

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 100 Session of 2011

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

AS AMENDED ON THIRD CONSIDERATION, OCTOBER 17, 2011

AN ACT

1 Amending Titles 18 (CRIMES AND OFFENSES), 42 (Judiciary and
2 Judicial Procedure) and 61 (Prisons and Parole) of the
3 Pennsylvania Consolidated Statutes, IN BURGLARY AND OTHER
4 CRIMINAL INTRUSION, FURTHER PROVIDING FOR THE OFFENSE OF
5 BURGLARY; in Pennsylvania Commission on sentencing, further
6 providing for powers and duties and for publication of
7 guidelines; in sentences, further providing for sentences for
8 second and subsequent offenses, for sentencing generally and
9 for sentence of county intermediate punishment; providing for
10 court-imposed sanctions for offenders violating probation;
11 further providing for county intermediate punishment
12 programs; in visitation, further providing for general
13 provisions; in inmate prerelease plans, providing for time
14 eligibility for prerelease; in motivational boot camp,
15 further providing for definitions and for selection of inmate
16 participants; in State intermediate punishment, further
17 providing for definitions and for referral to State
18 intermediate punishment program; in recidivism risk reduction
19 incentive, further providing for definitions; establishing
20 the Safe Community Reentry Program; and providing for the
21 powers and duties of the Pennsylvania Board of Probation and
22 Parole and the Department of Corrections.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

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



1 SECTION 1. SECTION 3502 OF TITLE 18 OF THE PENNSYLVANIA
 2 CONSOLIDATED STATUTES IS AMENDED TO READ:

3 § 3502. BURGLARY.

4 [(A) OFFENSE DEFINED.--A PERSON IS GUILTY OF BURGLARY IF HE
 5 ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR SEPARATELY SECURED
 6 OR OCCUPIED PORTION THEREOF, WITH INTENT TO COMMIT A CRIME
 7 THEREIN, UNLESS THE PREMISES ARE AT THE TIME OPEN TO THE PUBLIC
 8 OR THE ACTOR IS LICENSED OR PRIVILEGED TO ENTER.

9 (B) DEFENSE.--IT IS A DEFENSE TO PROSECUTION FOR BURGLARY
 10 THAT THE BUILDING OR STRUCTURE WAS ABANDONED.]

11 (A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF
 12 BURGLARY IF, WITH THE INTENT TO COMMIT A CRIME THEREIN, THE
 13 PERSON:

14 (1) ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR
 15 SEPARATELY SECURED OR OCCUPIED PORTION THEREOF THAT IS
 16 ADAPTED FOR OVERNIGHT ACCOMMODATIONS IN WHICH AT THE TIME OF
 17 THE OFFENSE ANY PERSON IS PRESENT;

18 (2) ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR
 19 SEPARATELY SECURED OR OCCUPIED PORTION THEREOF THAT IS
 20 ADAPTED FOR OVERNIGHT ACCOMMODATIONS IN WHICH AT THE TIME OF
 21 THE OFFENSE NO PERSON IS PRESENT;

22 (3) ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR
 23 SEPARATELY SECURED OR OCCUPIED PORTION THEREOF THAT IS NOT
 24 ADAPTED FOR OVERNIGHT ACCOMMODATIONS IN WHICH AT THE TIME OF
 25 THE OFFENSE ANY PERSON IS PRESENT; OR

26 (4) ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR
 27 SEPARATELY SECURED OR OCCUPIED PORTION THEREOF THAT IS NOT
 28 ADAPTED FOR OVERNIGHT ACCOMMODATIONS IN WHICH AT THE TIME OF
 29 THE OFFENSE NO PERSON IS PRESENT.

30 (B) DEFENSE.--IT IS A DEFENSE TO PROSECUTION FOR BURGLARY IF

1 ANY OF THE FOLLOWING EXISTS AT THE TIME OF THE COMMISSION OF THE
2 OFFENSE:

3 (1) THE BUILDING OR STRUCTURE WAS ABANDONED.

4 (2) THE PREMISES ARE OPEN TO THE PUBLIC.

5 (3) THE ACTOR IS LICENSED OR PRIVILEGED TO ENTER.

6 (C) GRADING.--

7 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), BURGLARY IS A
8 FELONY OF THE FIRST DEGREE.

9 (2) [IF THE BUILDING, STRUCTURE OR PORTION ENTERED IS
10 NOT ADAPTED FOR OVERNIGHT ACCOMMODATION AND IF NO INDIVIDUAL
11 IS PRESENT AT THE TIME OF ENTRY, BURGLARY IS A FELONY OF THE
12 SECOND DEGREE.] AN OFFENSE UNDER SUBSECTION (A) (4) IS A
13 FELONY OF THE SECOND DEGREE.

14 (D) MULTIPLE CONVICTIONS.--A PERSON MAY NOT BE [CONVICTED]
15 SENTENCED BOTH FOR BURGLARY AND FOR THE OFFENSE WHICH IT WAS HIS
16 INTENT TO COMMIT AFTER THE BURGLARIOUS ENTRY OR FOR AN ATTEMPT
17 TO COMMIT THAT OFFENSE, UNLESS THE ADDITIONAL OFFENSE
18 CONSTITUTES A FELONY OF THE FIRST OR SECOND DEGREE.

19 SECTION 1.1. SECTIONS 2153(A) (14) AND (15) AND 2155 OF TITLE
20 42 ARE AMENDED TO READ:

21 § 2153. Powers and duties.

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

24 * * *

25 (14) Establish a program to systematically monitor
26 compliance with the guidelines, with the risk assessment
27 instrument, with recommitment ranges and with mandatory
28 sentencing laws to document eligibility for and releases
29 pursuant to a county reentry plan, to document eligibility
30 for and imposition of recidivism risk reduction incentive

1 minimum sentences and to document all parole and reparole
2 decisions by the board and any other paroling authority by:

3 (i) Promulgating forms which document the
4 application of sentencing, resentencing and parole
5 guidelines, mandatory sentencing laws, risk assessment
6 instrument, releases pursuant to a county reentry plan,
7 recommitment ranges and recidivism risk reduction
8 incentive minimum sentences and collecting information on
9 all parole and reparole decisions by the board and any
10 other paroling authority.

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

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

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

19 (ii) Resources that would be required to carry out
20 any proposed changes to the guidelines, risk assessment
21 instrument and ranges.

22 * * *

23 § 2155. Publication of guidelines for sentencing, resentencing
24 and parole, risk assessment instrument and
25 recommitment ranges following revocation.

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

27 (1) Prior to adoption, publish in the Pennsylvania
28 Bulletin all proposed sentencing guidelines, resentencing
29 guidelines following revocation of probation, county
30 intermediate punishment and State intermediate punishment,

1 parole guidelines, risk assessment instrument and
2 recommitment ranges following revocation by the board of
3 paroles granted, and hold public hearings not earlier than 30
4 days and not later than 60 days thereafter to afford an
5 opportunity for the following persons and organizations to
6 testify:

7 (i) Pennsylvania District Attorneys Association.

8 (ii) Chiefs of Police Associations.

9 (iii) Fraternal Order of Police.

10 (iv) Public Defenders Organization.

11 (v) Law school faculty members.

12 (vi) State Board of Probation and Parole.

13 (vii) Department of Corrections.

14 (viii) Pennsylvania Bar Association.

15 (ix) Pennsylvania Wardens Association.

16 (x) Pennsylvania Association on Probation, Parole
17 and Corrections.

18 (xi) Pennsylvania Conference of State Trial Judges.

19 (xii) Any other interested person or organization.

20 (2) Publish in the Pennsylvania Bulletin sentencing
21 guidelines, resentencing guidelines following revocation of
22 probation, county intermediate punishment and State
23 intermediate punishment, parole guidelines, risk assessment
24 instrument and recommitment ranges following revocation by
25 the board of paroles granted 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, risk
30 assessment instrument or recommitment ranges adopted by the

1 commission within 90 days of their publication in the
2 Pennsylvania Bulletin pursuant to subsection (a)(2).

3 (c) Effective date.--

4 (1) Sentencing guidelines, resentencing guidelines
5 following revocation of probation, county intermediate
6 punishment and State intermediate punishment, parole
7 guidelines, risk assessment instrument and recommitment
8 ranges following revocation by the board of paroles granted,
9 adopted by the commission shall become effective 90 days
10 after publication in the Pennsylvania Bulletin pursuant to
11 subsection (a)(2) unless disapproved pursuant to subsection
12 (b) and shall apply to sentences and resentences and parole
13 decisions made after the effective date of the guidelines.

14 (2) If not disapproved, the [commissioners] commission
15 shall conduct training and orientation for trial court judges
16 and board members prior to the effective date of the
17 guidelines, risk assessment instrument and recommitment
18 ranges.

19 SECTION 1.2. SECTION 9714(G) OF TITLE 42, AMENDED JULY 7, ←
20 2011 (P.L.220, NO.40), IS AMENDED TO READ:

21 § 9714. Sentences for second and subsequent offenses.

22 * * *

23 (g) Definition.--As used in this section, the term "crime of
24 violence" means murder of the third degree, voluntary
25 manslaughter, manslaughter of a law enforcement officer as
26 defined in 18 Pa.C.S. § 2507(c) or (d) (relating to criminal
27 homicide of law enforcement officer), murder of the third degree
28 involving an unborn child as defined in 18 Pa.C.S. § 2604(c)
29 (relating to murder of unborn child), aggravated assault of an
30 unborn child as defined in 18 Pa.C.S. § 2606 (relating to

1 aggravated assault of unborn child), aggravated assault as
2 defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to
3 aggravated assault), assault of law enforcement officer as
4 defined in 18 Pa.C.S. § 2702.1 (relating to assault of law
5 enforcement officer), use of weapons of mass destruction as
6 defined in 18 Pa.C.S. § 2716(b) (relating to weapons of mass
7 destruction), terrorism as defined in 18 Pa.C.S. § 2717(b)(2)
8 (relating to terrorism), trafficking of persons when the offense
9 is graded as a felony of the first degree as provided in 18
10 Pa.C.S. § 3002 (relating to trafficking of persons), rape,
11 involuntary deviate sexual intercourse, aggravated indecent
12 assault, incest, sexual assault, arson as defined in 18 Pa.C.S.
13 § 3301(a) (relating to arson and related offenses), ecoterrorism
14 as defined in 18 Pa.C.S. § 3311(b)(2) (relating to
15 ecoterrorism), kidnapping, burglary [of a structure adapted for
16 overnight accommodation in which at the time of the offense any
17 person is present] AS DEFINED IN 18 PA.C.S. § 3502(A)(1)
18 (RELATING TO BURGLARY), robbery as defined in 18 Pa.C.S. §
19 3701(a)(1)(i), (ii) or (iii) (relating to robbery), or robbery
20 of a motor vehicle, DRUG DELIVERY RESULTING IN DEATH AS DEFINED
21 IN 18 PA.C.S. § 2506(A) (RELATING TO DRUG DELIVERY RESULTING IN
22 DEATH), or criminal attempt, criminal conspiracy or criminal
23 solicitation to commit murder or any of the offenses listed
24 above, or an equivalent crime under the laws of this
25 Commonwealth in effect at the time of the commission of that
26 offense or an equivalent crime in another jurisdiction.

27 SECTION 1.3. SECTION 9721(A.1) OF TITLE 42 IS AMENDED TO

28 READ:

29 § 9721. Sentencing generally.

30 * * *

1 (a.1) Exception.--

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

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

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

19 * * *

20 Section 2. Section 9763(c) heading of Title 42 is amended
21 and the section is amended by adding a subsection to read:
22 § 9763. Sentence of county intermediate punishment.

23 * * *

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

25 * * *

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

27 (1) Any person receiving a penalty imposed pursuant to
28 18 Pa.C.S. § 7508 (relating to drug trafficking sentencing
29 and penalties) where the sentence is imposed pursuant to 18
30 Pa.C.S. § 7508(a)(1)(i), (2)(i), (3)(i), (4)(i) or (7)(i) may

1 only be sentenced to county intermediate punishment after
2 undergoing a diagnostic assessment of dependency on alcohol
3 or other drugs.

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

9 (i) a residential inpatient program or a residential
10 rehabilitative center;

11 (ii) house arrest with electronic surveillance; or

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

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

18 (i) house arrest with electronic surveillance;

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

22 (iii) any combination of the programs specified in
23 this paragraph.

24 (4) Each day of participation in a restrictive
25 intermediate punishment program or combination of programs
26 shall be considered the equivalent of and satisfy one day of
27 total confinement required pursuant to 18 Pa.C.S. § 7508
28 where the sentence is imposed pursuant to 18 Pa.C.S. §
29 7508(a)(1)(i), (2)(i), (3)(i), (4)(i) or (7)(i).

30 * * *

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

2 § 9771.1. Court-imposed sanctions for offenders violating
3 probation.

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

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

13 (c) Eligibility.--

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

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

23 (d) Warning hearing.--

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

28 (2) The court shall emphasize the expectations that the
29 participant remain drug-free and comply with any treatment or
30 services ordered by the court as a condition of the

1 participant's probation.

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

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

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

12 (g) Sanctions.--

13 (1) The court shall impose a term of imprisonment of up
14 to:

15 (i) three days for a first violation;

16 (ii) seven days for a second violation;

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

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

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

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

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

30 (i) Revocation of probation.--

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

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

7 ~~(j) Local rules. The court may adopt local rules for the~~ ←
8 ~~administration of this program. The~~

9 (J) LOCAL RULES.-- ←

10 (1) THE COURT MAY ADOPT LOCAL RULES FOR THE
11 ADMINISTRATION OF THIS PROGRAM. EXCEPT AS PROVIDED FOR UNDER
12 PARAGRAPH (2), THE local rules may not be inconsistent with
13 this section or any rules adopted by the Supreme Court.

14 (2) THE COURT MAY ADOPT LOCAL RULES THAT ARE ←
15 INCONSISTENT WITH SUBSECTION (G) REGARDING THE TERMS OF
16 IMPRISONMENT OR OTHER SANCTIONS OR CONDITIONS PROVIDED FOR
17 UNDER SUBSECTION (G).

18 Section 4. Section 9804(b)(1) of Title 42 is amended and the
19 subsection is amended by adding a paragraph to read:

20 § 9804. County intermediate punishment programs.

21 * * *

22 (b) Eligibility.--

23 (1) (i) No person other than the eligible offender
24 shall be sentenced to a county intermediate punishment
25 program.

26 (ii) The prosecuting attorney, in the prosecuting
27 attorney's sole discretion, may advise the court that the
28 Commonwealth has elected to waive the eligibility
29 requirements of this chapter if the victim has been given
30 notice of the prosecuting attorney's intent to waive the

1 eligibility requirements and an opportunity to be heard
2 on the issue.

3 (iii) The court, after considering victim input, may
4 refuse to accept the prosecuting attorney's waiver of the
5 eligibility requirements.

6 * * *

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

14 (ii) If the defendant is determined to be in need of
15 drug and alcohol treatment, the defendant may only be
16 sentenced to county intermediate punishment which
17 includes participation in clinically prescribed drug and
18 alcohol treatment combined with one or more of the
19 following programs:

20 (A) a residential inpatient program or a
21 residential rehabilitative center;

22 (B) house arrest with electronic surveillance;

23 or

24 (C) a partial confinement program, including,
25 but not limited to, work release, work camp and
26 halfway facility.

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

30 (A) house arrest with electronic surveillance;

1 are vested in the official visitors of correctional institutions
2 as now prescribed by law.

3 (b) Notice required.--No active or visiting committee as
4 identified in subsection (a) may visit a correctional
5 institution under this section unless notice of the names of the
6 members of the committee and the terms of their appointment are
7 given by the society, in writing, under its corporate seal, to
8 the chief administrator of the correctional institution.]

9 (Reserved).

10 § 3503. [Rights of official visitors.

11 (a) Visiting hours.--A person designated by law to be an
12 official visitor of a correctional institution may enter and
13 visit any correctional institution on any and every day,
14 including Sundays, between the hours of 9 a.m. and 5 p.m. and at
15 such other times with the special permission of the chief
16 administrator.

17 (b) Confirmation of role.--All powers, functions and
18 privileges granted to official visitors of correctional
19 institutions under prior law are hereby confirmed. No official
20 visitor shall have the right or power to give or deliver to an
21 inmate during such visit any chattel or object whatsoever,
22 except objects and articles of religious or moral instruction or
23 use.

24 (c) Effect of violation.--

25 (1) If an official visitor violates any provision of
26 this section, a chief administrator may apply to the court of
27 common pleas in the county wherein the correctional
28 institution is situated for a rule upon the official visitor
29 to show cause why he should not be deprived of his office.

30 (2) Upon proof to the satisfaction of the court, the

1 court shall enter a decree against the official visitor
2 depriving him of all rights, privileges and functions of an
3 official visitor.] (Reserved).

4 Section 7. Title 61 is amended by adding a section to read:
5 § 3705. Time eligibility for prerelease.

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

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

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

12 (3) have no outstanding detainers; and

13 (4) satisfy the additional condition, as applicable, in ←
14 subsection (b).

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

17 (1) less than 12 months to serve until the inmate
18 completes the inmate's minimum sentence, the inmate must
19 serve at least three months in a State correctional
20 institution;

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

26 (3) at least 18 months to serve until the inmate
27 completes the inmate's minimum sentence, the inmate must
28 serve at least nine months in a State correctional
29 institution.

30 (c) Exception. Notwithstanding the provisions of



1 ~~subsections (a) and (b), no inmate shall be eligible for HAVE~~
2 ~~CONTINUOUSLY SERVED FOR A TOTAL OF AT LEAST NINE MONTHS IN A~~
3 ~~COUNTY JAIL OR IN A STATE CORRECTIONAL INSTITUTION FOR THAT~~
4 ~~SENTENCE.~~

5 (B) EXCEPTION.--NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
6 (A), NO INMATE SHALL BE ELIGIBLE FOR placement in a prerelease
7 center prior to the completion of the inmate's minimum sentence
8 if the inmate is serving a term of imprisonment for:

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

11 or

12 (2) a crime requiring registration under 42 Pa.C.S.
13 §9795.1 (relating to registration).

14 Section 8. The definition of "eligible inmate" in section
15 3903 of Title 61 is amended to read:

16 § 3903. Definitions.

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

20 * * *

21 "Eligible inmate." A person sentenced to a term of
22 confinement under the jurisdiction of the Department of
23 Corrections who is serving a term of confinement, the minimum of
24 which is not more than two years and the maximum of which is
25 five years or less, or an inmate who is serving a term of
26 confinement, the minimum of which is not more than three years
27 where that inmate is within two years of completing his minimum
28 term, and who has not reached [35] 40 years of age at the time
29 he is approved for participation in the motivational boot camp
30 program. The term shall not include any inmate who is subject to

1 a sentence the calculation of which included an enhancement for
2 the use of a deadly weapon as defined pursuant to the sentencing
3 guidelines promulgated by the Pennsylvania Commission on
4 Sentencing or any inmate [serving a sentence for any violation
5 of one or more of the following provisions] with a current
6 conviction or a prior conviction within the past ten years for
7 any of the following offenses:

8 18 Pa.C.S. § 2502 (relating to murder).

9 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

10 18 Pa.C.S. § 2506 (relating to drug delivery resulting in
11 death).

12 18 Pa.C.S. § 2901 (relating to kidnapping).

13 18 Pa.C.S. § 3121 (relating to rape).

14 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
15 intercourse).

16 18 Pa.C.S. § 3124.1 (relating to sexual assault).

17 18 Pa.C.S. § 3125 (relating to aggravated indecent
18 assault).

19 18 Pa.C.S. § 3301(a)(1)(i) (relating to arson and related
20 offenses).

21 18 Pa.C.S. § 3502 (relating to burglary) in the case of
22 burglary of a structure adapted for overnight accommodation
23 in which at the time of the offense any person is present.

24 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
25 robbery).

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

27 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3)(iii) or (4)
28 (iii) (relating to drug trafficking sentencing and
29 penalties).

30 * * *

1 Section 9. Section 3904 of Title 61 is amended by adding a
2 subsection to read:

3 § 3904. Selection of inmate participants.

4 * * *

5 (d) Waiver of eligibility requirements.--

6 (1) The prosecuting attorney, in the prosecuting
7 attorney's sole discretion, may advise the court that the
8 Commonwealth has elected to waive the eligibility
9 requirements of this chapter if the victim has been given
10 notice of the prosecuting attorney's intent to waive the
11 eligibility requirements and an opportunity to be heard on
12 the issue.

13 (2) The court, after considering victim input, may
14 refuse to accept the prosecuting attorney's waiver of the
15 eligibility requirements.

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

18 § 4103. Definitions.

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

22 * * *

23 "Defendant." An individual charged with a drug-related
24 offense, including an individual convicted of violating section
25 13(a)(14), (30) or (37) of the act of April 14, 1972 (P.L.233,
26 No.64), known as The Controlled Substance, Drug, Device and
27 Cosmetic Act, where the sentence was imposed pursuant 18 Pa.C.S.
28 § 7508(a)(1)(i), (2)(i), (3)(i), (4)(i) or (7)(i) (relating to
29 drug trafficking sentencing and penalties).

30 * * *

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

5 (1) Has undergone an assessment performed by the
6 Department of Corrections, which assessment has concluded
7 that the defendant is in need of drug and alcohol addiction
8 treatment and would benefit from commitment to a drug
9 offender treatment program and that placement in a drug
10 offender treatment program would be appropriate.

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

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

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

18 The term shall not include a defendant who is subject to a
19 sentence the calculation of which includes an enhancement for
20 the use of a deadly weapon, as defined pursuant to law or the
21 sentencing guidelines promulgated by the Pennsylvania Commission
22 on Sentencing, or a defendant [who has been convicted of a
23 personal injury crime as defined in section 103 of the act of
24 November 24, 1998 (P.L.882, No.111), known as the Crime Victims
25 Act, or an attempt or conspiracy to commit such a crime or who
26 has been convicted of violating 18 Pa.C.S. § 4302 (relating to
27 incest), 5901 (relating to open lewdness), 6312 (relating to
28 sexual abuse of children), 6318 (relating to unlawful contact
29 with minor) or 6320 (relating to sexual exploitation of
30 children) or Ch. 76 Subch. C (relating to Internet child

1 pornography)] with a current conviction or a prior conviction
2 within the past ten years for any of the following offenses:

3 18 Pa.C.S. § 2502 (relating to murder).

4 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

5 18 Pa.C.S. § 2506 (relating to drug delivery resulting in
6 death).

7 18 Pa.C.S. § 2901 (relating to kidnapping).

8 18 Pa.C.S. § 3121 (relating to rape).

9 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual
10 intercourse).

11 18 Pa.C.S. § 3124.1 (relating to sexual assault).

12 18 Pa.C.S. § 3125 (relating to aggravated indecent
13 assault).

14 18 Pa.C.S. § 3301(a)(1)(i) (relating to arson and related
15 offenses).

16 18 Pa.C.S. § 3502 (relating to burglary), in the case of
17 burglary of a structure adapted for overnight accommodation
18 in which at the time of the offense any person is present.

19 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
20 robbery).

21 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

22 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3)(iii) or (4)
23 (iii) (relating to drug trafficking sentencing and
24 penalties).

25 * * *

26 Section 11. Section ~~4104(a)~~ 4104(A)(1) of Title 61 is ←
27 amended AND THE SUBSECTION IS AMENDED by adding a paragraph to ←
28 read:

29 § 4104. Referral to State intermediate punishment program.

30 (a) Referral for evaluation.--

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(1) PRIOR TO IMPOSING A SENTENCE, THE COURT MAY[, UPON MOTION OF THE COMMONWEALTH AND AGREEMENT OF THE DEFENDANT,] COMMIT A DEFENDANT TO THE CUSTODY OF THE DEPARTMENT FOR THE PURPOSE OF EVALUATING WHETHER THE DEFENDANT WOULD BENEFIT FROM A DRUG OFFENDER TREATMENT PROGRAM AND WHETHER PLACEMENT IN THE DRUG OFFENDER TREATMENT PROGRAM IS APPROPRIATE.

(1.1) (i) The prosecuting attorney, in the prosecuting attorney's sole discretion, may advise the court that the Commonwealth has elected to waive the eligibility requirements of this chapter, if the victim has been given notice of the prosecuting attorney's intent to waive the eligibility requirements and an opportunity to be heard on the issue.

(ii) The court, after considering victim input, may refuse to accept the prosecuting attorney's waiver of the eligibility requirements.

* * *

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

§ 4503. Definitions.

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

* * *

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

(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) EXCEPT FOR AN OFFENSE UNDER 18 PA.C.S. § ←
21 2701 (RELATING TO SIMPLE ASSAULT) WHEN THE OFFENSE IS A
22 MISDEMEANOR OF THE THIRD DEGREE, or an equivalent offense
23 under the laws of the United States or one of its territories
24 or possessions, another state, the District of Columbia, the
25 Commonwealth of Puerto Rico or a foreign nation.~~

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

1 Puerto Rico or a foreign nation:

2 [18 Pa.C.S. § 4302 (relating to incest).]

3 18 Pa.C.S. § 5901 (relating to open lewdness).

4 18 Pa.C.S. § 6312 (relating to sexual abuse of
5 children).

6 18 Pa.C.S. § 6318 (relating to unlawful contact with
7 minor).

8 18 Pa.C.S. § 6320 (relating to sexual exploitation of
9 children).

10 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
11 child pornography).

12 Received a criminal sentence pursuant to 42 Pa.C.S. §
13 9712.1 (relating to sentences for certain drug offenses
14 committed with firearms).

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

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

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

28 * * *

29 Section 13. Title 61 is amended by adding a chapter to read:

30 CHAPTER 49

1 SAFE COMMUNITY REENTRY

2 Sec.

3 4901. Scope of chapter.

4 4902. Definitions.

5 4903. Safe Community Reentry Program.

6 4904. Contract for services.

7 4905. Rules and regulations.

8 4906. Study and report.

9 § 4901. Scope of chapter.

10 This chapter relates to the Safe Community Reentry Program.

11 § 4902. Definitions.

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

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

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

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

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

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

30 § 4903. Safe Community Reentry Program.

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

8 (b) Assessment and plan.--

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

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

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

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

28 (d) Community organizations.--

29 (1) The department and the board shall use community
30 organizations to assist the department and the board in

1 meeting the needs of offenders reentering the community.

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

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

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

12 (e) Sharing of information.--

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

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

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

27 § 4904. Contract for services.

28 (a) Duty of department and board.--As part of the program,
29 the department and the board may contract with private vendors,
30 including community organizations, units of local government and

1 other entities to provide for reintegration and transitional
2 programs and services, which may include institutional-based and
3 community-based programs. The programs and services provided
4 under these contracts may include:

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

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

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

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

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

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

29 (7) Continuing to link offenders with health resources
30 for health services that were provided to them when they were

1 under the jurisdiction of the department, including mental
2 health, substance abuse treatment, aftercare and treatment
3 services for contagious diseases.

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

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

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

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

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

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

27 (11) Addressing systems under which family members of
28 offenders are involved with facilitating the successful
29 reentry of those offenders into the community, including
30 removing obstacles to the maintenance of family relationships

1 while the offender is in custody, strengthening the family's
2 capacity to establish and maintain a stable living situation
3 during the reentry process where appropriate and involving
4 family members in the planning and implementation of the
5 reentry process.

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

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

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

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

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

25 (iii) Encourage positive self-concept.

26 (iv) Teach and aid in goal setting.

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

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

1 (vii) Promote appropriate, positive family
2 relationships.

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

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

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

12 § 4905. Rules and regulations.

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

15 § 4906. Study and report.

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

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

26 Section 14. This act shall take effect ~~in 60 days.~~ AS
27 FOLLOWS:

28 (1) THE ADDITION OF 61 PA.C.S. § 3705 SHALL TAKE EFFECT
29 IN ONE YEAR.

30 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.



1 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
2 DAYS.