATTEL OR OBJECT WHATSOEVER,
17 EXCEPT OBJECTS AND ARTICLES OF RELIGIOUS OR MORAL INSTRUCTION OR
18 USE.

19 (C) EFFECT OF VIOLATION.--

20 (1) IF AN OFFICIAL VISITOR VIOLATES ANY PROVISION OF
21 THIS SECTION, A CHIEF ADMINISTRATOR MAY APPLY TO THE COURT OF
22 COMMON PLEAS IN THE COUNTY WHEREIN THE CORRECTIONAL
23 INSTITUTION IS SITUATED FOR A RULE UPON THE OFFICIAL VISITOR
24 TO SHOW CAUSE WHY HE SHOULD NOT BE DEPRIVED OF HIS OFFICE.

25 (2) UPON PROOF TO THE SATISFACTION OF THE COURT, THE
26 COURT SHALL ENTER A DECREE AGAINST THE OFFICIAL VISITOR
27 DEPRIVING HIM OF ALL RIGHTS, PRIVILEGES AND FUNCTIONS OF AN
28 OFFICIAL VISITOR.] (RESERVED).

29 Section 5 7. Title 61 is amended by adding a section to
30 read:



1 § 3705. Time eligibility for prerelease.

2 (a) General rule.--To be time-eligible for placement in a
3 prerelease center, an inmate must:

4 (1) have completed at least one-half of the inmate's
5 minimum sentence;

6 (2) be within one year of completing the inmate's
7 minimum sentence;

8 (3) have no outstanding detainers; and

9 (4) satisfy the additional condition, as applicable, in
10 subsection (b).

11 (b) Additional condition.--If, at the time the inmate is
12 committed to the supervision of the department the inmate has:

13 (1) less than 12 months to serve until the inmate
14 completes the inmate's minimum sentence, the inmate must
15 serve at least three months in a State correctional
16 institution;

17 (2) at least 12 months to serve until the inmate
18 completes the inmate's minimum sentence but has less than 18
19 months to serve until the inmate completes the inmate's
20 minimum sentence, the inmate must serve at least six months
21 in a State correction institution; or

22 (3) at least 18 months to serve until the inmate
23 completes the inmate's minimum sentence, the inmate must
24 serve at least nine months in a State correctional
25 institution.

26 (c) Exception.--Notwithstanding the provisions of
27 subsections (a) and (b), no inmate shall be eligible for
28 placement in a prerelease center prior to the completion of the
29 inmate's minimum sentence if the inmate is serving a term of
30 imprisonment for:

1 (1) a crime of violence as defined in 42 Pa.C.S. §9714
2 (relating to sentences for second and subsequent offenses);
3 or

4 (2) a crime requiring registration under 42 Pa.C.S.
5 §9795.1 (relating to registration).

6 SECTION 8. THE DEFINITION OF "ELIGIBLE INMATE" IN SECTION
7 3903 OF TITLE 61 IS AMENDED TO READ:

8 § 3903. DEFINITIONS.

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
10 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
11 CONTEXT CLEARLY INDICATES OTHERWISE:

12 * * *

13 "ELIGIBLE INMATE." A PERSON SENTENCED TO A TERM OF
14 CONFINEMENT UNDER THE JURISDICTION OF THE DEPARTMENT OF
15 CORRECTIONS WHO IS SERVING A TERM OF CONFINEMENT, THE MINIMUM OF
16 WHICH IS NOT MORE THAN TWO YEARS AND THE MAXIMUM OF WHICH IS
17 FIVE YEARS OR LESS, OR AN INMATE WHO IS SERVING A TERM OF
18 CONFINEMENT, THE MINIMUM OF WHICH IS NOT MORE THAN THREE YEARS
19 WHERE THAT INMATE IS WITHIN TWO YEARS OF COMPLETING HIS MINIMUM
20 TERM, AND WHO HAS NOT REACHED [35] 40 YEARS OF AGE AT THE TIME
21 HE IS APPROVED FOR PARTICIPATION IN THE MOTIVATIONAL BOOT CAMP
22 PROGRAM. THE TERM SHALL NOT INCLUDE ANY INMATE WHO IS SUBJECT TO
23 A SENTENCE THE CALCULATION OF WHICH INCLUDED AN ENHANCEMENT FOR
24 THE USE OF A DEADLY WEAPON AS DEFINED PURSUANT TO THE SENTENCING
25 GUIDELINES PROMULGATED BY THE PENNSYLVANIA COMMISSION ON
26 SENTENCING OR ANY INMATE [SERVING A SENTENCE FOR ANY VIOLATION
27 OF ONE OR MORE OF THE FOLLOWING PROVISIONS] WITH A CURRENT
28 CONVICTION OR A PRIOR CONVICTION WITHIN THE PAST TEN YEARS FOR
29 ANY OF THE FOLLOWING OFFENSES:

30 18 PA.C.S. § 2502 (RELATING TO MURDER).

1 18 PA.C.S. § 2503 (RELATING TO VOLUNTARY MANSLAUGHTER) .

2 18 PA.C.S. § 2506 (RELATING TO DRUG DELIVERY RESULTING IN
3 DEATH) .

4 18 PA.C.S. § 2901 (RELATING TO KIDNAPPING) .

5 18 PA.C.S. § 3121 (RELATING TO RAPE) .

6 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
7 INTERCOURSE) .

8 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL ASSAULT) .

9 18 PA.C.S. § 3125 (RELATING TO AGGRAVATED INDECENT
10 ASSAULT) .

11 18 PA.C.S. § 3301(A)(1)(I) (RELATING TO ARSON AND RELATED
12 OFFENSES) .

13 18 PA.C.S. § 3502 (RELATING TO BURGLARY) IN THE CASE OF
14 BURGLARY OF A STRUCTURE ADAPTED FOR OVERNIGHT ACCOMMODATION
15 IN WHICH AT THE TIME OF THE OFFENSE ANY PERSON IS PRESENT.

16 18 PA.C.S. § 3701(A)(1)(I), (II) OR (III) (RELATING TO
17 ROBBERY) .

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

19 18 PA.C.S. § 7508 (A)(1)(III), (2)(III), (3)(III) OR (4)
20 (III) (RELATING TO DRUG TRAFFICKING SENTENCING AND
21 PENALTIES) .

22 * * *

23 SECTION 9. SECTION 3904 OF TITLE 61 IS AMENDED BY ADDING A
24 SUBSECTION TO READ:

25 § 3904. SELECTION OF INMATE PARTICIPANTS.

26 * * *

27 (D) WAIVER OF ELIGIBILITY REQUIREMENTS.--

28 (1) THE PROSECUTING ATTORNEY, IN THE PROSECUTING
29 ATTORNEY'S SOLE DISCRETION, MAY ADVISE THE COURT THAT THE
30 COMMONWEALTH HAS ELECTED TO WAIVE THE ELIGIBILITY

1 REQUIREMENTS OF THIS CHAPTER IF THE VICTIM HAS BEEN GIVEN
2 NOTICE OF THE PROSECUTING ATTORNEY'S INTENT TO WAIVE THE
3 ELIGIBILITY REQUIREMENTS AND AN OPPORTUNITY TO BE HEARD ON
4 THE ISSUE.

5 (2) THE COURT, AFTER CONSIDERING VICTIM INPUT, MAY
6 REFUSE TO ACCEPT THE PROSECUTING ATTORNEY'S WAIVER OF THE
7 ELIGIBILITY REQUIREMENTS.

8 Section 6 10. The definitions of "defendant" and "eligible
9 offender" in section 4103 of Title 61 are amended to read:

10 § 4103. Definitions.

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

14 * * *

15 "Defendant." An individual charged with a drug-related
16 offense, including an individual convicted of violating section
17 13(a)(14), (30) or (37) of the act of April 14, 1972 (P.L.233,
18 No.64), known as The Controlled Substance, Drug, Device and
19 Cosmetic Act, where the sentence was imposed pursuant 18 Pa.C.S.
20 § 7508(a)(1)(i), (2)(i), (3)(i), (4)(i) or (7)(i) (relating to
21 drug trafficking sentencing and penalties).

22 * * *

23 "Eligible offender." Subject to 42 Pa.C.S. § 9721(a.1)
24 (relating to sentencing generally), a defendant designated by
25 the sentencing court as a person convicted of a drug-related
26 offense who:

27 (1) Has undergone an assessment performed by the
28 Department of Corrections, which assessment has concluded
29 that the defendant is in need of drug and alcohol addiction
30 treatment and would benefit from commitment to a drug

1 offender treatment program and that placement in a drug
2 offender treatment program would be appropriate.

3 (2) Does not demonstrate a history of present or past
4 violent behavior.

5 (3) Would be placed in the custody of the department if
6 not sentenced to State intermediate punishment.

7 (4) Provides written consent permitting release of
8 information pertaining to the defendant's participation in a
9 drug offender treatment program.

10 The term shall not include a defendant who is subject to a
11 sentence the calculation of which includes an enhancement for
12 the use of a deadly weapon, as defined pursuant to law or the
13 sentencing guidelines promulgated by the Pennsylvania Commission
14 on Sentencing, or a defendant [who has been convicted of a ←
15 †personal injury crime as defined in section 103 of the act of ←
16 November 24, 1998 (P.L.882, No.111), known as the Crime Victims
17 Act, or an attempt or conspiracy to commit such a crime or who
18 has been convicted of violating 18 Pa.C.S. § 4302 (relating to
19 incest), 5901] ~~crime of violence as defined in 42 Pa.C.S. § ←
20 9714(g) (relating to sentences for second and subsequent
21 offenses) or a violation of 18 Pa.C.S. § 5901 (relating to open
22 lewdness), 6312 (relating to sexual abuse of children), 6318
23 (relating to unlawful contact with minor) or 6320 (relating to
24 sexual exploitation of children) or Ch. 76 Subch. C (relating to
25 Internet child pornography)] WITH A CURRENT CONVICTION OR A ←
26 PRIOR CONVICTION WITHIN THE PAST TEN YEARS FOR ANY OF THE
27 FOLLOWING OFFENSES:~~

28 18 PA.C.S. § 2502 (RELATING TO MURDER).

29 18 PA.C.S. § 2503 (RELATING TO VOLUNTARY MANSLAUGHTER).

30 18 PA.C.S. § 2506 (RELATING TO DRUG DELIVERY RESULTING IN

1 DEATH).

2 18 PA.C.S. § 2901 (RELATING TO KIDNAPPING).

3 18 PA.C.S. § 3121 (RELATING TO RAPE).

4 18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE SEXUAL
5 INTERCOURSE).

6 18 PA.C.S. § 3124.1 (RELATING TO SEXUAL ASSAULT).

7 18 PA.C.S. § 3125 (RELATING TO AGGRAVATED INDECENT
8 ASSAULT).

9 18 PA.C.S. § 3301(A) (1) (I) (RELATING TO ARSON AND RELATED
10 OFFENSES).

11 18 PA.C.S. § 3502 (RELATING TO BURGLARY), IN THE CASE OF
12 BURGLARY OF A STRUCTURE ADAPTED FOR OVERNIGHT ACCOMMODATION
13 IN WHICH AT THE TIME OF THE OFFENSE ANY PERSON IS PRESENT.

14 18 PA.C.S. § 3701(A) (1) (I), (II) OR (III) (RELATING TO
15 ROBBERY).

16 18 PA.C.S. § 3702 (RELATING TO ROBBERY OF MOTOR VEHICLE).

17 18 PA.C.S. § 7508 (A) (1) (III), (2) (III), (3) (III) OR (4)
18 (III) (RELATING TO DRUG TRAFFICKING SENTENCING AND
19 PENALTIES).

20 * * *

21 ~~Section 7. Section 4104(a) (1), (d) and (e) of Title 61 are~~ ←
22 ~~amended to read:~~

23 SECTION 11. SECTION 4104(A) OF TITLE 61 IS AMENDED BY ADDING ←
24 A PARAGRAPH TO READ:

25 § 4104. Referral to State intermediate punishment program.

26 (a) Referral for evaluation.--

27 ~~(1) Prior to imposing a sentence, the court may[, upon~~ ←
28 ~~motion of the Commonwealth and agreement of the defendant,]~~
29 ~~commit a defendant to the custody of the department for the~~
30 ~~purpose of evaluating whether the defendant would benefit~~

1 ~~from a drug offender treatment program and whether placement~~
2 ~~in the drug offender treatment program is appropriate.~~

3 ~~* * *~~

4 ~~(d) Prerequisites for commitment. Upon receipt of a~~
5 ~~recommendation for placement in a drug offender treatment~~
6 ~~program from the department [and agreement of the attorney for~~
7 ~~the Commonwealth and the defendant], the court may sentence an~~
8 ~~eligible offender to a period of 24 months of State intermediate~~
9 ~~punishment if the court finds that:~~

10 ~~(1) The eligible offender is likely to benefit from~~
11 ~~State intermediate punishment.~~

12 ~~(2) Public safety would be enhanced by the eligible~~
13 ~~offender's participation in State intermediate punishment.~~

14 ~~(3) Sentencing the eligible offender to State~~
15 ~~intermediate punishment would not depreciate the seriousness~~
16 ~~of the offense.~~

17 ~~(e) Resentencing. The department may make a written request~~
18 ~~to the sentencing court that an offender who is otherwise~~
19 ~~eligible but has not been referred for evaluation or originally~~
20 ~~sentenced to State intermediate punishment be sentenced to State~~
21 ~~intermediate punishment. The court may resentence the offender~~
22 ~~to State intermediate punishment if all of the following apply:~~

23 ~~(1) The department has recommended placement in a drug~~
24 ~~offender treatment program.~~

25 ~~[(2) The attorney for the Commonwealth and the offender~~
26 ~~have agreed to the placement and modification of sentence.]~~

27 ~~(3) The court makes the findings set forth under~~
28 ~~subsection (d).~~

29 ~~(4) The resentencing has occurred within 365 days of the~~
30 ~~date of the defendant's admission to the custody of the~~

1 department.

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

6 * * *

7 * * *

8 (1.1) (I) THE PROSECUTING ATTORNEY, IN THE PROSECUTING
9 ATTORNEY'S SOLE DISCRETION, MAY ADVISE THE COURT THAT THE
10 COMMONWEALTH HAS ELECTED TO WAIVE THE ELIGIBILITY
11 REQUIREMENTS OF THIS CHAPTER, IF THE VICTIM HAS BEEN
12 GIVEN NOTICE OF THE PROSECUTING ATTORNEY'S INTENT TO
13 WAIVE THE ELIGIBILITY REQUIREMENTS AND AN OPPORTUNITY TO
14 BE HEARD ON THE ISSUE.

15 (II) THE COURT, AFTER CONSIDERING VICTIM INPUT, MAY
16 REFUSE TO ACCEPT THE PROSECUTING ATTORNEY'S WAIVER OF THE
17 ELIGIBILITY REQUIREMENTS.

18 * * *

19 Section & 12. The definition of "eligible offender" in
20 section 4503 of Title 61 is amended to read:

21 § 4503. Definitions.

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

25 * * *

26 "Eligible offender." A defendant or inmate convicted of a
27 criminal offense who will be committed to the custody of the
28 department and who meets all of the following eligibility
29 requirements:

30 (1) Does not demonstrate a history of present or past

1 violent behavior.

2 (2) Has not been subject to a sentence the calculation
3 of which includes an enhancement for the use of a deadly
4 weapon as defined under law or the sentencing guidelines
5 promulgated by the Pennsylvania Commission on Sentencing or
6 the attorney for the Commonwealth has not demonstrated that
7 the defendant has been found guilty of or was convicted of an
8 offense involving a deadly weapon or offense under 18 Pa.C.S.
9 Ch. 61 (relating to firearms and other dangerous articles) or
10 the equivalent offense under the laws of the United States or
11 one of its territories or possessions, another state, the
12 District of Columbia, the Commonwealth of Puerto Rico or a
13 foreign nation.

14 (3) Has not been found guilty of or previously convicted
15 of or adjudicated delinquent for or an attempt or conspiracy
16 to commit a [personal injury crime as defined under section
17 103 of the act of November 24, 1998 (P.L.882, No.111), known
18 as the Crime Victims Act] crime of violence as defined in 42
19 Pa.C.S. § 9714(g) (relating to sentences for second and
20 subsequent offenses), or an equivalent offense under the laws
21 of the United States or one of its territories or
22 possessions, another state, the District of Columbia, the
23 Commonwealth of Puerto Rico or a foreign nation.

24 (4) Has not been found guilty or previously convicted or
25 adjudicated delinquent for violating any of the following
26 provisions or an equivalent offense under the laws of the
27 United States or one of its territories or possessions,
28 another state, the District of Columbia, the Commonwealth of
29 Puerto Rico or a foreign nation:

30 [18 Pa.C.S. § 4302 (relating to incest).]

1 18 Pa.C.S. § 5901 (relating to open lewdness).

2 18 Pa.C.S. § 6312 (relating to sexual abuse of
3 children).

4 18 Pa.C.S. § 6318 (relating to unlawful contact with
5 minor).

6 18 Pa.C.S. § 6320 (relating to sexual exploitation of
7 children).

8 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
9 child pornography).

10 Received a criminal sentence pursuant to 42 Pa.C.S. §
11 9712.1 (relating to sentences for certain drug offenses
12 committed with firearms).

13 Any offense listed under 42 Pa.C.S. § 9795.1
14 (relating to registration).

15 (5) Is not awaiting trial or sentencing for additional
16 criminal charges, if a conviction or sentence on the
17 additional charges would cause the defendant to become
18 ineligible under this definition.

19 (6) Has not been found guilty or previously convicted of
20 violating section 13(a)(14), (30) or (37) of the act of April
21 14, 1972 (P.L.233, No.64), known as The Controlled Substance,
22 Drug, Device and Cosmetic Act, where the sentence was imposed
23 pursuant to 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii),
24 (4)(iii), (7)(iii) or (8)(iii) (relating to drug trafficking
25 sentencing and penalties).

26 * * *

27 Section 9 13. Title 61 is amended by adding a chapter to
28 read:

29 CHAPTER 49
30 SAFE COMMUNITY REENTRY



- 1 Sec.
- 2 4901. Scope of chapter.
- 3 4902. Definitions.
- 4 4903. Safe Community Reentry Program.
- 5 4904. Contract for services.
- 6 4905. Rules and regulations.
- 7 4906. Study and report.
- 8 § 4901. Scope of chapter.

9 This chapter relates to the Safe Community Reentry Program.

10 § 4902. Definitions.

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

14 "Community-based programs." Programs which are administered
15 and operated outside of a correctional institution.

16 "Community organization." A community, faith-based or other
17 private charitable organization which is organized as a
18 nonprofit corporation or nonprofit unincorporated association
19 under the laws of the United States or this Commonwealth which
20 is authorized to do business in this Commonwealth as a nonprofit
21 corporation or unincorporated association under the laws of this
22 Commonwealth.

23 "Institutional-based programs." Programs which are
24 administered and operated within a correctional institution.

25 "Offender." An inmate in a correctional institution or a
26 person released from incarceration.

27 "Program." The Safe Community Reentry Program established in
28 this chapter.

29 § 4903. Safe Community Reentry Program.

30 (a) Program established.--The department, in cooperation and

1 coordination with the board, shall establish a comprehensive
2 program to reduce recidivism and ensure the successful reentry
3 of offenders into the community. The program shall provide
4 offenders with access to a full continuum of services during
5 incarceration and upon release during their transition and
6 reintegration into the community.

7 (b) Assessment and plan.--

8 (1) The department shall assess each offender entering
9 into the State correctional system to determine which
10 treatment services, programs and skills the offender needs to
11 develop to be successful in the community following the
12 offender's release.

13 (2) The department shall assist each offender in
14 developing a reentry plan for the offender. The reentry plan
15 shall include the offender's educational, employment, housing
16 and treatment needs as appropriate and necessary to encourage
17 the successful transition and reintegration of the offender
18 into the community.

19 (3) The department shall coordinate the specifics of the
20 offender's reentry plan with the educational, vocational
21 training and treatment services that will be provided to the
22 offender during the offender's incarceration.

23 (c) Transition and reintegration programs.--The department
24 shall identify a comprehensive network of transition and
25 reintegration programs to address the needs of offenders
26 released from incarceration.

27 (d) Community organizations.--

28 (1) The department and the board shall use community
29 organizations to assist the department and the board in
30 meeting the needs of offenders reentering the community.

1 (2) The department and the board shall develop and
2 maintain a list of community organizations available to
3 provide services.

4 (3) Community organizations may provide services
5 including education, vocational training, follow-up treatment
6 services, support with finding housing and employment and may
7 help with family issues and other elements of life after
8 incarceration.

9 (4) The department and the board may refer offenders to
10 community organizations on the list.

11 (e) Sharing of information.--

12 (1) The department and the board may share information
13 about offenders with the entities the department and the
14 board contract with under section 4704 (relating to contract
15 for services) and other agencies and providers of services as
16 necessary to adequately assess and address the needs of each
17 offender.

18 (2) This subsection shall not apply to the disclosure of
19 an offender's personal health information unless the offender
20 consents to the disclosure.

21 (3) This subsection shall not be construed to permit
22 disclosure of personal health information if the disclosure
23 violates the Health Insurance Portability and Accountability
24 Act of 1996 (Public Law 104-191, 110 Stat. 1936) or other
25 Federal or State law.

26 § 4904. Contract for services.

27 (a) Duty of department and board.--As part of the program,
28 the department and the board may contract with private vendors,
29 including community organizations, units of local government and
30 other entities to provide for reintegration and transitional

1 programs and services, which may include institutional-based and
2 community-based programs. The programs and services provided
3 under these contracts may include:

4 (1) Assisting in the development of each offender's
5 reentry plan.

6 (2) Coordinating the supervision and services provided
7 to offenders in correctional institutions with any
8 supervision and services provided to offenders who have been
9 released from incarceration.

10 (3) Providing offenders awaiting release with documents
11 that are necessary after release, including identification
12 papers, referrals to services, medical prescriptions, job
13 training certificates, apprenticeship papers, information on
14 obtaining public assistance and other documents useful in
15 achieving a successful transition from a correctional
16 institution to the community.

17 (4) Involving county agencies whose programs and
18 initiatives strengthen inmate reentry services for offenders
19 who have been returned to the county of their jurisdiction.

20 (5) Providing structured programs, post-release housing
21 and transitional housing, including group homes for
22 recovering substance abusers, through which offenders are
23 provided supervision and services immediately following
24 reentry into the community.

25 (6) Assisting offenders in securing permanent housing
26 upon release or following a stay in post-release or
27 transitional housing.

28 (7) Continuing to link offenders with health resources
29 for health services that were provided to them when they were
30 under the jurisdiction of the department, including mental

1 health, substance abuse treatment, aftercare and treatment
2 services for contagious diseases.

3 (8) Providing education, job training, English as a
4 second language programs, work experience programs, self-
5 respect and life skills training and other skills needed to
6 achieve self-sufficiency for a successful transition from
7 incarceration.

8 (9) Facilitating collaboration among corrections
9 administrators, technical schools, community colleges and the
10 work force development and employment service sectors so that
11 there are efforts to:

12 (i) Promote, where appropriate, the employment of
13 offenders released from correctional institutions and
14 facilitate the creation of job opportunities, including
15 transitional jobs, for such offenders that will also
16 benefit communities.

17 (ii) Connect offenders to employment, including
18 supportive employment and employment services, before
19 their release from correctional institutions.

20 (iii) Address barriers to employment, including
21 obtaining a driver's license.

22 (10) Assessing the literacy and educational needs of
23 offenders and providing appropriate services to meet those
24 needs, including follow-up assessments and long-term
25 services.

26 (11) Addressing systems under which family members of
27 offenders are involved with facilitating the successful
28 reentry of those offenders into the community, including
29 removing obstacles to the maintenance of family relationships
30 while the offender is in custody, strengthening the family's

1 capacity to establish and maintain a stable living situation
2 during the reentry process where appropriate and involving
3 family members in the planning and implementation of the
4 reentry process.

5 (12) Facilitating visitation and maintenance of family
6 relationships with respect to offenders by addressing
7 obstacles such as travel, telephone costs, mail restrictions
8 and restrictive visitation policies.

9 (13) Addressing barriers to the visitation of children
10 with an incarcerated parent and maintenance of the parent-
11 child relationship, including, but not limited to, the
12 location of facilities in remote areas, telephone costs, mail
13 restrictions and visitation policies.

14 (14) Creating mentoring programs designed to assist
15 offenders in changing the offenders' pattern of behavior so
16 that the offenders will not revictimize their victims or have
17 new victims. Mentoring may occur inside the correctional
18 institution and in the community once the offender is
19 released. The mentor shall:

20 (i) Act as a role model for the offender.

21 (ii) Foster a caring and supportive relationship by
22 creating an independence from and not a dependence upon
23 the mentor or the system as a whole.

24 (iii) Encourage positive self-concept.

25 (iv) Teach and aid in goal setting.

26 (v) Support other positive relationships within the
27 community.

28 (vi) Assist in linking the offender to community-
29 based services.

30 (vii) Promote appropriate, positive family

1 relationships.

2 (viii) Help develop personal accountability and
3 personal responsibility.

4 (15) Facilitating and encouraging timely and complete
5 payment of restitution and fines by offenders to victims and
6 the community.

7 (b) Accountability.--To ensure accountability, any contract
8 entered under this section shall contain specific performance
9 measures that the department and the board shall use to evaluate
10 compliance with the terms of the contract.

11 § 4905. Rules and regulations.

12 The department and board may promulgate rules and regulations
13 as deemed necessary to implement this chapter.

14 § 4906. Study and report.

15 (a) Study.--The department shall conduct and coordinate
16 research to determine whether the program established under
17 section 4903 (relating to Safe Community Reentry Program)
18 reduces recidivism rates.

19 (b) Report.--Not later than February 1 of each even-numbered
20 year, the department shall present a report of the research
21 conducted or coordinated under subsection (a) to the Judiciary
22 Committee of the Senate and the Judiciary Committee of the House
23 of Representatives. The report shall evaluate the program and,
24 if appropriate, make recommendations for legislation.

25 ~~Section 10. The sums set forth in this section, or as much~~ ←
26 ~~thereof as may be necessary, are hereby specifically~~
27 ~~appropriated from the General Fund to the several hereinafter~~
28 ~~named agencies of the Executive Department, Legislative~~
29 ~~Department and Judicial Department of the Commonwealth for the~~
30 ~~fiscal year beginning July 1, 2011, and ending June 30, 2012:~~

1 ~~(1) The following amounts are~~
2 ~~appropriated to the Pennsylvania~~
3 ~~Commission on Crime and Delinquency:~~

4 ~~For payments for grants in aid~~
5 ~~to counties for providing~~
6 ~~intermediate punishment programs.~~

7 ~~State appropriation.....~~ ~~7,000,000~~

8 ~~For intermediate punishment~~
9 ~~grants for drug and alcohol~~
10 ~~treatment.~~

11 ~~State appropriation.....~~ ~~43,000,000~~

12 ~~(2) The following amount is~~
13 ~~appropriated to the Pennsylvania Board~~
14 ~~of Probation and Parole:~~

15 ~~For parole and reentry services.~~

16 ~~State appropriation.....~~ ~~15,000,000~~

17 ~~(3) The following amount is~~
18 ~~appropriated to the Pennsylvania~~
19 ~~Commission on Sentencing:~~

20 ~~For the Pennsylvania Commission~~
21 ~~on Sentencing.~~

22 ~~State appropriation.....~~ ~~2,300,000~~

23 ~~(4) The following amount is~~
24 ~~appropriated to the Administrative~~
25 ~~Office of Pennsylvania Courts:~~

26 ~~For reimbursement grants for~~
27 ~~problem solving courts in counties~~
28 ~~for start up costs.~~

29 ~~State appropriation.....~~ ~~2,000,000~~

30 ~~Section 11. This act shall take effect as follows:~~



1 ~~(1) Section 10 of this act shall take effect July 1,~~
2 ~~2011, or immediately, whichever is later.~~

3 ~~(2) This section shall take effect immediately.~~

4 ~~(3) The remainder of this act shall take effect in 60~~
5 ~~days.~~

6 SECTION 14. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.

