

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 285 Session of 2017

INTRODUCED BY STEPHENS, STAATS, MURT, BENNINGHOFF, READSHAW,  
 COX, IRVIN, KNOWLES, BLOOM, B. MILLER, TAYLOR, BAKER,  
 MILLARD, A. HARRIS, GABLER, NEILSON, LAWRENCE, DEASY,  
 D. COSTA, RADER, GILLEN, DUSH, KORTZ, JOZWIAK, MICCARELLI AND  
 NELSON, FEBRUARY 1, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 16, 2018

AN ACT

1 ~~Amending Title 42 (Judiciary and Judicial Procedure) of the~~ <--  
 2 ~~Pennsylvania Consolidated Statutes, in sentencing, further~~  
 3 ~~providing for collection of restitution, reparation, fees,~~  
 4 ~~costs, fines and penalties.~~  
 5 AMENDING TITLES 42 (JUDICIARY AND JUDICIAL PROCEDURE) AND 61 <--  
 6 (PRISONS AND PAROLE) OF THE PENNSYLVANIA CONSOLIDATED  
 7 STATUTES, IN JUDICIAL BOARDS AND COMMISSIONS, FURTHER  
 8 PROVIDING FOR POWERS AND DUTIES, FOR ADOPTION OF GUIDELINES  
 9 FOR SENTENCING, FOR ADOPTION OF GUIDELINES FOR COUNTY  
 10 INTERMEDIATE PUNISHMENT, FOR ADOPTION OF GUIDELINES FOR  
 11 STATE INTERMEDIATE PUNISHMENT AND FOR ADOPTION OF RISK  
 12 ASSESSMENT INSTRUMENT; IN SENTENCING, FURTHER PROVIDING FOR  
 13 SENTENCING GENERALLY, FOR COLLECTION OF RESTITUTION,  
 14 REPARATION, FEES, COSTS, FINES AND PENALTIES, FOR ORDER OF  
 15 PROBATION, FOR SENTENCE OF PARTIAL CONFINEMENT, FOR SENTENCE  
 16 OF TOTAL CONFINEMENT, FOR SENTENCE OF COUNTY INTERMEDIATE  
 17 PUNISHMENT, FOR INFORMATION REQUIRED UPON COMMITMENT AND  
 18 SUBSEQUENT DISPOSITION, FOR MODIFICATION OR REVOCATION OF  
 19 ORDER OF PROBATION, FOR COURT-IMPOSED SANCTIONS FOR OFFENDERS  
 20 VIOLATING PROBATION, FOR MODIFICATION OR REVOCATION OF COUNTY  
 21 INTERMEDIATE PUNISHMENT SENTENCE AND FOR REVOCATION OF STATE  
 22 INTERMEDIATE PUNISHMENT SENTENCE; IN COUNTY INTERMEDIATE  
 23 PUNISHMENT, FURTHER PROVIDING FOR COUNTY INTERMEDIATE  
 24 PUNISHMENT PROGRAMS AND FOR CONTINUED ELIGIBILITY; IN  
 25 MOTIVATIONAL BOOT CAMP, FURTHER PROVIDING FOR DEFINITIONS,  
 26 FOR SELECTION OF INMATE PARTICIPANTS AND FOR MOTIVATIONAL  
 27 BOOT CAMP PROGRAM; IN STATE INTERMEDIATE PUNISHMENT, FURTHER  
 28 PROVIDING SCOPE OF CHAPTER, FOR DEFINITIONS, FOR REFERRAL TO  
 29 STATE INTERMEDIATE PUNISHMENT PROGRAM, FOR DRUG OFFENDER  
 30 TREATMENT PROGRAM AND FOR REPORTS; IN RECIDIVISM RISK

1 REDUCTION INCENTIVE, FURTHER PROVIDING FOR DEFINITIONS, FOR  
2 EVALUATION AND FOR REPORTS; IN PENNSYLVANIA BOARD OF  
3 PROBATION AND PAROLE, FURTHER PROVIDING FOR DEFINITIONS, FOR  
4 ADVISORY COMMITTEE, FOR GENERAL POWERS OF BOARD, FOR  
5 PROBATION SERVICES, FOR PAROLE POWER, PROVIDING FOR SHORT  
6 SENTENCE PAROLE, FURTHER PROVIDING FOR VIOLATION OF TERMS OF  
7 PAROLE AND FOR PAROLE PROCEDURE; AND MAKING CONFORMING  
8 AMENDMENTS.

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

11 ~~Section 1. Section 9728(b)(5) of Title 42 of the~~ <--  
12 ~~Pennsylvania Consolidated Statutes is amended to read:~~

13 SECTION 1. SECTION 2153(A) OF TITLE 42 OF THE PENNSYLVANIA <--  
14 CONSOLIDATED STATUTES IS AMENDED BY ADDING A PARAGRAPH AND THE  
15 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

16 § 2153. POWERS AND DUTIES.

17 (A) GENERAL RULE.--THE COMMISSION, PURSUANT TO RULES AND  
18 REGULATIONS, SHALL HAVE THE POWER TO:

19 \* \* \*

20 (16) REPORT TO THE GENERAL ASSEMBLY ON:

21 (I) IMPLEMENTATION OF REVISIONS TO THE GUIDELINES  
22 UNDER SECTIONS 2154 (RELATING TO ADOPTION OF GUIDELINES  
23 FOR SENTENCING) AND 2154.1 (RELATING TO ADOPTION OF  
24 GUIDELINES FOR RESTRICTIVE CONDITIONS);

25 (II) IMPLEMENTATION AND OUTCOMES OF JUSTICE  
26 REINVESTMENT FUNDING TO COUNTY PROBATION;

27 (III) USE OF COURT-IMPOSED SANCTIONS FOR VIOLATING  
28 PROBATION UNDER SECTION 9771.1 (RELATING TO COURT-IMPOSED  
29 SANCTIONS FOR VIOLATING PROBATION);

30 (IV) IN CONSULTATION WITH THE OFFICE OF THE BUDGET  
31 AND THE DEPARTMENT OF CORRECTIONS, THE IMPLEMENTATION OF  
32 SHORT SENTENCE PAROLE UNDER 61 PA.C.S. § 6137.5 (RELATING  
33 TO SHORT SENTENCE PAROLE), USE OF THE STATE DRUG  
34 TREATMENT PROGRAM UNDER 61 PA.C.S. CH. 41 (RELATING TO

1 STATE DRUG TREATMENT PROGRAM) AND USE OF SANCTIONS FOR  
2 TECHNICAL PAROLE VIOLATIONS UNDER 61 PA.C.S. § 6138(C)(8)  
3 (RELATING TO VIOLATION OF TERMS OF PAROLE); AND

4 (V) EVALUATIONS OF THE EFFECTIVENESS OF VARIOUS  
5 CRIMINAL JUSTICE INTERVENTIONS AND PROGRAMMING, INCLUDING  
6 RESTRICTIVE CONDITIONS OF PROBATION, RECIDIVISM RISK  
7 REDUCTION INCENTIVE PROGRAMS, STATE DRUG TREATMENT  
8 PROGRAM, STATE MOTIVATIONAL BOOT CAMP PROGRAM, PRETRIAL  
9 DIVERSION PROGRAMS, PRISONER TREATMENT PROGRAMS AND  
10 PRISONER REENTRY PROGRAMS. FOR ANY EVALUATIONS OF THE  
11 EFFECTIVENESS OF PROGRAMS IN REDUCING RECIDIVISM, THE  
12 COMMISSION SHALL REPORT ON:

13 (A) THE NUMBER OF INDIVIDUALS ELIGIBLE FOR THE  
14 PROGRAM, THE NUMBER OF INDIVIDUALS PARTICIPATING IN  
15 THE PROGRAM AND THE NUMBER OF INDIVIDUALS WHO  
16 SUCCESSFULLY COMPLETED THE PROGRAM DURING THE PERIOD  
17 UNDER STUDY.

18 (B) THE RECIDIVISM RATES FOR PARTICIPANTS OF THE  
19 PROGRAM AND FOR A COMPARISON GROUP OF INDIVIDUALS WHO  
20 DID NOT PARTICIPATE IN THE PROGRAM.

21 (C) POTENTIAL CHANGES IN THE PROGRAM THAT THE  
22 COMMISSION BELIEVES WOULD MAKE THE PROGRAM MORE  
23 EFFECTIVE.

24 (D) ANY OTHER INFORMATION THE COMMISSION DEEMS  
25 RELEVANT.

26 \* \* \*

27 (D) HEARINGS.--THE GENERAL ASSEMBLY SHALL CONVENE HEARINGS  
28 IN THE APPROPRIATE COMMITTEES TO HEAR AND DELIBERATE UPON  
29 REPORTS UNDER SUBSECTION (A)(16).

30 SECTION 2. SECTIONS 2154 AND 2154.1 OF TITLE 42 ARE AMENDED

1 TO READ:

2 § 2154. ADOPTION OF GUIDELINES FOR SENTENCING.

3 (A) GENERAL RULE.--THE COMMISSION SHALL ADOPT GUIDELINES FOR  
4 SENTENCING WITHIN THE LIMITS ESTABLISHED BY LAW WHICH SHALL BE  
5 CONSIDERED BY THE SENTENCING COURT IN DETERMINING THE  
6 APPROPRIATE SENTENCE FOR DEFENDANTS WHO PLEAD GUILTY OR NOLO  
7 CONTENDERE TO, OR WHO WERE FOUND GUILTY OF, FELONIES AND  
8 MISDEMEANORS. IN ADOPTING GUIDELINES, THE COMMISSION SHALL  
9 RECOMMEND CONFINEMENT THAT IS CONSISTENT WITH THE PROTECTION OF  
10 THE PUBLIC, THE GRAVITY OF THE OFFENSE AS IT RELATES TO THE  
11 IMPACT ON THE LIFE OF THE VICTIM AND THE COMMUNITY AND THE  
12 REHABILITATIVE NEEDS OF THE OFFENDER. THE GUIDELINES SHALL  
13 ADDRESS THE FOLLOWING RETRIBUTIVE FACTORS:

14 (1) SERIOUSNESS OF THE OFFENSE, BY SPECIFYING THE RANGE  
15 OF SENTENCES APPLICABLE TO CRIMES OF A GIVEN DEGREE OF  
16 GRAVITY[, INCLUDING INCAPACITATION OF SERIOUS VIOLENT  
17 OFFENDERS].

18 (2) CRIMINAL HISTORY, BY SPECIFYING A RANGE OF SENTENCES  
19 OF INCREASED SEVERITY OR INTENSITY OF INTERVENTION FOR  
20 OFFENDERS PREVIOUSLY CONVICTED OF OR ADJUDICATED DELINQUENT  
21 FOR ONE OR MORE MISDEMEANOR OR FELONY OFFENSES COMMITTED  
22 PRIOR TO THE CURRENT OFFENSE. THE COMMISSION MAY EXCLUDE OR  
23 REDUCE THE VALUATION OF LESS SERIOUS OFFENSES AND INCREASE  
24 THE VALUATION OF OFFENSES COMMITTED WHILE UNDER SUPERVISION  
25 OR IN A TEMPORAL OR OFFENSE PATTERN.

26 (3) CRIMINAL BEHAVIOR, BY SPECIFYING A RANGE OF  
27 SENTENCES OF INCREASED SEVERITY OR INTENSITY OF INTERVENTION  
28 FOR OFFENDERS [WHO POSE A SUBSTANTIAL RISK TO PUBLIC SAFETY]  
29 WITH INCREASED CULPABILITY, INCLUDING THOSE WHO POSSESSED OR  
30 USED A DEADLY WEAPON OR INFLICTED SUBSTANTIAL HARM DURING THE

1 COMMISSION OF THE CURRENT CONVICTION OFFENSE.

2 (4) AGGRAVATED AND MITIGATED RANGES, BY SPECIFYING  
3 VARIATIONS FROM THE RANGE OF SENTENCES APPLICABLE ON ACCOUNT  
4 OF AGGRAVATING OR MITIGATING CIRCUMSTANCES.

5 (5) THE IMPACT OF ANY AMENDMENTS TO SECTION 9756  
6 (RELATING TO SENTENCE OF TOTAL CONFINEMENT).

7 (B) ADJUSTMENTS.--THE GUIDELINES SHALL INCLUDE THE FOLLOWING  
8 RISK-RELATED ADJUSTMENTS:

9 (1) INCAPACITATION OF SERIOUS VIOLENT OFFENDERS.

10 (2) MODIFICATIONS TO CRIMINAL HISTORY TO REFLECT RISK TO  
11 REOFFEND AND SUBSTANTIAL RISK TO PUBLIC SAFETY TO ADJUST THE  
12 LENGTH OF TOTAL CONFINEMENT FOR MORE SERIOUS CRIMINAL  
13 HISTORY.

14 (3) RECOMMENDATIONS RELATED TO THE USE OF COUNTY  
15 INTERMEDIATE PUNISHMENT PROGRAMS AS RESTRICTIVE CONDITIONS OF  
16 PROBATION, THE DURATION OF TERMS OF PROBATION AND MAXIMUM  
17 TERMS OF TOTAL AND PARTIAL CONFINEMENT AND THE USE OF  
18 AGGREGATE SENTENCES.

19 (C) INTERACTIVE INFORMATION.--THE GUIDELINES SHALL INCLUDE  
20 INTERACTIVE INFORMATION TO SUPPORT DECISIONS WITH RISK,  
21 RECIDIVISM AND COST INFORMATION.

22 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
23 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
24 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

25 "POSSESSED." ON A DEFENDANT'S PERSON OR WITHIN THE  
26 DEFENDANT'S IMMEDIATE PHYSICAL CONTROL.

27 "PREVIOUSLY CONVICTED OF OR ADJUDICATED DELINQUENT." ANY  
28 FINDING OF GUILT OR ADJUDICATION OF DELINQUENCY, WHETHER OR NOT  
29 SENTENCE HAS BEEN IMPOSED OR DISPOSITION ORDERED PRIOR TO THE  
30 COMMISSION OF THE CURRENT OFFENSE.

1 § 2154.1. ADOPTION OF GUIDELINES FOR [COUNTY INTERMEDIATE  
2 PUNISHMENT] RESTRICTIVE CONDITIONS.

3 (A) GENERAL RULE.--THE COMMISSION SHALL ADOPT GUIDELINES TO  
4 IDENTIFY OFFENDERS WHO WOULD BE ELIGIBLE AND APPROPRIATE FOR  
5 [PARTICIPATION IN COUNTY INTERMEDIATE PUNISHMENT PROGRAMS]  
6 RESTRICTIVE CONDITIONS OF PROBATION. THESE GUIDELINES SHALL BE  
7 CONSIDERED BY THE SENTENCING COURT IN DETERMINING WHETHER TO  
8 [SENTENCE AN OFFENDER] IMPOSE RESTRICTIVE CONDITIONS PURSUANT TO  
9 SECTION 9763 (RELATING TO [SENTENCE OF COUNTY INTERMEDIATE  
10 PUNISHMENT] CONDITIONS OF PROBATION). THE GUIDELINES SHALL[:

11 (1) USE THE DESCRIPTION OF "ELIGIBLE OFFENDER" PROVIDED  
12 IN CHAPTER 98 (RELATING TO COUNTY INTERMEDIATE PUNISHMENT).

13 (2) GIVE] GIVE PRIMARY CONSIDERATION TO REDUCING  
14 RECIDIVISM FOR THE PROTECTION OF THE PUBLIC SAFETY.

15 (B) COMPLIANCE.--THE COMMISSION SHALL CERTIFY COMPLIANCE  
16 WITH ANY GUIDELINES ADOPTED BY THE COMMISSION FOR COUNTY  
17 INTERMEDIATE PUNISHMENT OR FOR IMPOSING RESTRICTIVE CONDITIONS  
18 OF PROBATION AND WITH ANY RELATED STATUTORY REQUIREMENTS AND  
19 REPORT THE RESULTS TO THE PENNSYLVANIA COMMISSION ON CRIME AND  
20 DELINQUENCY.

21 SECTION 3. SECTION 2154.2 OF TITLE 42 IS REPEALED:

22 [§ 2154.2. ADOPTION OF GUIDELINES FOR STATE INTERMEDIATE  
23 PUNISHMENT.

24 THE COMMISSION SHALL ADOPT GUIDELINES TO IDENTIFY OFFENDERS  
25 WHO WOULD BE APPROPRIATE FOR PARTICIPATION IN STATE INTERMEDIATE  
26 PUNISHMENT PROGRAMS. THESE GUIDELINES SHALL BE CONSIDERED BY THE  
27 ATTORNEY FOR THE COMMONWEALTH AND THE SENTENCING COURT IN  
28 DETERMINING WHETHER TO COMMIT A DEFENDANT FOR EVALUATION AND  
29 WHETHER TO SENTENCE AN ELIGIBLE OFFENDER PURSUANT TO 61 PA.C.S.  
30 CH. 41 (RELATING TO STATE INTERMEDIATE PUNISHMENT). THE

1 GUIDELINES SHALL:

2 (1) USE THE DESCRIPTION OF "ELIGIBLE OFFENDER" PROVIDED  
3 IN 61 PA.C.S. CH. 41.

4 (2) GIVE PRIMARY CONSIDERATION TO PROTECTION OF THE  
5 PUBLIC SAFETY.]

6 SECTION 4. SECTIONS 2154.7(D), 9721(A), (A.1) AND (B),  
7 9728(B)(5), 9754, 9755(D) AND (H), 9756(C.1), 9763(A), (B)(14),  
8 (16) AND (17), (C) AND (D), 9764(F), 9771(A) AND (B) AND 9771.1  
9 OF TITLE 42 ARE AMENDED TO READ:

10 § 2154.7. ADOPTION OF RISK ASSESSMENT INSTRUMENT.

11 \* \* \*

12 (D) ALTERNATIVE SENTENCING.--SUBJECT TO THE ELIGIBILITY  
13 REQUIREMENTS OF EACH PROGRAM, THE RISK ASSESSMENT INSTRUMENT MAY  
14 BE AN AIDE TO HELP DETERMINE:

15 (1) FOR PERSONS UNDER SUPERVISION, INTENSITY OF  
16 INTERVENTION, USE OF RESTRICTIVE CONDITIONS AND DURATION OF  
17 SUPERVISION; AND

18 (2) APPROPRIATE CANDIDATES FOR ALTERNATIVE SENTENCING,  
19 INCLUDING THE RECIDIVISM RISK REDUCTION INCENTIVE, STATE [AND  
20 COUNTY INTERMEDIATE PUNISHMENT PROGRAMS] DRUG TREATMENT  
21 PROGRAM AND STATE MOTIVATIONAL BOOT CAMPS.

22 \* \* \*

23 § 9721. SENTENCING GENERALLY.

24 (A) GENERAL RULE.--IN DETERMINING THE SENTENCE TO BE IMPOSED  
25 THE COURT SHALL, EXCEPT AS PROVIDED IN SUBSECTION (A.1),  
26 CONSIDER AND SELECT ONE OR MORE OF THE FOLLOWING ALTERNATIVES,  
27 AND MAY IMPOSE THEM CONSECUTIVELY OR CONCURRENTLY:

28 (1) AN ORDER OF PROBATION.

29 (2) A DETERMINATION OF GUILT WITHOUT FURTHER PENALTY.

30 (3) PARTIAL CONFINEMENT.

- 1 (4) TOTAL CONFINEMENT.  
2 (5) A FINE.  
3 [(6) COUNTY INTERMEDIATE PUNISHMENT.  
4 (7) STATE INTERMEDIATE PUNISHMENT.]

5 (A.1) EXCEPTION.--

6 (1) UNLESS SPECIFICALLY AUTHORIZED UNDER SECTION 9763  
7 (RELATING TO [A SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT)  
8 OR 61 PA.C.S. CH. 41 (RELATING TO STATE INTERMEDIATE  
9 PUNISHMENT)] CONDITIONS OF PROBATION), SUBSECTION (A) SHALL  
10 NOT APPLY WHERE A MANDATORY MINIMUM SENTENCE IS OTHERWISE  
11 PROVIDED BY LAW.

12 (2) [AN ELIGIBLE OFFENDER MAY BE SENTENCED TO STATE  
13 INTERMEDIATE PUNISHMENT PURSUANT TO SUBSECTION (A) (7) AND AS  
14 DESCRIBED IN 61 PA.C.S. CH. 41 OR TO] A PERSON MAY BE  
15 ELIGIBLE FOR THE STATE DRUG TREATMENT PROGRAM AS DESCRIBED IN  
16 61 PA.C.S. CH. 41 OR STATE MOTIVATIONAL BOOT CAMP AS  
17 DESCRIBED IN 61 PA.C.S. CH. 39 (RELATING TO MOTIVATIONAL BOOT  
18 CAMP), EVEN IF A MANDATORY MINIMUM SENTENCE WOULD OTHERWISE  
19 BE PROVIDED BY LAW.

20 (3) AN ELIGIBLE [OFFENDER] PERSON MAY BE SENTENCED TO  
21 TOTAL CONFINEMENT PURSUANT TO SUBSECTION (A) (4) AND A  
22 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCE PURSUANT  
23 TO SECTION 9756(B.1) (RELATING TO SENTENCE OF TOTAL  
24 CONFINEMENT), EVEN IF A MANDATORY MINIMUM SENTENCE WOULD  
25 OTHERWISE BE PROVIDED BY LAW.

26 (B) GENERAL STANDARDS.--IN SELECTING FROM THE ALTERNATIVES  
27 SET FORTH IN SUBSECTION (A), THE COURT SHALL FOLLOW THE GENERAL  
28 PRINCIPLE THAT THE SENTENCE IMPOSED SHOULD CALL FOR TOTAL  
29 CONFINEMENT THAT IS CONSISTENT WITH SECTION 9725 (RELATING TO  
30 TOTAL CONFINEMENT) AND THE PROTECTION OF THE PUBLIC, THE GRAVITY

1 OF THE OFFENSE AS IT RELATES TO THE IMPACT ON THE LIFE OF THE  
2 VICTIM AND ON THE COMMUNITY, AND THE REHABILITATIVE NEEDS OF THE  
3 DEFENDANT. THE COURT SHALL ALSO CONSIDER ANY GUIDELINES FOR  
4 SENTENCING AND RESENTENCING ADOPTED BY THE PENNSYLVANIA  
5 COMMISSION ON SENTENCING AND TAKING EFFECT UNDER SECTION 2155  
6 (RELATING TO PUBLICATION OF GUIDELINES FOR SENTENCING,  
7 RESENTENCING AND PAROLE, RISK ASSESSMENT INSTRUMENT AND  
8 RECOMMITMENT RANGES FOLLOWING REVOCATION). IN EVERY CASE IN  
9 WHICH THE COURT IMPOSES A SENTENCE FOR A FELONY OR MISDEMEANOR,  
10 MODIFIES A SENTENCE, RESENTENCES [AN OFFENDER] A PERSON  
11 FOLLOWING REVOCATION OF PROBATION[, COUNTY INTERMEDIATE  
12 PUNISHMENT OR STATE INTERMEDIATE PUNISHMENT] OR RESENTENCES  
13 FOLLOWING REMAND, THE COURT SHALL MAKE AS A PART OF THE RECORD,  
14 AND DISCLOSE IN OPEN COURT AT THE TIME OF SENTENCING, A  
15 STATEMENT OF THE REASON OR REASONS FOR THE SENTENCE IMPOSED. IN  
16 EVERY CASE WHERE THE COURT IMPOSES A SENTENCE OR RESENTENCE  
17 OUTSIDE THE GUIDELINES ADOPTED BY THE PENNSYLVANIA COMMISSION ON  
18 SENTENCING UNDER SECTIONS 2154 (RELATING TO ADOPTION OF  
19 GUIDELINES FOR SENTENCING), 2154.1 (RELATING TO ADOPTION OF  
20 GUIDELINES FOR [COUNTY INTERMEDIATE PUNISHMENT), 2154.2  
21 (RELATING TO ADOPTION OF GUIDELINES FOR STATE INTERMEDIATE  
22 PUNISHMENT)] RESTRICTIVE CONDITIONS), 2154.3 (RELATING TO  
23 ADOPTION OF GUIDELINES FOR FINES), 2154.4 (RELATING TO ADOPTION  
24 OF GUIDELINES FOR RESENTENCING) AND 2154.5 (RELATING TO ADOPTION  
25 OF GUIDELINES FOR PAROLE) AND MADE EFFECTIVE UNDER SECTION 2155,  
26 THE COURT SHALL PROVIDE A CONTEMPORANEOUS WRITTEN STATEMENT OF  
27 THE REASON OR REASONS FOR THE DEVIATION FROM THE GUIDELINES TO  
28 THE COMMISSION, AS ESTABLISHED UNDER SECTION 2153(A) (14)  
29 (RELATING TO POWERS AND DUTIES). FAILURE TO COMPLY SHALL BE  
30 GROUNDS FOR VACATING THE SENTENCE OR RESENTENCE AND RESENTENCING

1 THE DEFENDANT.

2 \* \* \*

3 § 9728. Collection of restitution, reparation, fees, costs,  
4 fines and penalties.

5 \* \* \*

6 (b) Procedure.--

7 \* \* \*

8 (5) Deductions shall be as follows:

9 (i) The [county correctional facility to which the  
10 offender has been sentenced or the] Department of  
11 Corrections shall [be authorized to] make monetary  
12 deductions [from] of AT LEAST 25% of deposits made to <--  
13 inmate personal accounts for the purpose of collecting  
14 restitution [or], costs imposed under section 9721(c.1),  
15 filing fees to be collected under section 6602(c)  
16 (relating to prisoner filing fees) and any other court-  
17 ordered obligation [or costs imposed under section  
18 9721(c.1)]. Deductions under this paragraph shall be in  
19 addition to the full amount authorized to be collected  
20 pursuant to any order for support. Any amount deducted  
21 shall be transmitted by the Department of Corrections [or  
22 the county correctional facility] to the probation <--  
23 department of the county or other agent designated by the  
24 county commissioners of the county with the approval of  
25 the president judge of the county in which the offender  
26 was convicted.‡ The Department of Corrections, shall <--  
27 develop guidelines relating to its responsibilities under  
28 this paragraph. The guidelines shall be incorporated into  
29 any contract entered into with a correctional facility.

30 (ii) The county correctional facility to which the

1 offender has been sentenced shall be authorized to make  
2 monetary deductions from inmate WAGES AND personal <--  
3 accounts for the purpose of collecting restitution, costs  
4 imposed under section 9721(c.1), filing fees to be  
5 collected under section 6602(c) (relating to prisoner  
6 filing fees) and any other court-ordered obligation. OR <--  
7 FEEES OWED TO THE COUNTY JAIL OR PRISON RELATED TO THE  
8 INMATE'S INCARCERATION. BEFORE RELEASING FUNDS ON  
9 DEPOSIT, THE COUNTY CORRECTIONAL FACILITY SHALL DEDUCT AN  
10 AMOUNT SUFFICIENT TO SATISFY ANY OUTSTANDING RESTITUTION,  
11 COSTS IMPOSED UNDER SECTION 9721(C.1), FILING FEES TO BE  
12 COLLECTED UNDER SECTION 6602(C) OR OTHER COURT-ORDERED  
13 OBLIGATIONS. Deductions under this paragraph shall be in  
14 addition to the full amount authorized to be collected  
15 pursuant to any order for support. Any amount deducted  
16 shall be transmitted by the county correctional facility  
17 to the probation department of the county or other agent  
18 designated by the county commissioners of the county with  
19 the approval of the president judge of the county in  
20 which the offender was convicted. Each county  
21 correctional facility, in accordance with the Department  
22 of Corrections, shall develop guidelines relating to its  
23 responsibilities under this paragraph. The guidelines  
24 shall be incorporated into any contract entered into with  
25 a correctional facility.

26 \* \* \*

27 ~~Section 2. This act shall take effect in 60 days.~~ <--

28 § 9754. ORDER OF PROBATION. <--

29 (A) GENERAL RULE.--IN IMPOSING AN ORDER OF PROBATION THE  
30 COURT SHALL SPECIFY AT THE TIME OF SENTENCING THE LENGTH OF ANY

1 TERM DURING WHICH THE DEFENDANT IS TO BE SUPERVISED, WHICH TERM  
2 MAY NOT EXCEED THE MAXIMUM TERM FOR WHICH THE DEFENDANT COULD BE  
3 CONFINED, AND THE AUTHORITY THAT SHALL CONDUCT THE SUPERVISION.  
4 THE COURT SHALL CONSIDER PROBATION GUIDELINES ADOPTED BY THE  
5 PENNSYLVANIA COMMISSION ON SENTENCING UNDER SECTIONS 2154  
6 (RELATING TO ADOPTION OF GUIDELINES FOR SENTENCING) AND 2154.1  
7 (RELATING TO ADOPTION OF GUIDELINES FOR RESTRICTIVE CONDITIONS).

8 (B) CONDITIONS GENERALLY.--THE COURT SHALL ATTACH [SUCH OF  
9 THE REASONABLE CONDITIONS AUTHORIZED BY SUBSECTION (C) OF THIS  
10 SECTION AS IT DEEMS NECESSARY TO INSURE OR ASSIST THE DEFENDANT  
11 IN LEADING A LAW-ABIDING LIFE.

12 (C) SPECIFIC CONDITIONS.--THE COURT MAY AS A CONDITION OF  
13 ITS ORDER REQUIRE THE DEFENDANT:

14 (1) TO MEET HIS FAMILY RESPONSIBILITIES.

15 (2) TO DEVOTE HIMSELF TO A SPECIFIC OCCUPATION OR  
16 EMPLOYMENT.

17 (2.1) TO PARTICIPATE IN A PUBLIC OR NONPROFIT COMMUNITY  
18 SERVICE PROGRAM UNLESS THE DEFENDANT WAS CONVICTED OF MURDER,  
19 RAPE, AGGRAVATED ASSAULT, ARSON, THEFT BY EXTORTION,  
20 TERRORISTIC THREATS, ROBBERY OR KIDNAPPING.

21 (3) TO UNDERGO AVAILABLE MEDICAL OR PSYCHIATRIC  
22 TREATMENT AND TO ENTER AND REMAIN IN A SPECIFIED INSTITUTION,  
23 WHEN REQUIRED FOR THAT PURPOSE.

24 (4) TO PURSUE A PRESCRIBED SECULAR COURSE OF STUDY OR  
25 VOCATIONAL TRAINING.

26 (5) TO ATTEND OR RESIDE IN A FACILITY ESTABLISHED FOR  
27 THE INSTRUCTION, RECREATION, OR RESIDENCE OF PERSONS ON  
28 PROBATION.

29 (6) TO REFRAIN FROM FREQUENTING UNLAWFUL OR DISREPUTABLE  
30 PLACES OR CONSORTING WITH DISREPUTABLE PERSONS.

1 (7) TO HAVE IN HIS POSSESSION NO FIREARM OR OTHER  
2 DANGEROUS WEAPON UNLESS GRANTED WRITTEN PERMISSION.

3 (8) TO MAKE RESTITUTION OF THE FRUITS OF HIS CRIME OR TO  
4 MAKE REPARATIONS, IN AN AMOUNT HE CAN AFFORD TO PAY, FOR THE  
5 LOSS OR DAMAGE CAUSED THEREBY.

6 (9) TO REMAIN WITHIN THE JURISDICTION OF THE COURT AND  
7 TO NOTIFY THE COURT OR THE PROBATION OFFICER OF ANY CHANGE IN  
8 HIS ADDRESS OR HIS EMPLOYMENT.

9 (10) TO REPORT AS DIRECTED TO THE COURT OR THE PROBATION  
10 OFFICER AND TO PERMIT THE PROBATION OFFICER TO VISIT HIS  
11 HOME.

12 (11) TO PAY SUCH FINE AS HAS BEEN IMPOSED.

13 (12) TO PARTICIPATE IN DRUG OR ALCOHOL TREATMENT  
14 PROGRAMS.

15 (13) TO SATISFY ANY OTHER CONDITIONS REASONABLY RELATED  
16 TO THE REHABILITATION OF THE DEFENDANT AND NOT UNDULY  
17 RESTRICTIVE OF HIS LIBERTY OR INCOMPATIBLE WITH HIS FREEDOM  
18 OF CONSCIENCE.

19 (14) TO REMAIN WITHIN THE PREMISES OF HIS RESIDENCE  
20 DURING THE HOURS DESIGNATED BY THE COURT.] REASONABLE  
21 CONDITIONS AUTHORIZED BY SECTION 9763 (RELATING TO CONDITIONS  
22 OF PROBATION).

23 (D) SENTENCE FOLLOWING VIOLATION OF PROBATION.--THE SENTENCE  
24 TO BE IMPOSED IN THE EVENT OF THE VIOLATION OF A CONDITION SHALL  
25 NOT BE FIXED PRIOR TO A FINDING ON THE RECORD THAT A VIOLATION  
26 HAS OCCURRED.

27 § 9755. SENTENCE OF PARTIAL CONFINEMENT.

28 \* \* \*

29 (D) CONDITIONS TO RELEASE.--THE COURT MAY IN ADDITION  
30 INCLUDE IN ITS ORDER SUCH OF THE CONDITIONS AS ARE ENUMERATED IN

1 SECTION [9754 (RELATING TO ORDER OF PROBATION)] 9763 (RELATING  
2 TO CONDITIONS OF PROBATION) AS MAY BE REASONABLY RELATED TO THE  
3 SENTENCE.

4 \* \* \*

5 (H) SENTENCE OF PARTIAL CONFINEMENT COMBINED WITH [SENTENCE  
6 OF COUNTY INTERMEDIATE PUNISHMENT] PROBATION.--THE COURT MAY  
7 IMPOSE A SENTENCE OF PARTIAL CONFINEMENT WITHOUT PAROLE UNDER  
8 THIS SUBSECTION ONLY WHEN:

9 (1) THE PERIOD OF PARTIAL CONFINEMENT IS FOLLOWED  
10 IMMEDIATELY BY [A SENTENCE] RESTRICTIVE CONDITIONS OF  
11 PROBATION IMPOSED PURSUANT TO SECTION 9763 (RELATING TO  
12 [SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT]) CONDITIONS OF  
13 PROBATION) IN WHICH CASE THE SENTENCE OF PARTIAL CONFINEMENT  
14 SHALL SPECIFY THE NUMBER OF DAYS OF PARTIAL CONFINEMENT TO BE  
15 SERVED; AND

16 (2) THE MAXIMUM SENTENCE OF PARTIAL CONFINEMENT IMPOSED  
17 ON ONE OR MORE INDICTMENTS TO RUN CONSECUTIVELY OR  
18 CONCURRENTLY TOTAL 90 DAYS OR LESS.

19 § 9756. SENTENCE OF TOTAL CONFINEMENT.

20 \* \* \*

21 (C.1) SENTENCE OF TOTAL CONFINEMENT COMBINED WITH [SENTENCE  
22 OF COUNTY INTERMEDIATE PUNISHMENT] PROBATION.--THE COURT MAY  
23 IMPOSE A SENTENCE OF IMPRISONMENT WITHOUT PAROLE UNDER THIS  
24 SUBSECTION ONLY WHEN:

25 (1) THE PERIOD OF TOTAL CONFINEMENT IS FOLLOWED  
26 IMMEDIATELY BY [A SENTENCE] RESTRICTIVE CONDITIONS OF  
27 PROBATION IMPOSED PURSUANT TO SECTION 9763 (C) OR (D)  
28 (RELATING TO [SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT])  
29 CONDITIONS OF PROBATION) IN WHICH CASE THE SENTENCE OF TOTAL  
30 CONFINEMENT SHALL SPECIFY THE NUMBER OF DAYS OF TOTAL

1 CONFINEMENT ALSO TO BE SERVED; AND

2 (2) THE MAXIMUM SENTENCE OF TOTAL CONFINEMENT IMPOSED ON  
3 ONE OR MORE INDICTMENTS TO RUN CONSECUTIVELY OR CONCURRENTLY  
4 TOTAL 90 DAYS OR LESS.

5 \* \* \*

6 § 9763. [SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT] CONDITIONS  
7 OF PROBATION.

8 (A) GENERAL RULE.--IN IMPOSING [A SENTENCE OF COUNTY  
9 INTERMEDIATE PUNISHMENT] PROBATION, THE COURT SHALL CONSIDER  
10 GUIDELINES ADOPTED BY THE PENNSYLVANIA COMMISSION ON SENTENCING  
11 UNDER SECTION 2154 (RELATING TO ADOPTION OF GUIDELINES FOR  
12 SENTENCING) OR 2154.1 (RELATING TO ADOPTION OF GUIDELINES FOR  
13 RESTRICTIVE CONDITIONS) AND SPECIFY AT THE TIME OF SENTENCING  
14 THE CONDITIONS OF PROBATION, INCLUDING THE LENGTH OF THE TERM  
15 [FOR WHICH THE DEFENDANT IS TO BE IN A COUNTY INTERMEDIATE  
16 PUNISHMENT PROGRAM ESTABLISHED UNDER CHAPTER 98 (RELATING TO  
17 COUNTY INTERMEDIATE PUNISHMENT) OR A COMBINATION OF COUNTY  
18 INTERMEDIATE PUNISHMENT PROGRAMS. THE TERM MAY NOT EXCEED THE  
19 MAXIMUM TERM FOR WHICH THE DEFENDANT COULD BE CONFINED AND THE  
20 PROGRAM TO WHICH THE DEFENDANT IS SENTENCED. THE COURT MAY ORDER  
21 A DEFENDANT TO SERVE A PORTION OF THE SENTENCE UNDER SECTION  
22 9755 (RELATING TO SENTENCE OF PARTIAL CONFINEMENT) OR 9756  
23 (RELATING TO SENTENCE OF TOTAL CONFINEMENT) AND TO SERVE A  
24 PORTION IN A COUNTY INTERMEDIATE PUNISHMENT PROGRAM OR A  
25 COMBINATION OF COUNTY INTERMEDIATE PUNISHMENT PROGRAMS.] OF  
26 RESTRICTIVE CONDITIONS UNDER SUBSECTION (C) OR (D). THE TERM OF  
27 RESTRICTIVE CONDITIONS UNDER SUBSECTION (C) SHALL BE EQUAL TO OR  
28 GREATER THAN THE MANDATORY MINIMUM TERM OF IMPRISONMENT REQUIRED  
29 BY STATUTE.

30 (B) CONDITIONS GENERALLY.--THE COURT MAY ATTACH ANY OF THE

1 FOLLOWING CONDITIONS UPON THE DEFENDANT AS IT DEEMS NECESSARY:

2 \* \* \*

3 (14) TO PARTICIPATE IN DRUG OR ALCOHOL SCREENING AND  
4 TREATMENT PROGRAMS, INCLUDING OUTPATIENT [AND INPATIENT]  
5 PROGRAMS.

6 \* \* \*

7 [(16) TO REMAIN WITHIN THE PREMISES OF THE DEFENDANT'S  
8 RESIDENCE DURING THE HOURS DESIGNATED BY THE COURT.

9 (17) TO BE SUBJECT TO ELECTRONIC MONITORING.]

10 (C) [RESTRICTION] RESTRICTIVE DUI PROBATION CONDITIONS.--

11 (1) ANY PERSON RECEIVING A PENALTY IMPOSED PURSUANT TO  
12 75 PA.C.S. § 1543(B) (RELATING TO DRIVING WHILE OPERATING  
13 PRIVILEGE IS SUSPENDED OR REVOKED), FORMER 75 PA.C.S. § 3731  
14 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED  
15 SUBSTANCE) OR 75 PA.C.S. § 3804 (RELATING TO PENALTIES) FOR A  
16 FIRST, SECOND OR THIRD OFFENSE UNDER 75 PA.C.S. CH. 38  
17 (RELATING TO DRIVING AFTER IMBIBING ALCOHOL OR UTILIZING  
18 DRUGS) MAY ONLY [BE SENTENCED TO COUNTY INTERMEDIATE  
19 PUNISHMENT] HAVE PROBATION IMPOSED AFTER UNDERGOING AN  
20 ASSESSMENT UNDER 75 PA.C.S. § 3814 (RELATING TO DRUG AND  
21 ALCOHOL ASSESSMENTS).

22 (2) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF DRUG  
23 AND ALCOHOL TREATMENT, THE DEFENDANT MAY ONLY [BE SENTENCED  
24 TO COUNTY INTERMEDIATE PUNISHMENT WHICH] HAVE PROBATION THAT  
25 INCLUDES PARTICIPATION IN DRUG AND ALCOHOL TREATMENT UNDER 75  
26 PA.C.S. § 3815(C) (RELATING TO MANDATORY SENTENCING). THE  
27 DEFENDANT [MAY ONLY BE SENTENCED TO COUNTY INTERMEDIATE  
28 PUNISHMENT IN] SHALL HAVE RESTRICTIVE DUI PROBATION  
29 CONDITIONS OF:

30 (I) A RESIDENTIAL INPATIENT PROGRAM OR A RESIDENTIAL

1 REHABILITATIVE CENTER;

2 (II) HOUSE ARREST WITH ELECTRONIC SURVEILLANCE;

3 (III) A PARTIAL CONFINEMENT PROGRAM SUCH AS WORK  
4 RELEASE, WORK CAMP AND HALFWAY FACILITY; OR

5 (IV) ANY COMBINATION OF THE PROGRAMS SET FORTH IN  
6 THIS PARAGRAPH.

7 (3) IF THE DEFENDANT IS DETERMINED NOT TO BE IN NEED OF  
8 DRUG AND ALCOHOL TREATMENT, THE DEFENDANT [MAY ONLY BE  
9 SENTENCED TO COUNTY INTERMEDIATE PUNISHMENT IN] SHALL HAVE  
10 RESTRICTIVE DUI PROBATION CONDITIONS OF:

11 (I) HOUSE ARREST WITH ELECTRONIC SURVEILLANCE;

12 (II) PARTIAL CONFINEMENT PROGRAMS SUCH AS WORK  
13 RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR

14 (III) ANY COMBINATION OF THE PROGRAMS SET FORTH IN  
15 THIS PARAGRAPH.

16 (4) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF  
17 ADDITIONAL TREATMENT UNDER 75 PA.C.S. § 3814(2), THE JUDGE  
18 SHALL IMPOSE A MINIMUM SENTENCE AS PROVIDED BY LAW AND A  
19 MAXIMUM SENTENCE EQUAL TO THE STATUTORILY AVAILABLE MAXIMUM.  
20 A SENTENCE TO THE STATUTORILY AVAILABLE MAXIMUM IMPOSED UNDER  
21 THIS SUBSECTION MAY, IN THE DISCRETION OF THE SENTENCING  
22 COURT, BE ORDERED TO BE SERVED IN A COUNTY PRISON,  
23 NOTWITHSTANDING THE PROVISIONS OF SECTION 9762 (RELATING TO  
24 SENTENCING PROCEEDING; PLACE OF CONFINEMENT).

25 (D) [SENTENCE FOLLOWING VIOLATION OF CONDITION.--THE  
26 SENTENCE TO BE IMPOSED IN THE EVENT OF THE VIOLATION OF A  
27 CONDITION UNDER SUBSECTION (B) SHALL NOT BE IMPOSED PRIOR TO A  
28 FINDING ON THE RECORD THAT A VIOLATION HAS OCCURRED.  
29 NOTWITHSTANDING ANY OTHER PROVISION OF LAW REQUIRING NOTICE  
30 PRIOR TO SENTENCING, IN THE EVENT OF A VIOLATION OF A CONDITION

1 UNDER SUBSECTION (B), THE ATTORNEY FOR THE COMMONWEALTH MAY FILE  
2 NOTICE AT ANY TIME PRIOR TO RESENTENCING OF THE COMMONWEALTH'S  
3 INTENTION TO PROCEED UNDER AN APPLICABLE PROVISION OF LAW  
4 REQUIRING A MANDATORY MINIMUM SENTENCE.] RESTRICTIVE CONDITIONS

5 OF PROBATION.--PROBATION MAY INCLUDE RESTRICTIVE CONDITIONS  
6 THAT:

7 (1) HOUSE THE PERSON FULL TIME OR PART TIME, INCLUDING  
8 INPATIENT TREATMENT; OR

9 (2) SIGNIFICANTLY RESTRICT THE PERSON'S MOVEMENT AND  
10 MONITOR THE PERSON'S COMPLIANCE WITH THE PROGRAM, INCLUDING  
11 ELECTRONIC MONITORING OR HOME CONFINEMENT.

12 § 9764. INFORMATION REQUIRED UPON COMMITMENT AND SUBSEQUENT  
13 DISPOSITION.

14 \* \* \*

15 (F) RELEASE FROM COUNTY CORRECTIONAL FACILITY TO STATE  
16 PROBATION OR PAROLE.--

17 (1) PRIOR TO THE RELEASE OF AN INMATE FROM A COUNTY  
18 CORRECTIONAL FACILITY TO STATE PROBATION OR PAROLE  
19 SUPERVISION, THE FACILITY SHALL PROVIDE TO THE DEPARTMENT OF  
20 CORRECTIONS AND THE PENNSYLVANIA BOARD OF PROBATION AND  
21 PAROLE THE INFORMATION CONTAINED IN SUBSECTIONS [(A) (1)  
22 THROUGH (4)] (A) AND (B) WITH THE EXCEPTION OF SUBSECTION (A)  
23 (5).

24 (2) PRIOR TO THE RELEASE OF AN INMATE FROM A COUNTY  
25 CORRECTIONAL FACILITY TO STATE PROBATION OR PAROLE  
26 SUPERVISION, THE FACILITY SHALL PROVIDE TO THE INMATE HIS  
27 CURRENT MEDICATIONS AS PRESCRIBED AND ANY CUSTOMARY AND  
28 NECESSARY MEDICAL SUPPLIES AS DETERMINED BY THE PRESCRIBING  
29 PHYSICIAN.

30 \* \* \*

1 § 9771. MODIFICATION OR REVOCATION OF ORDER OF PROBATION.

2 (A) GENERAL RULE.--THE COURT [MAY] HAS INHERENT POWER TO AT  
3 ANY TIME TERMINATE CONTINUED SUPERVISION OR LESSEN [OR INCREASE]  
4 THE CONDITIONS UPON WHICH AN ORDER OF PROBATION HAS BEEN  
5 IMPOSED.

6 (B) REVOCATION.--THE COURT MAY INCREASE THE CONDITIONS,  
7 IMPOSE A BRIEF SANCTION UNDER SECTION 9771.1 (RELATING TO COURT-  
8 IMPOSED SANCTIONS FOR VIOLATING PROBATION) OR REVOKE AN ORDER OF  
9 PROBATION UPON PROOF OF THE VIOLATION OF SPECIFIED CONDITIONS OF  
10 THE PROBATION. UPON REVOCATION THE SENTENCING ALTERNATIVES  
11 AVAILABLE TO THE COURT SHALL BE THE SAME AS WERE AVAILABLE AT  
12 THE TIME OF INITIAL SENTENCING, DUE CONSIDERATION BEING GIVEN TO  
13 THE TIME SPENT SERVING THE ORDER OF PROBATION. THE ATTORNEY FOR  
14 THE COMMONWEALTH MAY FILE NOTICE AT ANY TIME PRIOR TO  
15 RESENTENCING OF THE COMMONWEALTH'S INTENTION TO PROCEED UNDER AN  
16 APPLICABLE PROVISION OF LAW REQUIRING A MANDATORY MINIMUM  
17 SENTENCE.

18 \* \* \*

19 § 9771.1. COURT-IMPOSED SANCTIONS FOR [OFFENDERS] VIOLATING  
20 PROBATION.

21 (A) PROGRAM.--NOTWITHSTANDING THE PROVISIONS OF SECTION 9771  
22 (RELATING TO MODIFICATION OR REVOCATION OF ORDER OF PROBATION),  
23 THE COURT OF COMMON PLEAS OF A JUDICIAL DISTRICT MAY ESTABLISH A  
24 PROGRAM TO IMPOSE SWIFT, PREDICTABLE AND [IMMEDIATE] BRIEF  
25 SANCTIONS ON [OFFENDERS] PERSONS WHO VIOLATE THEIR PROBATION.

26 [(B) COORDINATION WITH OTHER OFFICIALS.--THE COURT SHALL  
27 WORK WITH PROBATION ADMINISTRATORS AND OFFICERS, JAIL  
28 ADMINISTRATORS, PROSECUTORS, PUBLIC DEFENDERS AND LAW  
29 ENFORCEMENT IN THE JUDICIAL DISTRICT TO DEVELOP AND IMPLEMENT  
30 THE PROGRAM.]

1 (C) ELIGIBILITY.--

2 (1) THE COURT SHALL DETERMINE WHICH OFFENDERS ARE  
3 ELIGIBLE FOR AND ADMITTED INTO THE PROGRAM. THE PROGRAM SHALL  
4 FOCUS ON, BUT NOT BE LIMITED TO, OFFENDERS WHO HAVE COMMITTED  
5 DRUG-RELATED CRIMES.

6 (2) AN OFFENDER SHALL BE INELIGIBLE FOR THE PROGRAM IF  
7 THE OFFENDER HAS BEEN CONVICTED OR ADJUDICATED DELINQUENT OF  
8 A CRIME OF VIOLENCE AS DEFINED IN SECTION 9714 (RELATING TO  
9 SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES) OR OF A CRIME  
10 REQUIRING REGISTRATION UNDER SUBCHAPTER H (RELATING TO  
11 REGISTRATION OF SEXUAL OFFENDERS).

12 (D) WARNING HEARING.--

13 (1) AT THE TIME OF SENTENCING, THE COURT SHALL HOLD A  
14 WARNING HEARING FOR EACH PARTICIPANT IN THE PROGRAM TO  
15 CLEARLY COMMUNICATE PROGRAM EXPECTATIONS AND CONSEQUENCES AND  
16 TO ENCOURAGE THE PARTICIPANT'S COMPLIANCE AND SUCCESS.

17 (2) THE COURT SHALL EMPHASIZE THE EXPECTATIONS THAT THE  
18 PARTICIPANT REMAIN DRUG FREE AND COMPLY WITH ANY TREATMENT OR  
19 SERVICES ORDERED BY THE COURT AS A CONDITION OF THE  
20 PARTICIPANT'S PROBATION.

21 (3) THE COURT SHALL PUT THE PARTICIPANT ON NOTICE THAT  
22 EACH PROBATION VIOLATION, INCLUDING MISSED APPOINTMENTS AND  
23 POSITIVE DRUG TESTS, WILL RESULT IN JAIL TIME AS PROVIDED FOR  
24 UNDER SUBSECTION (G).

25 (E) DRUG TESTING.--THE PROGRAM SHALL REQUIRE, WHEN  
26 APPLICABLE, RANDOMIZED DRUG TESTING.]

27 (F) VIOLATION HEARING.--IF A PARTICIPANT COMMITS A PROBATION  
28 VIOLATION, THE PARTICIPANT SHALL PROMPTLY BE ARRESTED, AND A  
29 HEARING SHALL BE HELD NO LATER THAN TWO BUSINESS DAYS AFTER THE  
30 ARREST DATE.

1 (G) SANCTIONS.--

2 (1) THE COURT SHALL IMPOSE A TERM OF IMPRISONMENT OF UP  
3 TO:

4 (I) THREE DAYS FOR A FIRST VIOLATION;

5 (II) SEVEN DAYS FOR A SECOND VIOLATION;

6 (III) FOURTEEN DAYS FOR A THIRD VIOLATION; AND

7 (IV) TWENTY-ONE DAYS FOR A FOURTH OR SUBSEQUENT  
8 VIOLATION OF PROBATION.

9 (2) THE COURT MAY ALLOW THE TERM OF IMPRISONMENT TO BE  
10 SERVED ON WEEKENDS OR OTHER NONWORK DAYS FOR EMPLOYED  
11 PROBATIONERS WHO HAVE COMMITTED A FIRST OR SECOND VIOLATION.

12 (3) THE COURT MAY INCREASE THE CONDITIONS OF PROBATION,  
13 INCLUDING ADDITIONAL SUBSTANCE ABUSE TREATMENT FOR A  
14 PARTICIPANT WHO HAS FAILED ONE OR MORE DRUG TESTS.

15 (H) EXCEPTIONS.--IF THE PARTICIPANT IS ABLE TO PROVIDE A  
16 COMPELLING REASON FOR THE PROBATION VIOLATION, THE COURT MAY  
17 GRANT AN EXCEPTION TO THE SANCTIONS AUTHORIZED UNDER SUBSECTION  
18 (G).

19 (I) REVOCATION OF PROBATION.--

20 (1) AFTER A THIRD VIOLATION, THE COURT MAY REVOKE THE  
21 ORDER OF PROBATION.

22 (2) UPON REVOCATION, THE SENTENCING ALTERNATIVES SHALL  
23 BE THE SAME AS WERE AVAILABLE AT THE TIME OF INITIAL  
24 SENTENCING, DUE CONSIDERATION BEING GIVEN TO THE TIME SPENT  
25 SERVING THE ORDER OF PROBATION.

26 (J) LOCAL RULES.--

27 (1) THE COURT MAY ADOPT LOCAL RULES FOR THE  
28 ADMINISTRATION OF THIS PROGRAM. EXCEPT AS PROVIDED FOR UNDER  
29 PARAGRAPH (2), THE LOCAL RULES MAY NOT BE INCONSISTENT WITH  
30 THIS SECTION OR ANY RULES ADOPTED BY THE SUPREME COURT.

1 (2) THE COURT MAY ADOPT LOCAL RULES THAT ARE  
2 INCONSISTENT WITH SUBSECTION (G) REGARDING THE TERMS OF  
3 IMPRISONMENT OR OTHER SANCTIONS OR CONDITIONS PROVIDED FOR  
4 UNDER SUBSECTION (G).

5 SECTION 5. SECTIONS 9773 AND 9774 OF TITLE 42 ARE REPEALED:

6 [§ 9773. MODIFICATION OR REVOCATION OF COUNTY INTERMEDIATE  
7 PUNISHMENT SENTENCE.

8 (A) GENERAL RULE.--THE COURT MAY AT ANY TIME TERMINATE A  
9 SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT OR INCREASE OR  
10 DECREASE THE CONDITIONS OF A SENTENCE PURSUANT TO SECTION 9763  
11 (RELATING TO SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT).

12 (B) REVOCATION.--THE COURT MAY REVOKE A SENTENCE OF COUNTY  
13 INTERMEDIATE PUNISHMENT UPON PROOF OF A VIOLATION OF SPECIFIC  
14 CONDITIONS OF THE SENTENCE. UPON REVOCATION AND SUBJECT TO  
15 SECTION 9763(D), THE SENTENCING ALTERNATIVES AVAILABLE TO THE  
16 COURT SHALL BE THE SAME AS THE ALTERNATIVES AVAILABLE AT THE  
17 TIME OF INITIAL SENTENCING. UPON A REVOCATION OF COUNTY  
18 INTERMEDIATE PUNISHMENT FOR ANY REASON SPECIFIED BY LAW, THE  
19 ATTORNEY FOR THE COMMONWEALTH MAY FILE NOTICE, AT ANY TIME PRIOR  
20 TO RESENTENCING, OF THE COMMONWEALTH'S INTENTION TO PROCEED  
21 UNDER AN APPLICABLE PROVISION OF LAW REQUIRING A MANDATORY  
22 MINIMUM SENTENCE. CONSIDERATION SHALL BE GIVEN TO THE TIME  
23 SERVED IN THE COUNTY INTERMEDIATE PUNISHMENT PROGRAM.

24 (C) HEARING REQUIRED.--A COURT SHALL NOT REVOKE OR INCREASE  
25 THE CONDITIONS OF A SENTENCE OF COUNTY INTERMEDIATE PUNISHMENT  
26 WITHOUT A HEARING AT WHICH THE COURT SHALL CONSIDER THE RECORD  
27 OF THE INITIAL SENTENCING PROCEEDING AS WELL AS THE CONDUCT OF  
28 THE DEFENDANT WHILE SERVING A SENTENCE OF COUNTY INTERMEDIATE  
29 PUNISHMENT. A HEARING IS NOT REQUIRED TO DECREASE THE CONDITIONS  
30 OF THE SENTENCE.

1 § 9774. REVOCATION OF STATE INTERMEDIATE PUNISHMENT SENTENCE.

2 (A) GENERAL RULE.--THE COURT MAY AT ANY TIME TERMINATE A  
3 SENTENCE OF STATE INTERMEDIATE PUNISHMENT PURSUANT TO 61 PA.C.S.  
4 CH. 41 (RELATING TO STATE INTERMEDIATE PUNISHMENT).

5 (B) REVOCATION.--THE COURT SHALL REVOKE A SENTENCE OF STATE  
6 INTERMEDIATE PUNISHMENT IF AFTER A HEARING IT DETERMINES THAT  
7 THE PARTICIPANT WAS EXPELLED FROM OR FAILED TO COMPLETE THE  
8 PROGRAM.

9 (C) PROCEEDINGS UPON REVOCATION.--UPON REVOCATION OF A STATE  
10 INTERMEDIATE PUNISHMENT SENTENCE, THE SENTENCING ALTERNATIVES  
11 AVAILABLE TO THE COURT SHALL BE THE SAME AS THE ALTERNATIVES  
12 AVAILABLE AT THE TIME OF INITIAL SENTENCING. THE ATTORNEY FOR  
13 THE COMMONWEALTH MUST FILE NOTICE, AT ANY TIME PRIOR TO  
14 RESENTENCING, OF THE COMMONWEALTH'S INTENTION TO PROCEED UNDER  
15 AN APPLICABLE PROVISION OF LAW REQUIRING A MANDATORY MINIMUM  
16 SENTENCE.]

17 SECTION 6. SECTIONS 9804 AND 9810(A) OF TITLE 42 ARE AMENDED  
18 TO READ:

19 § 9804. COUNTY INTERMEDIATE PUNISHMENT PROGRAMS.

20 (A) DESCRIPTION.--COUNTY INTERMEDIATE PUNISHMENT [PROGRAM  
21 OPTIONS SHALL INCLUDE THE FOLLOWING:

22 (1) RESTRICTIVE INTERMEDIATE PUNISHMENTS PROVIDING FOR  
23 THE STRICT SUPERVISION OF THE OFFENDER, INCLUDING PROGRAMS  
24 THAT:

25 (I) HOUSE THE OFFENDER FULL OR PART TIME;

26 (II) SIGNIFICANTLY RESTRICT THE OFFENDER'S MOVEMENT  
27 AND MONITOR THE OFFENDER'S COMPLIANCE WITH THE PROGRAM;  
28 OR

29 (III) INVOLVE A COMBINATION OF PROGRAMS THAT MEET  
30 THE STANDARDS SET FORTH UNDER SUBPARAGRAPHS (I) AND (II).

1 (2) WHEN UTILIZED IN COMBINATION WITH RESTRICTIVE  
2 INTERMEDIATE PUNISHMENTS, RESTORATIVE SANCTIONS PROVIDING FOR  
3 NONCONFINEMENT SENTENCING OPTIONS THAT:

4 (I) ARE THE LEAST RESTRICTIVE IN TERMS OF THE  
5 CONSTRAINT OF THE OFFENDER'S LIBERTIES.

6 (II) DO NOT INVOLVE THE HOUSING OF THE OFFENDER,  
7 EITHER FULL OR PART TIME.

8 (III) FOCUS ON RESTORING THE VICTIM TO PRE-OFFENSE  
9 STATUS.] PROGRAMS ARE RESTRICTIVE CONDITIONS OF PROBATION  
10 IMPOSED UNDER SECTION 9763(C) OR (D) (RELATING TO  
11 CONDITIONS OF PROBATION), WHICH MAY BE SUBJECT TO  
12 GUIDELINES ADOPTED UNDER SECTION 2154.1 (RELATING TO  
13 ADOPTION OF GUIDELINES FOR RESTRICTIVE CONDITIONS).

14 (B) ELIGIBILITY.--

15 (1) (I) [NO PERSON OTHER THAN THE ELIGIBLE OFFENDER  
16 SHALL BE SENTENCED TO A COUNTY INTERMEDIATE PUNISHMENT  
17 PROGRAM.] UPON ADOPTION OF GUIDELINES FOR IMPOSING  
18 RESTRICTIVE CONDITIONS ADOPTED BY THE PENNSYLVANIA  
19 COMMISSION ON SENTENCING UNDER SECTION 2154.1, ONLY  
20 ELIGIBLE PERSONS MAY HAVE RESTRICTIVE CONDITIONS IMPOSED.

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  
25 GIVEN NOTICE OF THE PROSECUTING ATTORNEY'S INTENT TO  
26 WAIVE THE ELIGIBILITY REQUIREMENTS AND AN OPPORTUNITY TO  
27 BE HEARD 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) [THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL  
2 EMPLOY THE TERM "ELIGIBLE OFFENDER" TO FURTHER IDENTIFY  
3 OFFENDERS WHO WOULD BE APPROPRIATE FOR PARTICIPATION IN  
4 COUNTY INTERMEDIATE PUNISHMENT PROGRAMS. IN DEVELOPING THE  
5 GUIDELINES, THE COMMISSION SHALL GIVE PRIMARY CONSIDERATION  
6 TO PROTECTION OF THE PUBLIC SAFETY.] ONLY PROGRAMS THAT MEET  
7 THE REQUIREMENTS OF RESTRICTIVE CONDITIONS OF PROBATION UNDER  
8 SECTION 9763(C) OR (D) AND ARE CERTIFIED IN ACCORDANCE WITH  
9 SECTION 2154.1(B) SHALL BE ELIGIBLE FOR COUNTY INTERMEDIATE  
10 PUNISHMENT PROGRAM FUNDING.

11 [(4) (I) ANY PERSON RECEIVING A PENALTY IMPOSED  
12 PURSUANT TO 75 PA.C.S. § 1543(B) (RELATING TO DRIVING  
13 WHILE OPERATING PRIVILEGE IS SUSPENDED OR REVOKED), 3804  
14 (RELATING TO PENALTIES) OR 3808(A)(2) (RELATING TO  
15 ILLEGALLY OPERATING A MOTOR VEHICLE NOT EQUIPPED WITH  
16 IGNITION INTERLOCK) SHALL UNDERGO AN ASSESSMENT UNDER 75  
17 PA.C.S. § 3814 (RELATING TO DRUG AND ALCOHOL  
18 ASSESSMENTS).

19 (II) IF THE DEFENDANT IS DETERMINED TO BE IN NEED OF  
20 DRUG AND ALCOHOL TREATMENT, A SENTENCE TO COUNTY  
21 INTERMEDIATE PUNISHMENT SHALL INCLUDE PARTICIPATION IN  
22 DRUG AND ALCOHOL TREATMENT UNDER 75 PA.C.S. § 3815(C)  
23 (RELATING TO MANDATORY SENTENCING). THE DEFENDANT MAY  
24 ONLY BE SENTENCED TO COUNTY INTERMEDIATE PUNISHMENT IN:

25 (A) A RESIDENTIAL INPATIENT PROGRAM OR A  
26 RESIDENTIAL REHABILITATIVE CENTER;

27 (B) HOUSE ARREST WITH ELECTRONIC SURVEILLANCE;

28 (C) A PARTIAL CONFINEMENT PROGRAM SUCH AS WORK  
29 RELEASE, WORK CAMP AND HALFWAY FACILITY; OR

30 (D) ANY COMBINATION OF THE PROGRAMS SET FORTH IN

1 THIS SUBPARAGRAPH.

2 (III) IF THE DEFENDANT IS DETERMINED NOT TO BE IN  
3 NEED OF DRUG AND ALCOHOL TREATMENT OR IF THE DEFENDANT  
4 RECEIVES A PENALTY IMPOSED UNDER 30 PA.C.S. § 5502(C.1)  
5 (RELATING TO OPERATING WATERCRAFT UNDER INFLUENCE OF  
6 ALCOHOL OR CONTROLLED SUBSTANCE), THE DEFENDANT MAY ONLY  
7 BE SENTENCED TO A COUNTY INTERMEDIATE PUNISHMENT PROGRAM  
8 IN:

9 (A) HOUSE ARREST WITH ELECTRONIC SURVEILLANCE;

10 (B) PARTIAL CONFINEMENT PROGRAMS SUCH AS WORK  
11 RELEASE, WORK CAMPS AND HALFWAY FACILITIES; OR

12 (C) ANY COMBINATION OF THE PROGRAMS SET FORTH IN  
13 THIS PARAGRAPH.

14 (5) A DEFENDANT SUBJECT TO 75 PA.C.S. § 3804 (RELATING  
15 TO PENALTIES) OR 30 PA.C.S. § 5502(C.1) MAY ONLY BE SENTENCED  
16 TO COUNTY INTERMEDIATE PUNISHMENT FOR A FIRST, SECOND OR  
17 THIRD OFFENSE UNDER 75 PA.C.S. CH. 38 (RELATING TO DRIVING  
18 AFTER IMBIBING ALCOHOL OR UTILIZING DRUGS) OR 30 PA.C.S. §  
19 5502.]

20 § 9810. CONTINUED ELIGIBILITY.

21 (A) EVALUATION.--IN ORDER TO REMAIN ELIGIBLE FOR [CONTINUED  
22 GRANT] COUNTY INTERMEDIATE PUNISHMENT FUNDING, A COUNTY SHALL  
23 COMPLY WITH COMMISSION STANDARDS AND REGULATIONS AND PARTICIPATE  
24 IN AN EVALUATION TO DETERMINE PROGRAM EFFECTIVENESS. THE FORM OF  
25 THE EVALUATION SHALL BE DETERMINED BY THE COMMISSION[.] AND  
26 SHALL INCLUDE CERTIFICATION BY THE PENNSYLVANIA COMMISSION ON  
27 SENTENCING UNDER SECTION 2154.1(B) (RELATING TO ADOPTION OF  
28 GUIDELINES FOR RESTRICTIVE CONDITIONS).

29 \* \* \*

30 SECTION 7. THE DEFINITION OF "ELIGIBLE INMATE" IN SECTION

1 3903 OF TITLE 61 IS AMENDED TO READ:

2 § 3903. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
4 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
5 CONTEXT CLEARLY INDICATES OTHERWISE:

6 \* \* \*

7 "ELIGIBLE INMATE." A PERSON SENTENCED TO A TERM OF  
8 CONFINEMENT UNDER THE JURISDICTION OF THE DEPARTMENT OF  
9 CORRECTIONS WHO IS SERVING A TERM OF CONFINEMENT, THE MINIMUM OF  
10 WHICH IS NOT MORE THAN TWO YEARS AND THE MAXIMUM OF WHICH IS  
11 FIVE YEARS OR LESS, OR AN INMATE WHO IS SERVING A TERM OF  
12 CONFINEMENT, THE MINIMUM OF WHICH IS NOT MORE THAN THREE YEARS  
13 WHERE THAT INMATE IS WITHIN TWO YEARS OF COMPLETING HIS MINIMUM  
14 TERM, AND WHO HAS NOT REACHED 40 YEARS OF AGE AT THE TIME HE IS  
15 APPROVED FOR PARTICIPATION IN THE MOTIVATIONAL BOOT CAMP  
16 PROGRAM. THE TERM SHALL NOT INCLUDE ANY INMATE WHO IS SUBJECT TO  
17 A SENTENCE THE CALCULATION OF WHICH INCLUDED AN ENHANCEMENT FOR  
18 THE USE OF A DEADLY WEAPON AS DEFINED PURSUANT TO THE SENTENCING  
19 GUIDELINES PROMULGATED BY THE PENNSYLVANIA COMMISSION ON  
20 SENTENCING, ANY INMATE WHO HAS BEEN CONVICTED OR ADJUDICATED  
21 DELINQUENT OF ANY CRIME REQUIRING REGISTRATION UNDER 42 PA.C.S.  
22 CH. 97 SUBCH. H (RELATING TO REGISTRATION OF SEXUAL OFFENDERS)  
23 OR ANY INMATE WITH A CURRENT CONVICTION OR A PRIOR CONVICTION  
24 WITHIN THE PAST TEN YEARS FOR [ANY OF THE FOLLOWING OFFENSES:

25 18 PA.C.S. § 2502 (RELATING TO MURDER) .

26 18 PA.C.S. § 2503 (RELATING TO VOLUNTARY MANSLAUGHTER) .

27 18 PA.C.S. § 2506 (RELATING TO DRUG DELIVERY RESULTING IN  
28 DEATH) .

29 18 PA.C.S. § 2901(A) (RELATING TO KIDNAPPING) .

30 18 PA.C.S. § 3301(A)(1)(I) (RELATING TO ARSON AND RELATED

1 OFFENSES) .

2 18 PA.C.S. § 3502 (RELATING TO BURGLARY) IN THE CASE OF  
3 BURGLARY OF A STRUCTURE ADAPTED FOR OVERNIGHT ACCOMMODATION  
4 IN WHICH AT THE TIME OF THE OFFENSE ANY PERSON IS PRESENT.

5 18 PA.C.S. § 3701(A) (1) (I), (II) OR (III) (RELATING TO  
6 ROBBERY) .

7 18 PA.C.S. § 3702 (RELATING TO ROBBERY OF MOTOR VEHICLE) .

8 18 PA.C.S. § 7508 (A) (1) (III), (2) (III), (3) (III) OR (4)  
9 (III) (RELATING TO DRUG TRAFFICKING SENTENCING AND

10 PENALTIES) .] DRUG TRAFFICKING AS DEFINED IN SECTION 4103

11 (RELATING TO DEFINITIONS) OR A CRIME OF VIOLENCE AS DEFINED

12 IN 42 PA.C.S. § 9714(G) (RELATING TO SENTENCES FOR SECOND OR  
13 SUBSEQUENT OFFENSES) .

14 \* \* \*

15 SECTION 8. SECTIONS 3904(B) AND 3905(E) OF TITLE 61 ARE  
16 AMENDED TO READ:

17 § 3904. SELECTION OF INMATE PARTICIPANTS.

18 \* \* \*

19 (B) DUTIES OF SENTENCING JUDGE.--THE SENTENCING JUDGE SHALL  
20 EMPLOY THE SENTENCING GUIDELINES TO IDENTIFY THOSE DEFENDANTS  
21 WHO ARE ELIGIBLE FOR PARTICIPATION IN A MOTIVATIONAL BOOT CAMP.  
22 THE JUDGE SHALL HAVE THE DISCRETION TO EXCLUDE A DEFENDANT FROM  
23 ELIGIBILITY IF THE JUDGE DETERMINES THAT THE DEFENDANT WOULD BE  
24 INAPPROPRIATE FOR PLACEMENT IN A MOTIVATIONAL BOOT CAMP. THE  
25 JUDGE SHALL NOTE ON THE SENTENCING ORDER WHETHER THE DEFENDANT  
26 HAS BEEN [IDENTIFIED AS ELIGIBLE] EXCLUDED FROM ELIGIBILITY FOR  
27 A MOTIVATIONAL BOOT CAMP PROGRAM.

28 \* \* \*

29 § 3905. MOTIVATIONAL BOOT CAMP PROGRAM.

30 \* \* \*



1 AND COSMETIC ACT, IF THE AGGREGATE WEIGHT OF THE COMPOUND OR  
2 MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT LEAST 100  
3 GRAMS.

4 (3) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE  
5 COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 100  
6 GRAMS:

7 (I) COCA LEAVES.

8 (II) A SALT, COMPOUND, DERIVATIVE OR PREPARATION OF  
9 COCA LEAVES.

10 (III) A SALT, COMPOUND, DERIVATIVE OR PREPARATION  
11 WHICH IS CHEMICALLY EQUIVALENT OR IDENTICAL WITH ANY OF  
12 THE SUBSTANCES UNDER SUBPARAGRAPHS (I) AND (II).

13 (IV) A MIXTURE CONTAINING ANY OF THE SUBSTANCES  
14 UNDER SUBPARAGRAPHS (I) AND (II), EXCEPT DECOCAINIZED  
15 COCA LEAVES OR EXTRACTS OF COCA LEAVES WHICH DO NOT  
16 CONTAIN COCAINE OR ECGONINE.

17 (4) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE  
18 COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 100  
19 GRAMS:

20 (I) METHAMPHETAMINE.

21 (II) PHENCYCLIDINE.

22 (III) A SALT, ISOMER OR SALT OF AN ISOMER OF  
23 METHAMPHETAMINE OR PHENCYCLIDINE.

24 (IV) A MIXTURE CONTAINING:

25 (A) METHAMPHETAMINE OR PHENCYCLIDINE.

26 (B) A SALT OF METHAMPHETAMINE OR PHENCYCLIDINE.

27 (C) AN ISOMER OF METHAMPHETAMINE OR  
28 PHENCYCLIDINE.

29 (D) A SALT OF AN ISOMER OF METHAMPHETAMINE OR  
30 PHENCYCLIDINE.

1 "ELIGIBLE [OFFENDER." SUBJECT TO 42 PA.C.S. § 9721(A.1)  
2 (RELATING TO SENTENCING GENERALLY), A DEFENDANT] PERSON."

3 (1) A PERSON WHO HAS NOT BEEN DESIGNATED BY THE  
4 SENTENCING COURT AS INELIGIBLE AND IS A PERSON CONVICTED OF A  
5 DRUG-RELATED OFFENSE WHO:

6 [(1)] (I) HAS UNDERGONE AN ASSESSMENT PERFORMED BY  
7 THE DEPARTMENT OF CORRECTIONS, WHICH ASSESSMENT HAS  
8 CONCLUDED THAT THE [DEFENDANT] PERSON IS IN NEED OF DRUG  
9 AND ALCOHOL ADDICTION TREATMENT AND WOULD BENEFIT FROM  
10 COMMITMENT TO [A DRUG OFFENDER] THE STATE DRUG TREATMENT  
11 PROGRAM AND THAT PLACEMENT IN [A DRUG OFFENDER] THE STATE  
12 DRUG TREATMENT PROGRAM WOULD BE APPROPRIATE.

13 [(2)] (II) DOES NOT DEMONSTRATE A HISTORY OF PRESENT  
14 OR PAST VIOLENT BEHAVIOR.

15 [(3)] WOULD BE PLACED IN THE CUSTODY OF THE  
16 DEPARTMENT IF NOT SENTENCED TO STATE INTERMEDIATE  
17 PUNISHMENT.] (III) IS A PERSON SENTENCED TO A TERM OF  
18 CONFINEMENT UNDER THE JURISDICTION OF THE DEPARTMENT, THE  
19 MINIMUM OF WHICH IS NOT MORE THAN TWO YEARS, OR A PERSON  
20 WHO IS SERVING A TERM OF CONFINEMENT, THE MINIMUM OF  
21 WHICH IS NOT MORE THAN FIVE YEARS WHERE THE PERSON IS  
22 WITHIN TWO YEARS OF COMPLETING THE PERSON'S MINIMUM TERM.

23 [(4)] (IV) PROVIDES WRITTEN CONSENT PERMITTING  
24 RELEASE OF INFORMATION PERTAINING TO THE [DEFENDANT'S]  
25 PERSON'S PARTICIPATION IN [A DRUG OFFENDER] THE STATE  
26 DRUG TREATMENT PROGRAM.

27 (2) THE TERM SHALL NOT INCLUDE A [DEFENDANT] PERSON WHO  
28 IS SUBJECT TO A SENTENCE THE CALCULATION OF WHICH INCLUDES AN  
29 ENHANCEMENT FOR THE USE OF A DEADLY WEAPON, AS DEFINED  
30 PURSUANT TO LAW OR THE SENTENCING GUIDELINES PROMULGATED BY

1 THE PENNSYLVANIA COMMISSION ON SENTENCING, A [DEFENDANT]  
2 PERSON WHO HAS BEEN CONVICTED OR ADJUDICATED DELINQUENT OF  
3 ANY CRIME REQUIRING REGISTRATION UNDER 42 PA.C.S. CH. 97  
4 SUBCH. H (RELATING TO REGISTRATION OF SEXUAL OFFENDERS) OR A  
5 [DEFENDANT] PERSON WITH A CURRENT CONVICTION OR A PRIOR  
6 CONVICTION WITHIN THE PAST TEN YEARS FOR [ANY OF THE  
7 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(A) (RELATING TO KIDNAPPING) .

13 18 PA.C.S. § 3301(A) (1) (I) (RELATING TO ARSON AND RELATED  
14 OFFENSES) .

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

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

20 18 PA.C.S. § 3702 (RELATING TO ROBBERY OF MOTOR VEHICLE) .

21 18 PA.C.S. § 7508 (A) (1) (III), (2) (III), (3) (III) OR (4)  
22 (III) (RELATING TO DRUG TRAFFICKING SENTENCING AND  
23 PENALTIES).] DRUG TRAFFICKING AS DEFINED IN 42 PA.C.S. § 4103  
24 (RELATING TO DEFINITIONS) OR A CRIME OF VIOLENCE AS DEFINED  
25 IN 42 PA.C.S. § 9714(G) (RELATING TO SENTENCES FOR SECOND OR  
26 SUBSEQUENT OFFENSES) .

27 \* \* \*

28 "PARTICIPANT." AN ELIGIBLE [OFFENDER ACTUALLY SENTENCED TO  
29 STATE INTERMEDIATE PUNISHMENT PURSUANT TO 42 PA.C.S. § 9721(A)  
30 (7) (RELATING TO SENTENCING GENERALLY).] PERSON PLACED IN THE

1 STATE DRUG TREATMENT PROGRAM.

2 \* \* \*

3 SECTION 12. SECTIONS 4104, 4105 AND 4107 OF TITLE 61 ARE  
4 AMENDED TO READ:

5 § 4104. [REFERRAL TO STATE INTERMEDIATE PUNISHMENT] SELECTION  
6 FOR THE STATE DRUG TREATMENT PROGRAM.

7 (A) [REFERRAL FOR EVALUATION.--

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

14 (1.1) ] DUTIES OF COMMISSION AND SENTENCING JUDGE.--

15 (1) THROUGH THE USE OF SENTENCING GUIDELINES, THE  
16 COMMISSION SHALL EMPLOY THE TERM "ELIGIBLE PERSON" AS DEFINED  
17 IN THIS CHAPTER TO FURTHER IDENTIFY PERSONS WHO WOULD BE  
18 POTENTIALLY APPROPRIATE FOR PARTICIPATION IN THE STATE DRUG  
19 TREATMENT PROGRAM. THE SENTENCING JUDGE SHALL EMPLOY THE  
20 SENTENCING GUIDELINES TO IDENTIFY PERSONS WHO ARE ELIGIBLE  
21 FOR PARTICIPATION IN THE STATE DRUG TREATMENT PROGRAM. THE  
22 JUDGE SHALL CONSIDER THE POSITION OF A VICTIM OF THE CRIME,  
23 AS ADVISED BY THE PROSECUTING ATTORNEY, ON WHETHER TO EXCLUDE  
24 THE PERSON FROM ELIGIBILITY FOR PLACEMENT IN THE STATE DRUG  
25 TREATMENT PROGRAM. THE JUDGE SHALL EXCLUDE THE PERSON FROM  
26 ELIGIBILITY IF THE PROSECUTING ATTORNEY OPPOSES ELIGIBILITY.  
27 THE JUDGE SHALL NOTE ON THE SENTENCING ORDER IF A PERSON HAS  
28 BEEN EXCLUDED FROM ELIGIBILITY FOR THE STATE DRUG TREATMENT  
29 PROGRAM. IF THE PERSON IS NOT EXCLUDED FROM ELIGIBILITY, THE  
30 MINIMUM SENTENCE IMPOSED SHALL OPERATE AS THE MINIMUM FOR

1 PAROLE ELIGIBILITY PURPOSES IF THE PERSON IS NOT PLACED IN  
2 THE PROGRAM BY THE DEPARTMENT UNDER SUBSECTION (C) OR IF THE  
3 PERSON IS EXPELLED FROM THE PROGRAM UNDER SECTION 4105(F)  
4 (RELATING TO STATE DRUG TREATMENT PROGRAM).

5 (2) (I) THE PROSECUTING ATTORNEY SHALL ADVISE THE COURT  
6 IF THE PROSECUTING ATTORNEY OR A VICTIM OF THE CRIME OPPOSES  
7 ELIGIBILITY AND, IN THE PROSECUTING ATTORNEY'S SOLE  
8 DISCRETION, MAY ADVISE THE COURT THAT THE COMMONWEALTH HAS  
9 ELECTED TO WAIVE THE ELIGIBILITY REQUIREMENTS OF THIS CHAPTER  
10 IF THE VICTIM HAS BEEN GIVEN NOTICE OF THE PROSECUTING  
11 ATTORNEY'S INTENT TO WAIVE THE ELIGIBILITY REQUIREMENTS AND  
12 AN OPPORTUNITY TO BE HEARD ON THE ISSUE.

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

16 [(2) UPON COMMITTING A DEFENDANT TO THE DEPARTMENT, THE  
17 COURT SHALL FORWARD TO THE DEPARTMENT:

18 (I) A SUMMARY OF THE OFFENSE FOR WHICH THE DEFENDANT  
19 HAS BEEN CONVICTED.

20 (II) INFORMATION RELATING TO THE DEFENDANT'S HISTORY  
21 OF DELINQUENCY OR CRIMINALITY, INCLUDING THE INFORMATION  
22 MAINTAINED BY THE COURT UNDER 42 PA.C.S. CH. 63 (RELATING  
23 TO JUVENILE MATTERS), WHEN AVAILABLE.

24 (III) INFORMATION RELATING TO THE DEFENDANT'S  
25 HISTORY OF DRUG OR ALCOHOL ABUSE OR ADDICTION, WHEN  
26 AVAILABLE.

27 (IV) A PRESENTENCE INVESTIGATION REPORT, WHEN  
28 AVAILABLE.

29 (V) ANY OTHER INFORMATION THE COURT DEEMS RELEVANT  
30 TO ASSIST THE DEPARTMENT WITH ITS ASSESSMENT OF THE

1           DEFENDANT.]

2           (B) ASSESSMENT OF [ADDICTION.--

3           (1) THE] ADDICTION.--THE DEPARTMENT SHALL CONDUCT AN  
4 ASSESSMENT OF THE ADDICTION AND OTHER TREATMENT NEEDS OF [A  
5 DEFENDANT] AN ELIGIBLE PERSON AND DETERMINE WHETHER THE  
6 [DEFENDANT] PERSON WOULD BENEFIT FROM [A DRUG OFFENDER] THE  
7 STATE DRUG TREATMENT PROGRAM. THE ASSESSMENT SHALL BE  
8 CONDUCTED USING A NATIONALLY RECOGNIZED ASSESSMENT INSTRUMENT  
9 OR AN INSTRUMENT THAT HAS BEEN NORMED AND VALIDATED ON THE  
10 DEPARTMENT'S INMATE POPULATION BY A RECOGNIZED EXPERT IN SUCH  
11 MATTERS. THE ASSESSMENT INSTRUMENT SHALL BE ADMINISTERED BY  
12 PERSONS SKILLED IN THE TREATMENT OF DRUG AND ALCOHOL  
13 ADDICTION AND TRAINED TO CONDUCT ASSESSMENTS. THE ASSESSMENTS  
14 SHALL BE REVIEWED AND APPROVED BY A SUPERVISOR WITH AT LEAST  
15 THREE YEARS OF EXPERIENCE PROVIDING DRUG AND ALCOHOL  
16 COUNSELING SERVICES.

17           [(2) THE DEPARTMENT SHALL CONDUCT RISK AND OTHER  
18 ASSESSMENTS IT DEEMS APPROPRIATE AND SHALL PROVIDE A REPORT  
19 OF ITS ASSESSMENTS TO THE COURT, THE DEFENDANT, THE ATTORNEY  
20 FOR THE COMMONWEALTH AND THE COMMISSION WITHIN 60 DAYS OF THE  
21 COURT'S COMMITMENT OF THE DEFENDANT TO THE CUSTODY OF THE  
22 DEPARTMENT.]

23           (C) [PROPOSED DRUG OFFENDER] PLACEMENT IN THE STATE DRUG  
24 TREATMENT PROGRAM.--IF THE DEPARTMENT IN ITS DISCRETION BELIEVES  
25 [A DEFENDANT] AN ELIGIBLE PERSON WOULD BENEFIT FROM [A DRUG  
26 OFFENDER] THE STATE DRUG TREATMENT PROGRAM AND PLACEMENT IN THE  
27 [DRUG OFFENDER TREATMENT] PROGRAM IS APPROPRIATE, THE DEPARTMENT  
28 SHALL [PROVIDE] MAKE THE PLACEMENT AND NOTIFY THE COURT, COUNSEL  
29 FOR THE DEFENDANT[, ] AND THE ATTORNEY FOR THE COMMONWEALTH [AND  
30 THE COMMISSION WITH A PROPOSED DRUG OFFENDER TREATMENT PROGRAM

1 [DETAILING THE TYPE OF TREATMENT PROPOSED] OF THE PLACEMENT.

2 [(D) PREREQUISITES FOR COMMITMENT.--UPON RECEIPT OF A  
3 RECOMMENDATION FOR PLACEMENT IN A DRUG OFFENDER TREATMENT  
4 PROGRAM FROM THE DEPARTMENT AND AGREEMENT OF THE ATTORNEY FOR  
5 THE COMMONWEALTH, THE COURT MAY SENTENCE AN ELIGIBLE OFFENDER TO  
6 A PERIOD OF 24 MONTHS OF STATE INTERMEDIATE PUNISHMENT IF THE  
7 COURT FINDS THAT:

8 (1) THE ELIGIBLE OFFENDER IS LIKELY TO BENEFIT FROM  
9 STATE INTERMEDIATE PUNISHMENT.

10 (2) PUBLIC SAFETY WOULD BE ENHANCED BY THE ELIGIBLE  
11 OFFENDER'S PARTICIPATION IN STATE INTERMEDIATE PUNISHMENT.

12 (3) SENTENCING THE ELIGIBLE OFFENDER TO STATE  
13 INTERMEDIATE PUNISHMENT WOULD NOT DEPRECIATE THE SERIOUSNESS  
14 OF THE OFFENSE.

15 (E) RESENTENCING.--THE DEPARTMENT MAY MAKE A WRITTEN REQUEST  
16 TO THE SENTENCING COURT THAT AN OFFENDER WHO IS OTHERWISE  
17 ELIGIBLE BUT HAS NOT BEEN REFERRED FOR EVALUATION OR ORIGINALLY  
18 SENTENCED TO STATE INTERMEDIATE PUNISHMENT BE SENTENCED TO STATE  
19 INTERMEDIATE PUNISHMENT. THE COURT MAY RESENTENCE THE OFFENDER  
20 TO STATE INTERMEDIATE PUNISHMENT IF ALL OF THE FOLLOWING APPLY:

21 (1) THE DEPARTMENT HAS RECOMMENDED PLACEMENT IN A DRUG  
22 OFFENDER TREATMENT PROGRAM.

23 (2) THE ATTORNEY FOR THE COMMONWEALTH AND THE OFFENDER  
24 HAVE AGREED TO THE PLACEMENT AND MODIFICATION OF SENTENCE.

25 (3) THE COURT MAKES THE FINDINGS SET FORTH UNDER  
26 SUBSECTION (D).

27 (4) THE RESENTENCING HAS OCCURRED WITHIN 365 DAYS OF THE  
28 DATE OF THE DEFENDANT'S ADMISSION TO THE CUSTODY OF THE  
29 DEPARTMENT.

30 (5) THE COURT HAS OTHERWISE COMPLIED WITH ALL OTHER

1       REQUIREMENTS FOR THE IMPOSITION OF SENTENCE INCLUDING VICTIM  
2       NOTIFICATION UNDER THE ACT OF NOVEMBER 24, 1998 (P.L.882,  
3       NO.111), KNOWN AS THE CRIME VICTIMS ACT.]

4       (F) CONSECUTIVE PROBATION.--NOTHING IN THIS CHAPTER SHALL  
5       PROHIBIT THE COURT FROM SENTENCING AN ELIGIBLE [OFFENDER] PERSON  
6       TO A CONSECUTIVE PERIOD OF PROBATION. THE TOTAL DURATION OF THE  
7       SENTENCE MAY NOT EXCEED THE MAXIMUM TERM FOR WHICH THE ELIGIBLE  
8       [OFFENDER] PERSON COULD OTHERWISE BE SENTENCED.

9       [(G) APPLICABILITY AND PROGRAM LIMITATIONS.--THE COURT MAY  
10      NOT MODIFY OR ALTER THE TERMS OF THE DEPARTMENT'S PROPOSED  
11      INDIVIDUALIZED DRUG OFFENDER TREATMENT PLAN WITHOUT THE  
12      AGREEMENT OF THE DEPARTMENT AND THE ATTORNEY FOR THE  
13      COMMONWEALTH.

14      (H) VIDEOCONFERENCING.--THE DEPARTMENT SHALL MAKE  
15      VIDEOCONFERENCING FACILITIES AVAILABLE TO ALLOW THE COURT TO  
16      CONDUCT PROCEEDINGS NECESSARY UNDER THIS SECTION WHEN THE  
17      ELIGIBLE OFFENDER HAS BEEN COMMITTED TO THE CUSTODY OF THE  
18      DEPARTMENT PURSUANT TO SUBSECTION (B).

19      (I) VICTIMS.--VICTIMS OF PERSONAL INJURY CRIMES SHALL BE  
20      GIVEN THE OPPORTUNITY TO RECEIVE NOTICE OF AND TO PROVIDE PRIOR  
21      COMMENT ON ANY RECOMMENDATION BY THE DEPARTMENT UNDER SUBSECTION  
22      (B) OR (D) THAT THE OFFENDER PARTICIPATE IN THE STATE  
23      INTERMEDIATE PUNISHMENT PROGRAM.

24      (J) DEFINITIONS.--AS USED IN THIS SECTION, THE TERM  
25      "PERSONAL INJURY CRIME" SHALL BE DEFINED AS IN SECTION 103 OF  
26      THE ACT OF NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN AS THE  
27      CRIME VICTIMS ACT.]

28      § 4105. [DRUG OFFENDER] STATE DRUG TREATMENT PROGRAM.

29      (A) ESTABLISHMENT.--THE DEPARTMENT SHALL ESTABLISH AND  
30      ADMINISTER [A DRUG OFFENDER] THE STATE DRUG TREATMENT PROGRAM

1 [AS A STATE INTERMEDIATE PUNISHMENT]. THE PROGRAM SHALL BE  
2 DESIGNED TO ADDRESS THE INDIVIDUALLY ASSESSED DRUG AND ALCOHOL  
3 ABUSE AND ADDICTION NEEDS OF A PARTICIPANT AND SHALL ADDRESS  
4 OTHER ISSUES ESSENTIAL TO THE PARTICIPANT'S SUCCESSFUL  
5 REINTEGRATION INTO THE COMMUNITY, INCLUDING, BUT NOT LIMITED TO,  
6 EDUCATIONAL AND EMPLOYMENT ISSUES.

7 (B) DURATION AND COMPONENTS.--NOTWITHSTANDING ANY CREDIT TO  
8 WHICH THE DEFENDANT MAY BE ENTITLED UNDER 42 PA.C.S. § 9760  
9 (RELATING TO CREDIT FOR TIME SERVED), THE DURATION OF THE STATE  
10 DRUG [OFFENDER] TREATMENT PROGRAM [SHALL BE] IS 24 MONTHS [AND],  
11 BUT IF THE PARTICIPANT IS UNABLE TO COMPLETE THE PROGRAM WITHIN  
12 24 MONTHS AND IS OTHERWISE COMPLIANT WITH THE PROGRAM, SUBJECT  
13 TO THE DISCRETION OF THE DEPARTMENT, THE PROGRAM DURATION MAY BE  
14 EXTENDED UP TO 30 MONTHS TOTAL IN ORDER FOR THE PARTICIPANT TO  
15 SUCCESSFULLY COMPLETE THE PROGRAM. THE PROGRAM SHALL INCLUDE THE  
16 FOLLOWING:

17 (1) A PERIOD IN A STATE CORRECTIONAL INSTITUTION OF NOT  
18 LESS THAN SEVEN MONTHS. THIS PERIOD SHALL INCLUDE:

19 (I) THE TIME DURING WHICH THE [DEFENDANTS ARE]  
20 ELIGIBLE PERSON IS BEING EVALUATED BY THE DEPARTMENT  
21 UNDER SECTION 4104(B) (RELATING TO [REFERRAL TO STATE  
22 INTERMEDIATE PUNISHMENT] SELECTION FOR THE STATE DRUG  
23 TREATMENT PROGRAM).

24 (II) FOLLOWING EVALUATION UNDER SUBPARAGRAPH (I),  
25 NOT LESS THAN FOUR MONTHS SHALL BE IN AN INSTITUTIONAL  
26 THERAPEUTIC COMMUNITY.

27 (2) A PERIOD OF TREATMENT IN A COMMUNITY-BASED  
28 THERAPEUTIC COMMUNITY OF AT LEAST TWO MONTHS.

29 (3) A PERIOD OF AT LEAST SIX-MONTHS' TREATMENT THROUGH  
30 AN OUTPATIENT ADDICTION TREATMENT FACILITY. DURING THE

1       OUTPATIENT ADDICTION TREATMENT PERIOD OF THE [DRUG OFFENDER  
2       TREATMENT] PROGRAM, THE PARTICIPANT MAY BE HOUSED IN A  
3       COMMUNITY CORRECTIONS CENTER OR GROUP HOME OR PLACED IN AN  
4       APPROVED TRANSITIONAL RESIDENCE. THE PARTICIPANT MUST COMPLY  
5       WITH ANY CONDITIONS ESTABLISHED BY THE DEPARTMENT REGARDLESS  
6       OF WHERE THE PARTICIPANT RESIDES DURING THE OUTPATIENT  
7       ADDICTION TREATMENT PORTION OF THE [DRUG OFFENDER TREATMENT]  
8       PROGRAM.

9           (4) A PERIOD OF SUPERVISED REINTEGRATION INTO THE  
10       COMMUNITY FOR THE BALANCE OF THE [DRUG OFFENDER TREATMENT]  
11       PROGRAM, DURING WHICH THE PARTICIPANT SHALL CONTINUE TO BE  
12       SUPERVISED BY THE DEPARTMENT AND COMPLY WITH ANY CONDITIONS  
13       IMPOSED BY THE DEPARTMENT.

14           (5) UPON CERTIFICATION BY THE DEPARTMENT OF THE  
15       PARTICIPANT'S SUCCESSFUL COMPLETION OF THE PROGRAM, THE  
16       ENTIRE TERM OF CONFINEMENT THAT RENDERED THE PARTICIPANT  
17       ELIGIBLE TO PARTICIPATE IN THE STATE DRUG TREATMENT PROGRAM  
18       SHALL BE DEEMED TO HAVE BEEN SERVED.

19       (C) PROGRAM MANAGEMENT.--

20           (1) CONSISTENT WITH THE MINIMUM TIME REQUIREMENTS SET  
21       FORTH IN SUBSECTION (B), THE DEPARTMENT MAY TRANSFER, AT ITS  
22       DISCRETION, A PARTICIPANT BETWEEN A STATE CORRECTIONAL  
23       INSTITUTION, AN INSTITUTIONAL THERAPEUTIC COMMUNITY, A  
24       COMMUNITY-BASED THERAPEUTIC COMMUNITY, AN OUTPATIENT  
25       ADDICTION TREATMENT PROGRAM AND AN APPROVED TRANSITIONAL  
26       RESIDENCE. THE DEPARTMENT MAY ALSO TRANSFER A PARTICIPANT  
27       BACK AND FORTH BETWEEN LESS RESTRICTIVE AND MORE RESTRICTIVE  
28       SETTINGS BASED UPON THE PARTICIPANT'S PROGRESS OR REGRESSION  
29       IN TREATMENT OR FOR MEDICAL, DISCIPLINARY OR OTHER  
30       ADMINISTRATIVE REASONS.

1 (2) THIS SUBSECTION SHALL BE CONSTRUED TO PROVIDE THE  
2 DEPARTMENT WITH THE MAXIMUM FLEXIBILITY TO ADMINISTER THE  
3 STATE DRUG [OFFENDER] TREATMENT PROGRAM BOTH AS A WHOLE AND  
4 FOR INDIVIDUAL PARTICIPANTS.

5 (D) RIGHT OF REFUSAL TO ADMIT.--THE ADMINISTRATOR OF A  
6 COMMUNITY-BASED THERAPEUTIC COMMUNITY OR OUTPATIENT ADDICTION  
7 TREATMENT FACILITY MAY REFUSE TO ACCEPT A PARTICIPANT WHOM THE  
8 ADMINISTRATOR DEEMS TO BE INAPPROPRIATE FOR ADMISSION AND MAY  
9 IMMEDIATELY DISCHARGE TO THE CUSTODY OF THE DEPARTMENT ANY  
10 PARTICIPANT WHO FAILS TO COMPLY WITH FACILITY RULES AND  
11 TREATMENT EXPECTATIONS OR REFUSES TO CONSTRUCTIVELY ENGAGE IN  
12 THE TREATMENT PROCESS.

13 (E) NOTICE TO COURT OF COMPLETION OF PROGRAM.--WHEN THE  
14 DEPARTMENT DETERMINES THAT A PARTICIPANT HAS SUCCESSFULLY  
15 COMPLETED THE STATE DRUG [OFFENDER] TREATMENT PROGRAM, IT SHALL  
16 NOTIFY THE SENTENCING COURT, THE ATTORNEY FOR THE COMMONWEALTH  
17 AND THE COMMISSION.

18 (F) EXPULSION FROM PROGRAM.--

19 (1) A PARTICIPANT MAY BE EXPELLED FROM THE STATE DRUG  
20 [OFFENDER] TREATMENT PROGRAM AT ANY TIME IN ACCORDANCE WITH  
21 GUIDELINES ESTABLISHED BY THE DEPARTMENT, INCLUDING FAILURE  
22 TO COMPLY WITH ADMINISTRATIVE OR DISCIPLINARY PROCEDURES OR  
23 REQUIREMENTS SET FORTH BY THE DEPARTMENT. AN EXPELLED  
24 PARTICIPANT SHALL BE HOUSED IN A STATE CORRECTIONAL  
25 INSTITUTION TO SERVE THE REMAINDER OF THE PARTICIPANT'S  
26 SENTENCE. THE EXPELLED PARTICIPANT SHALL BE ELIGIBLE FOR  
27 PAROLE AT THE MINIMUM SENTENCE BUT MAY NOT BE ELIGIBLE FOR  
28 SHORT SENTENCE PAROLE UNDER SECTION 6137.5 (RELATING TO SHORT  
29 SENTENCE PAROLE).

30 (2) THE DEPARTMENT SHALL PROMPTLY NOTIFY THE COURT, THE

1 [DEFENDANT] PARTICIPANT, THE ATTORNEY FOR THE COMMONWEALTH  
2 AND THE COMMISSION OF THE EXPULSION OF A PARTICIPANT FROM THE  
3 STATE DRUG [OFFENDER] TREATMENT PROGRAM AND THE REASON FOR  
4 SUCH EXPULSION. [THE PARTICIPANT SHALL BE HOUSED IN A STATE  
5 CORRECTIONAL INSTITUTION OR COUNTY JAIL PENDING ACTION BY THE  
6 COURT.]

7 (3) THE COURT SHALL SCHEDULE A PROMPT STATE INTERMEDIATE  
8 PUNISHMENT REVOCATION HEARING PURSUANT TO 42 PA.C.S. § 9774  
9 (RELATING TO REVOCATION OF STATE INTERMEDIATE PUNISHMENT  
10 SENTENCE).]

11 § 4107. [REPORTS] EVALUATION.

12 [(A) FINAL REPORT.--THE DEPARTMENT SHALL PROVIDE A FINAL  
13 REPORT TO THE COURT, THE DEFENDANT, THE ATTORNEY FOR THE  
14 COMMONWEALTH AND THE COMMISSION ON A PARTICIPANT'S PROGRESS IN  
15 THE DRUG OFFENDER TREATMENT PROGRAM.]

16 (B) EVALUATION AND REPORT TO GENERAL ASSEMBLY.--THE  
17 DEPARTMENT [AND THE COMMISSION] SHALL MONITOR AND EVALUATE THE  
18 STATE DRUG [OFFENDER] TREATMENT PROGRAM TO ENSURE THAT THE  
19 PROGRAMMATIC OBJECTIVES ARE MET. [IN ODD-NUMBERED YEARS, THE]  
20 EVERY THREE YEARS, THE DEPARTMENT SHALL PRESENT A REPORT OF ITS  
21 EVALUATION TO THE JUDICIARY COMMITTEE OF THE SENATE AND THE  
22 JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES NO LATER  
23 THAN FEBRUARY 1. [IN EVEN-NUMBERED YEARS, THE COMMISSION SHALL  
24 PRESENT A REPORT OF ITS EVALUATION TO THE JUDICIARY COMMITTEE OF  
25 THE SENATE AND THE JUDICIARY COMMITTEE OF THE HOUSE OF  
26 REPRESENTATIVES NO LATER THAN FEBRUARY 1.] THE GENERAL ASSEMBLY  
27 SHALL CONVENE HEARINGS IN THE APPROPRIATE COMMITTEES TO HEAR AND  
28 DELIBERATE UPON REPORTS UNDER THIS SECTION. THE REPORT SHALL  
29 INCLUDE:

30 (1) THE NUMBER OF [OFFENDERS] PERSONS EVALUATED FOR THE

1        STATE DRUG [OFFENDER] TREATMENT PROGRAM.

2            (2)    THE NUMBER OF [OFFENDERS SENTENCED TO] PERSONS  
3        PLACED INTO THE STATE DRUG [OFFENDER] TREATMENT PROGRAM.

4            (3)    THE NUMBER OF [OFFENDERS] PERSONS SENTENCED TO A  
5        STATE CORRECTIONAL INSTITUTION WHO MAY HAVE BEEN ELIGIBLE FOR  
6        THE STATE DRUG [OFFENDER] TREATMENT PROGRAM.

7            (4)    THE NUMBER OF [OFFENDERS] PERSONS SUCCESSFULLY  
8        COMPLETING THE STATE DRUG [OFFENDER] TREATMENT PROGRAM.

9            (5)    THE SIX-MONTH, ONE-YEAR, THREE-YEAR AND FIVE-YEAR  
10       RECIDIVISM RATES FOR [OFFENDERS] PERSONS WHO HAVE COMPLETED  
11       THE STATE DRUG [OFFENDER] TREATMENT PROGRAM AND FOR A  
12       COMPARISON GROUP OF [OFFENDERS] PERSONS WHO WERE NOT PLACED  
13       IN THE STATE DRUG [OFFENDER] TREATMENT PROGRAM.

14           (6)    ANY CHANGES THE DEPARTMENT [OR THE COMMISSION]  
15       BELIEVES WILL MAKE THE STATE DRUG [OFFENDER] TREATMENT  
16       PROGRAM MORE EFFECTIVE.

17        SECTION 13.    THE DEFINITION OF "ELIGIBLE OFFENDER" IN SECTION  
18        4503 OF TITLE 61 IS AMENDED TO READ:

19        § 4503.    DEFINITIONS.

20        THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
21        SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
22        CONTEXT CLEARLY INDICATES OTHERWISE:

23        \* \* \*

24        "ELIGIBLE [OFFENDER] PERSON."    A DEFENDANT OR INMATE  
25        CONVICTED OF A CRIMINAL OFFENSE WHO WILL BE COMMITTED TO THE  
26        CUSTODY OF THE DEPARTMENT AND WHO MEETS ALL OF THE FOLLOWING  
27        ELIGIBILITY REQUIREMENTS:

28            (1)    DOES NOT DEMONSTRATE A HISTORY OF PRESENT OR PAST  
29        VIOLENT BEHAVIOR.

30            (2)    HAS NOT BEEN SUBJECT TO A SENTENCE THE CALCULATION

1 OF WHICH INCLUDES AN ENHANCEMENT FOR THE USE OF A DEADLY  
2 WEAPON AS DEFINED UNDER LAW OR THE SENTENCING GUIDELINES  
3 PROMULGATED BY THE PENNSYLVANIA COMMISSION ON SENTENCING OR  
4 THE ATTORNEY FOR THE COMMONWEALTH HAS NOT DEMONSTRATED THAT  
5 THE DEFENDANT HAS BEEN FOUND GUILTY OF OR WAS CONVICTED OF AN  
6 OFFENSE INVOLVING A DEADLY WEAPON OR OFFENSE UNDER 18 PA.C.S.  
7 CH. 61 (RELATING TO FIREARMS AND OTHER DANGEROUS ARTICLES) OR  
8 THE EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED STATES OR  
9 ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE  
10 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A  
11 FOREIGN NATION.

12 (3) HAS NOT BEEN FOUND GUILTY OF OR PREVIOUSLY CONVICTED  
13 OF OR ADJUDICATED DELINQUENT FOR OR AN ATTEMPT OR CONSPIRACY  
14 TO COMMIT A PERSONAL INJURY CRIME AS DEFINED UNDER SECTION  
15 103 OF THE ACT OF NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN  
16 AS THE CRIME VICTIMS ACT, EXCEPT FOR AN OFFENSE UNDER 18  
17 PA.C.S. § 2701 (RELATING TO SIMPLE ASSAULT) WHEN THE OFFENSE  
18 IS A MISDEMEANOR OF THE THIRD DEGREE, OR AN EQUIVALENT  
19 OFFENSE UNDER THE LAWS OF THE UNITED STATES OR ONE OF ITS  
20 TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE DISTRICT OF  
21 COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A FOREIGN  
22 NATION.

23 (4) HAS NOT BEEN FOUND GUILTY OR PREVIOUSLY CONVICTED OR  
24 ADJUDICATED DELINQUENT FOR VIOLATING ANY OF THE FOLLOWING  
25 PROVISIONS OR AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE  
26 UNITED STATES OR ONE OF ITS TERRITORIES OR POSSESSIONS,  
27 ANOTHER STATE, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF  
28 PUERTO RICO OR A FOREIGN NATION:

29 18 PA.C.S. § 4302(A) (RELATING TO INCEST).

30 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS).

1 18 PA.C.S. CH. 76 SUBCH. C (RELATING TO INTERNET  
2 CHILD PORNOGRAPHY).

3 RECEIVED A CRIMINAL SENTENCE PURSUANT TO 42 PA.C.S. §  
4 9712.1 (RELATING TO SENTENCES FOR CERTAIN DRUG OFFENSES  
5 COMMITTED WITH FIREARMS).

6 ANY OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER  
7 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF  
8 SEXUAL OFFENDERS).

9 DRUG TRAFFICKING AS DEFINED IN SECTION 4103 (RELATING  
10 TO DEFINITIONS).

11 (5) IS NOT AWAITING TRIAL OR SENTENCING FOR ADDITIONAL  
12 CRIMINAL CHARGES, IF A CONVICTION OR SENTENCE ON THE  
13 ADDITIONAL CHARGES WOULD CAUSE THE DEFENDANT TO BECOME  
14 INELIGIBLE UNDER THIS DEFINITION.

15 [(6) HAS NOT BEEN FOUND GUILTY OR PREVIOUSLY CONVICTED  
16 OF VIOLATING SECTION 13(A)(14), (30) OR (37) OF THE ACT OF  
17 APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED  
18 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, WHERE THE SENTENCE  
19 WAS IMPOSED PURSUANT TO 18 PA.C.S. § 7508(A)(1)(III), (2)  
20 (III), (3)(III), (4)(III), (7)(III) OR (8)(III) (RELATING TO  
21 DRUG TRAFFICKING SENTENCING AND PENALTIES).]

22 \* \* \*

23 SECTION 14. SECTIONS 4509 AND 4510 OF TITLE 61 ARE REPEALED:

24 [§ 4509. EVALUATION.

25 (A) GENERAL RULE.--THE DEPARTMENT, THE BOARD AND THE  
26 COMMISSION SHALL MONITOR AND EVALUATE THE RECIDIVISM RISK  
27 REDUCTION INCENTIVE PROGRAMS. EVALUATIONS UNDER THIS SECTION  
28 SHOULD BE SCIENTIFICALLY RIGOROUS AND SEEK TO DETERMINE THE  
29 EFFECTIVENESS OF THE PROGRAMS, INCLUDING WHETHER SPECIFIC  
30 RECIDIVISM RISK REDUCTION INCENTIVE PROGRAMS HAVE REDUCED THE

1 RECIDIVISM RATES OF THE PROGRAM PARTICIPANTS AS COMPARED TO  
2 PREVIOUSLY INCARCERATED AND SIMILARLY SITUATED INMATES.

3 (B) PUBLICATION.--THE DEPARTMENT, THE BOARD AND THE  
4 COMMISSION SHALL MAKE EVALUATIONS CONDUCTED UNDER THIS SECTION  
5 AND UNDERLYING DATA AVAILABLE TO THE PUBLIC. THE PUBLICLY  
6 AVAILABLE DATA AND EVALUATIONS SHALL COMPLY WITH GENERALLY  
7 ACCEPTED PRACTICES OF THE RESEARCH COMMUNITY, INCLUDING  
8 EXPECTATIONS RELATING TO SUBJECT PRIVACY AND IDENTIFYING  
9 INFORMATION.

10 § 4510. REPORTS.

11 (A) RECIDIVISM RISK REDUCTION.--THE DEPARTMENT, THE BOARD  
12 AND THE COMMISSION SHALL MONITOR AND EVALUATE THE RECIDIVISM  
13 RISK REDUCTION INCENTIVE PROGRAMS TO ENSURE THAT THE GOALS AND  
14 OBJECTIVES OF THIS CHAPTER ARE MET AND SHALL REPORT TO THE  
15 GENERAL ASSEMBLY AS FOLLOWS:

16 (1) IN EVEN-NUMBERED YEARS, THE DEPARTMENT SHALL PRESENT  
17 A REPORT OF ITS EVALUATION TO THE JUDICIARY COMMITTEE OF THE  
18 SENATE AND THE JUDICIARY COMMITTEE OF THE HOUSE OF  
19 REPRESENTATIVES NO LATER THAN FEBRUARY 1. THE REPORT SHALL  
20 INCLUDE ALL OF THE FOLLOWING:

21 (I) THE NUMBER OF INMATES DETERMINED BY THE  
22 DEPARTMENT TO BE ELIGIBLE OFFENDERS UNDER THIS CHAPTER  
23 AND THE OFFENSES FOR WHICH THE ELIGIBLE OFFENDERS WERE  
24 COMMITTED TO THE CUSTODY OF THE DEPARTMENT.

25 (II) THE NUMBER OF INMATES COMMITTED TO THE CUSTODY  
26 OF THE DEPARTMENT WHO WERE SUBJECT TO A RECIDIVISM RISK  
27 REDUCTION INCENTIVE MINIMUM SENTENCE.

28 (III) THE NUMBER OF INMATES PAROLED AT THE  
29 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM DATE.

30 (IV) ANY POTENTIAL CHANGES THAT WOULD MAKE THE

1 PROGRAM MORE EFFECTIVE.

2 (V) THE SIX-MONTH, ONE-YEAR, THREE-YEAR AND FIVE-  
3 YEAR RECIDIVISM RATES FOR INMATES RELEASED AT THE  
4 RECIDIVISM RISK REDUCTION INCENTIVE MINIMUM SENTENCE.

5 (VI) ANY OTHER INFORMATION THE DEPARTMENT DEEMS  
6 RELEVANT.

7 (2) IN ODD-NUMBERED YEARS, THE COMMISSION SHALL PRESENT  
8 A REPORT OF ITS EVALUATION TO THE JUDICIARY COMMITTEE OF THE  
9 SENATE AND THE JUDICIARY COMMITTEE OF THE HOUSE OF  
10 REPRESENTATIVES NO LATER THAN FEBRUARY 1. THE REPORT SHALL  
11 INCLUDE ALL OF THE FOLLOWING:

12 (I) WHETHER THE GOALS OF THIS CHAPTER COULD BE  
13 ACHIEVED THROUGH AMENDMENTS TO PAROLE OR SENTENCING  
14 GUIDELINES.

15 (II) THE VARIOUS OPTIONS FOR PAROLE OR SENTENCING  
16 GUIDELINES UNDER SUBPARAGRAPH (I).

17 (III) THE STATUS OF ANY PROPOSED OR IMPLEMENTED  
18 GUIDELINES DESIGNED TO IMPLEMENT THE PROVISIONS OF THIS  
19 CHAPTER.

20 (IV) ANY POTENTIAL CHANGES TO THE PROGRAM THAT WOULD  
21 BE LIKELY TO REDUCE THE RISK OF RECIDIVISM OF INMATES AND  
22 IMPROVE PUBLIC SAFETY.

23 (V) ANY OTHER INFORMATION THE COMMISSION DEEMS  
24 RELEVANT.

25 (B) EDUCATIONAL PLAN.--

26 (1) THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY  
27 SHALL PUBLISH A REPORT OF A PROPOSED EDUCATIONAL PROGRAM PLAN  
28 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION. THE  
29 PROPOSED EDUCATIONAL PROGRAM PLAN SHALL BE DEVELOPED IN  
30 CONSULTATION WITH THE DEPARTMENT, THE COMMISSION, THE BOARD,

1 THE PENNSYLVANIA DISTRICT ATTORNEYS ASSOCIATION, THE VICTIM  
2 ADVOCATE AND REPRESENTATIVES OF THE JUDICIARY AND THE  
3 CRIMINAL DEFENSE BAR AND OTHER CRIMINAL JUSTICE STAKEHOLDERS.

4 (2) THE PLAN SHALL SEEK TO PROVIDE COST-EFFECTIVE  
5 TRAINING OR INFORMATION THROUGH ELECTRONIC MEANS,  
6 PUBLICATIONS OR CONTINUING EDUCATIONAL PROGRAMS THAT ADDRESS  
7 THE FOLLOWING TOPICS:

8 (I) THE TREATMENT PROGRAMS AVAILABLE THROUGH THE  
9 BOARD AND THE DEPARTMENT.

10 (II) THE AVAILABILITY OF PROGRAMS AND ELIGIBILITY  
11 REQUIREMENTS THAT CAN REDUCE RECIDIVISM RISK, INCLUDING  
12 STATE INTERMEDIATE PUNISHMENT, MOTIVATIONAL BOOT CAMP AND  
13 RECIDIVISM RISK REDUCTION INCENTIVE PROGRAMS.

14 (III) THE CALCULATION OF SENTENCING CREDIT AND  
15 PRACTICES THAT COULD INADVERTENTLY PREVENT AN INMATE FROM  
16 RECEIVING SENTENCE CREDIT.

17 (IV) RECENT STATUTORY CHANGES RELATING TO  
18 SENTENCING, PLACE OF CONFINEMENT, MEDICAL RELEASES,  
19 TRANSFER OF INMATES AND PAROLE.]

20 SECTION 15. THE HEADING OF SUBCHAPTER B OF CHAPTER 61 OF  
21 TITLE 61 IS AMENDED TO READ:

22 SUBCHAPTER B

23 ADMINISTRATION OF THE PENNSYLVANIA PAROLE BOARD

24 SECTION 16. SECTIONS 6101 AND 6111 HEADING AND (A) OF TITLE  
25 61 ARE AMENDED TO READ:

26 § 6101. DEFINITIONS.

27 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
28 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
29 CONTEXT CLEARLY INDICATES OTHERWISE:

30 "BOARD." THE PENNSYLVANIA [BOARD OF PROBATION AND] PAROLE

1 BOARD.

2 § 6111. PENNSYLVANIA [BOARD OF PROBATION AND] PAROLE BOARD.

3 (A) ESTABLISHMENT.--THE PENNSYLVANIA [BOARD OF PROBATION  
4 AND] PAROLE BOARD IS AN INDEPENDENT ADMINISTRATIVE BOARD FOR THE  
5 ADMINISTRATION OF THE [PROBATION AND] PAROLE LAWS OF THIS  
6 COMMONWEALTH.

7 \* \* \*

8 SECTION 17. SECTION 6123 OF TITLE 61 IS REPEALED:

9 [~~§ 6123. ADVISORY COMMITTEE.~~

10 (A) ESTABLISHMENT.--AN ADVISORY COMMITTEE ON PROBATION IS  
11 REESTABLISHED TO ASSIST THE BOARD.

12 (B) COMPOSITION.--THE ADVISORY COMMITTEE SHALL CONSIST OF  
13 NINE MEMBERS, SEVEN OF WHOM SHALL BE APPOINTED BY THE GOVERNOR,  
14 WITH THE CONSENT OF A MAJORITY OF THE MEMBERS OF THE SENATE. AT  
15 LEAST TWO SHALL BE JUDGES OF COURTS OF RECORD OF THIS  
16 COMMONWEALTH, AT LEAST ONE SHALL BE A COUNTY COMMISSIONER, AT  
17 LEAST ONE SHALL BE A CHIEF COUNTY PROBATION OFFICER, AND THE  
18 REMAINING MEMBERS SHALL BE QUALIFIED IN THE FIELD OF PROBATION  
19 AND PAROLE EITHER BY TRAINING OR EXPERIENCE. THE PRESIDENT PRO  
20 TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF  
21 REPRESENTATIVES SHALL EACH APPOINT A MEMBER OF THEIR RESPECTIVE  
22 HOUSES TO SERVE AS MEMBERS OF THE COMMITTEE.

23 (C) TERMS.--

24 (1) THE TERM OF A MEMBER HEREAFTER APPOINTED, EXCEPT TO  
25 FILL A VACANCY, SHALL BE FOR FOUR YEARS AND UNTIL THEIR  
26 SUCCESSORS HAVE BEEN APPOINTED AND QUALIFIED, BUT IN NO EVENT  
27 MORE THAN 90 DAYS BEYOND THE EXPIRATION OF THEIR APPOINTED  
28 TERM.

29 (2) THE TERMS OF MEMBERS OF THE COMMITTEE WHO ARE  
30 APPOINTED BY VIRTUE OF HOLDING AN OFFICE AS A MEMBER OF THE

1 GENERAL ASSEMBLY, JUDGE, CHIEF COUNTY PROBATION OFFICER OR  
2 COUNTY COMMISSIONER SHALL CONTINUE ONLY SO LONG AS THAT  
3 PERSON REMAINS IN THAT OFFICE.

4 (3) VACANCIES OCCURRING IN AN OFFICE OF A MEMBER OF THE  
5 ADVISORY COMMITTEE BY EXPIRATION OF TERM, DEATH, RESIGNATION,  
6 REMOVAL OR FOR ANY OTHER REASON SHALL BE FILLED IN THE MANNER  
7 PROVIDED BY SECTION 8 OF ARTICLE IV OF THE CONSTITUTION OF  
8 PENNSYLVANIA FOR THE REMAINDER OF THE TERM.

9 (4) WHENEVER THE TERM OF AN ADVISORY COMMITTEE MEMBER,  
10 OTHER THAN ONE WHO IS A MEMBER OF THE GENERAL ASSEMBLY,  
11 EXPIRES, THAT MEMBER'S POSITION SHALL BE IMMEDIATELY DEEMED A  
12 VACANCY, AND THE GOVERNOR SHALL NOMINATE A PERSON TO FILL  
13 THAT MEMBERSHIP POSITION ON THE COMMITTEE WITHIN 90 DAYS OF  
14 THE DATE OF EXPIRATION, EVEN IF THE MEMBER CONTINUES TO  
15 REMAIN ON THE COMMITTEE. THE GOVERNOR SHALL DESIGNATE ONE OF  
16 THE MEMBERS OF THE COMMITTEE AS ITS CHAIRPERSON.

17 (D) REIMBURSEMENT OF EXPENSES.--EACH MEMBER OF THE ADVISORY  
18 COMMITTEE SHALL BE PAID ALL REASONABLE AND NECESSARY TRAVEL AND  
19 OTHER EXPENSES INCURRED BY HIM IN THE PERFORMANCE OF HIS DUTIES.

20 (E) ASSISTANCE TO BE PROVIDED.--THE ADVISORY COMMITTEE SHALL  
21 AID THE CHAIRPERSON AND THE BOARD IN FORMULATING AND REVIEWING  
22 STANDARDS FOR PROBATION PERSONNEL AND PROBATION SERVICES IN THE  
23 COUNTIES.]

24 SECTION 18. SECTIONS 6131(A)(3), (4) AND (5), 6133(C) AND  
25 (D) AND 6137(A)(1) OF TITLE 61 ARE AMENDED TO READ:

26 § 6131. GENERAL POWERS OF BOARD.

27 (A) GENERAL RULE.--THE BOARD SHALL HAVE THE POWER AND ITS  
28 DUTY SHALL BE:

29 \* \* \*

30 (3) TO COLLECT AND MAINTAIN A RECORD OF ALL PERSONS WHO

1 ARE PLACED ON [PROBATION AND] PAROLE.

2 [(4) TO COLLECT, COMPILE AND PUBLISH STATISTICAL AND  
3 OTHER INFORMATION RELATING TO PROBATION AND PAROLE WORK IN  
4 ALL COURTS AND SUCH OTHER INFORMATION THE BOARD MAY DEEM OF  
5 VALUE IN PROBATION SERVICE.

6 (5) TO ESTABLISH, BY REGULATION, UNIFORM STATEWIDE  
7 STANDARDS FOR:

8 (I) PRESENTENCE INVESTIGATIONS.

9 (II) THE SUPERVISION OF PROBATIONERS.

10 (III) THE QUALIFICATIONS FOR PROBATION PERSONNEL.

11 (IV) MINIMUM SALARIES.

12 (V) QUALITY OF PROBATION SERVICE.

13 THE STANDARDS FOR THE QUALIFICATIONS OF PROBATION PERSONNEL  
14 SHALL ONLY APPLY TO PROBATION PERSONNEL APPOINTED AFTER THE  
15 DATE THE STANDARDS ARE ESTABLISHED. SHOULD ANY PROBATION  
16 PERSONNEL APPOINTED PRIOR TO THE DATE THE STANDARDS WERE  
17 ESTABLISHED FAIL TO MEET THE STANDARDS, THE COURT HAVING  
18 JURISDICTION OF SUCH PERSONNEL MAY REQUEST THE BOARD TO  
19 ESTABLISH IN-SERVICE TRAINING FOR THEM IN ACCORDANCE WITH THE  
20 STANDARDS.]

21 \* \* \*

22 § 6133. PROBATION SERVICES.

23 \* \* \*

24 (C) [GRANT-IN-AID.--

25 (1) A COUNTY THAT PROVIDES ADDITIONAL PROBATION STAFF  
26 FOR PRESENTENCE INVESTIGATIONS AND IMPROVED PROBATION  
27 SUPERVISION AND PROGRAMS SHALL RECEIVE A GRANT-IN-AID FROM  
28 THE COMMONWEALTH THROUGH THE BOARD FOR ADDITIONAL COSTS  
29 INCURRED THEREBY BUT ONLY TO THE EXTENT THAT THE ADDITIONAL  
30 STAFF AND PROGRAM MEET THE QUALIFICATIONS AND STANDARDS

1 ESTABLISHED BY THE BOARD.

2 (2) THE GRANT-IN-AID SHALL PROVIDE 80% OF THE PERSONNEL  
3 SALARY COSTS INCURRED BY A COUNTY TO ADMINISTER THESE  
4 ADDITIONAL SERVICES AND PROGRAMS.

5 (3) IF INSUFFICIENT FUNDS ARE APPROPRIATED, EACH COUNTY  
6 SHALL RECEIVE A PRORATED REDUCTION IN THE GRANT-IN-AID.

7 (4) THE BOARD SHALL ESTABLISH RULES AND REGULATIONS FOR  
8 THE ALLOCATION OF FUNDS AVAILABLE FOR SUCH GRANTS-IN-AID.]

9 SUPERVISION AND INVESTIGATION.--SUPERVISION AND PRESENTENCE  
10 INVESTIGATIONS BY COURT ORDER OR REQUEST SHALL BE PROVIDED IN  
11 ACCORDANCE WITH BOARD REGULATIONS.

12 (D) IN-SERVICE TRAINING.--THE BOARD SHALL PROVIDE IN-SERVICE  
13 TRAINING FOR PERSONNEL OF COUNTY PROBATION OFFICES WHEN  
14 REQUESTED TO DO SO BY THE COURT HAVING JURISDICTION OF THE  
15 PROBATION OFFICE[.] AS PROVIDED BY MEMORANDUM OF UNDERSTANDING  
16 WITH THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY AND  
17 CONTINGENT UPON THE AVAILABILITY OF MONEY.

18 § 6137. PAROLE POWER.

19 (A) GENERAL CRITERIA FOR PAROLE.--

20 (1) THE BOARD MAY PAROLE SUBJECT TO CONSIDERATION OF  
21 GUIDELINES ESTABLISHED UNDER 42 PA.C.S. § 2154.5 (RELATING TO  
22 ADOPTION OF GUIDELINES FOR PAROLE) OR SUBJECT TO SECTION  
23 6137.5 (RELATING TO SHORT SENTENCE PAROLE) AND MAY RELEASE ON  
24 PAROLE ANY INMATE TO WHOM THE POWER TO PAROLE IS GRANTED TO  
25 THE BOARD BY THIS CHAPTER, EXCEPT AN INMATE CONDEMNED TO  
26 DEATH OR SERVING LIFE IMPRISONMENT, WHENEVER IN ITS OPINION:

27 (I) THE BEST INTERESTS OF THE INMATE JUSTIFY OR  
28 REQUIRE THAT THE INMATE BE PAROLED.

29 (II) IT DOES NOT APPEAR THAT THE INTERESTS OF THE  
30 COMMONWEALTH WILL BE INJURED BY THE INMATE'S PAROLE.

1 \* \* \*

2 SECTION 19. TITLE 61 IS AMENDED BY ADDING A SECTION TO READ:  
3 § 6137.5. SHORT SENTENCE PAROLE.

4 (A) GENERAL RULE.--THIS SECTION APPLIES TO PERSONS COMMITTED  
5 TO THE DEPARTMENT WITH A MINIMUM SENTENCE OF CONFINEMENT UNDER  
6 42 PA.C.S. § 9756(B) (RELATING TO SENTENCE OF TOTAL CONFINEMENT)  
7 OF TWO YEARS OR LESS OR A RECIDIVISM RISK REDUCTION INCENTIVE  
8 MINIMUM SENTENCE UNDER 42 PA.C.S. § 9756(B.1) OF TWO YEARS OR  
9 LESS, WHICHEVER IS SHORTER. REGARDLESS OF SENTENCE IMPOSED, THIS  
10 SECTION DOES NOT APPLY TO:

11 (1) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE  
12 CONTAINING A PERSONAL INJURY CRIME, OR ANY CRIMINAL ATTEMPT,  
13 CRIMINAL SOLICITATION, OR CRIMINAL CONSPIRACY TO COMMIT A  
14 PERSONAL INJURY CRIME, AS DEFINED IN SECTION 103 OF THE ACT  
15 OF NOVEMBER 24, 1998 (P.L.882, NO.111), KNOWN AS THE CRIME  
16 VICTIMS ACT;

17 (2) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE  
18 CONTAINING AN OFFENSE UNDER 18 PA.C.S. § 6105 (RELATING TO  
19 PERSONS NOT TO POSSESS, USE, MANUFACTURE, CONTROL, SELL OR  
20 TRANSFER FIREARMS);

21 (3) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE  
22 CONTAINING AN ENHANCEMENT FOR THE USE OF A DEADLY WEAPON AS  
23 DEFINED UNDER LAW OR THE SENTENCING GUIDELINES PROMULGATED BY  
24 THE PENNSYLVANIA COMMISSION ON SENTENCING OR WHERE THE  
25 ATTORNEY FOR THE COMMONWEALTH HAS DEMONSTRATED THAT THE  
26 DEFENDANT HAS BEEN FOUND GUILTY OF OR WAS CONVICTED OF AN  
27 OFFENSE INVOLVING A DEADLY WEAPON OR OFFENSE UNDER 18 PA.C.S.  
28 CH. 61 (RELATING TO FIREARMS AND OTHER DANGEROUS ARTICLES) OR  
29 AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED STATES OR  
30 ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE

1 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A  
2 FOREIGN NATION;

3 (4) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE  
4 CONTAINING A VIOLATION OF ANY OF THE FOLLOWING PROVISIONS OR  
5 AN EQUIVALENT OFFENSE UNDER THE LAWS OF THE UNITED STATES OR  
6 ONE OF ITS TERRITORIES OR POSSESSIONS, ANOTHER STATE, THE  
7 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO OR A  
8 FOREIGN NATION:

9 18 PA.C.S. § 4302(A) (RELATING TO INCEST).

10 18 PA.C.S. § 5901 (RELATING TO OPEN LEWDNESS).

11 18 PA.C.S. CH. 76 SUBCH. C (RELATING TO INTERNET  
12 CHILD PORNOGRAPHY).

13 A CRIMINAL SENTENCE PURSUANT TO 42 PA.C.S. § 9712.1  
14 (RELATING TO SENTENCES FOR CERTAIN DRUG OFFENSES  
15 COMMITTED WITH FIREARMS).

16 AN OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER  
17 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF  
18 SEXUAL OFFENDERS).

19 AN OFFENSE FOR WHICH REGISTRATION IS REQUIRED UNDER  
20 42 PA.C.S. CH. 97 SUBCH. I (RELATING TO CONTINUED  
21 REGISTRATION OF SEXUAL OFFENDERS).

22 (5) PERSONS COMMITTED FOR OR WITH AN AGGREGATE SENTENCE  
23 CONTAINING AN OFFENSE UNDER SECTION 13(A)(14), (30) OR (37)  
24 OF THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE  
25 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, WHERE  
26 THE SENTENCE WAS IMPOSED UPON A FINDING OF AN AMOUNT OR  
27 AGGREGATE WEIGHT UNDER 18 PA.C.S. § 7508(A)(1)(III), (2)  
28 (III), (3)(III), (4)(III), (7)(III) OR (8)(III) (RELATING TO  
29 DRUG TRAFFICKING SENTENCING AND PENALTIES);

30 (6) PERSONS AWAITING TRIAL OR SENTENCING FOR ADDITIONAL

1 CRIMINAL CHARGES, IF A CONVICTION OR SENTENCE ON THE  
2 ADDITIONAL CHARGES WOULD CAUSE THE PERSON TO BECOME  
3 INELIGIBLE UNDER THIS SUBSECTION; OR

4 (7) PERSONS WHO ARE CURRENTLY SERVING A SENTENCE TO  
5 STATE PRISON AND HAVE BEEN DENIED PAROLE ON THAT SENTENCE  
6 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

7 (B) APPROVAL OF PAROLE.--THE BOARD SHALL, WITHOUT REQUIRING  
8 AN INTERVIEW, APPROVE FOR PAROLE AT THE EXPIRATION OF THE  
9 ELIGIBLE PERSON'S MINIMUM DATE OR RECIDIVISM RISK REDUCTION  
10 INCENTIVE MINIMUM DATE, WHICHEVER IS SHORTER, UNLESS THE PERSON  
11 HAS:

12 (1) BEEN FOUND GUILTY OF A MAJOR DISCIPLINARY INFRACTION  
13 WHILE CONFINED IN A COUNTY CORRECTIONAL INSTITUTION OR STATE  
14 CORRECTIONAL INSTITUTION; OR

15 (2) A PENDING FELONY CHARGE OR OUTSTANDING FELONY ARREST  
16 WARRANT OR DETAINER, EXCEPT THAT THIS SECTION MAY BE APPLIED  
17 TO ALLOW A PERSON TO BE PAROLED TO A DETAINER RELATED TO AN  
18 UNDERLYING FELONY CHARGE.

19 (C) NONAPPLICABILITY.--THE REQUIREMENTS OF SECTIONS 6135  
20 (RELATING TO INVESTIGATION OF CIRCUMSTANCES OF OFFENSE), 6137(A)  
21 (3.1), (E)(1), (F) AND (G) (RELATING TO PAROLE POWER) AND 6139  
22 (RELATING TO PAROLE PROCEDURE) AND SECTION 1101(E) OF THE CRIME  
23 VICTIMS ACT DO NOT APPLY TO PAROLES UNDER THIS SECTION.

24 (D) ASSESSMENT.--THE DEPARTMENT SHALL PROVIDE A RISK AND  
25 NEEDS ASSESSMENT TO THE BOARD AND THE BOARD SHALL ESTABLISH  
26 INITIAL CONDITIONS OF PAROLE BASED ON THE ASSESSMENT.

27 (E) APPLICABILITY.--THIS SECTION SHALL ONLY APPLY TO  
28 INDIVIDUALS SENTENCED AFTER THE EFFECTIVE DATE OF THIS SECTION.

29 (F) REPORTS.--THE PENNSYLVANIA COMMISSION ON SENTENCING  
30 SHALL PROVIDE A REPORT TO THE GENERAL ASSEMBLY ON COST SAVINGS

1 AND RECIDIVISM ATTRIBUTED TO THIS SECTION AS FOLLOWS:

2 (1) NO LATER THAN TWO YEARS AFTER THE EFFECTIVE DATE OF  
3 THIS SECTION.

4 (2) NO LATER THAN TWO YEARS AFTER THE REPORT ISSUED  
5 UNDER PARAGRAPH (1).

6 (G) PROCEDURES.--THE CHAIRMAN OF THE BOARD SHALL ADOPT  
7 PROCEDURES TO CARRY OUT THIS SECTION.

8 (H) DEFINITION.--AS USED IN THIS SECTION, THE TERM "MAJOR  
9 DISCIPLINARY INFRACTION" MEANS:

10 (1) COMMITTING A VIOLATION EQUIVALENT TO AN INCIDENT  
11 THAT COULD LEAD TO A CONVICTION UNDER 18 P.A.C.S. (RELATING TO  
12 CRIMES AND OFFENSES);

13 (2) WEARING A DISGUISE;

14 (3) TATTOOING;

15 (4) GAMBLING;

16 (5) THREATENING HARM TO ANOTHER PERSON UPON OR FOLLOWING  
17 RELEASE; OR

18 (6) POSSESSING DANGEROUS CONTRABAND WHILE INCARCERATED.

19 SECTION 20. SECTION 6138(C) OF TITLE 61 IS AMENDED BY ADDING  
20 A PARAGRAPH TO READ:

21 § 6138. VIOLATION OF TERMS OF PAROLE.

22 \* \* \*

23 (C) TECHNICAL VIOLATORS.--

24 \* \* \*

25 (8) A PAROLEE UNDER THE BOARD'S SUPERVISION WHO IS  
26 ALLEGED TO HAVE COMMITTED A TECHNICAL PAROLE VIOLATION MAY BE  
27 ARRESTED AND DETAINED FOR A PERIOD NOT TO EXCEED SEVEN DAYS,  
28 PROVIDED THAT EITHER THE PAROLEE IS DETAINED ON A 48-HOUR  
29 WARRANT OR THE PAROLEE IS BROUGHT BEFORE A HEARING EXAMINER  
30 WITHIN 48 HOURS TO DETERMINE IF THE PAROLEE SHALL BE RELEASED

1 OR HELD FOR THE REMAINDER OF THE SEVEN DAYS OR A SHORTER  
2 PERIOD. THE CHAIRMAN OF THE BOARD SHALL ADOPT PROCEDURES  
3 GOVERNING THE APPROPRIATE USE OF BRIEF DETENTION UNDER THIS  
4 SECTION SO THAT TECHNICAL VIOLATIONS ENUMERATED UNDER  
5 PARAGRAPH (1) ARE NOT RESOLVED WITH BRIEF DETENTION.

6 \* \* \*

7 SECTION 21. SECTION 6139(A) (6) AND (B) OF TITLE 61 ARE  
8 AMENDED TO READ:

9 § 6139. PAROLE PROCEDURE.

10 (A) SPECIFIC REQUIREMENTS.--

11 \* \* \*

12 (6) IN NO CASE SHALL A PAROLE BE GRANTED, OR AN  
13 APPLICATION FOR PAROLE BE DISMISSED, UNLESS A BOARD MEMBER,  
14 HEARING EXAMINER OR OTHER PERSON SO DESIGNATED BY THE BOARD  
15 SHALL HAVE SEEN AND HEARD THE PAROLEE IN PERSON IN REGARD  
16 THERETO WITHIN SIX MONTHS PRIOR TO THE GRANTING OR DISMISSAL  
17 THEREOF. THIS REQUIREMENT DOES NOT APPLY TO PAROLES UNDER  
18 SECTION 6137.5 (RELATING TO SHORT SENTENCE PAROLE) OR TO  
19 PERSONS SCORED AS LOW PROBABILITY TO PAROLE OR HIGH  
20 PROBABILITY TO PAROLE UNDER PAROLE GUIDELINES ADOPTED UNDER  
21 42 PA.C.S. § 2154.5 (RELATING TO ADOPTION OF GUIDELINES FOR  
22 PAROLE).

23 \* \* \*

24 (B) RELIANCE ON REPORTS.--IN GRANTING AND REVOKING PAROLES  
25 AND IN DISCHARGING FROM PAROLE, THE MEMBERS OF THE BOARD ACTING  
26 THEREON SHALL NOT BE REQUIRED TO PERSONALLY HEAR OR SEE ALL THE  
27 WITNESSES AND EVIDENCE SUBMITTED TO THEM FOR THEIR ACTION, BUT  
28 THEY MAY ACT ON THE REPORT SUBMITTED TO THEM BY THEIR AGENTS AND  
29 EMPLOYEES, TOGETHER WITH ANY PERTINENT AND ADEQUATE INFORMATION  
30 FURNISHED TO THEM BY FELLOW MEMBERS OF THE BOARD OR BY OTHERS.

1 IN GRANTING OR REVOKING PAROLE OR BRINGING AN ALLEGED PAROLE  
2 VIOLATOR BEFORE A HEARING EXAMINER, THE APPEARANCE MAY BE  
3 CONDUCTED VIA VIDEOCONFERENCING OR SIMILAR VIRTUAL PRESENCE  
4 TECHNOLOGY.

5 \* \* \*

6 SECTION 22. THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL  
7 CONDUCT A STUDY OF THE GUIDELINES DEVELOPED UNDER 42 PA.C.S. §  
8 9728(B)(5) AND ANY RELATED POLICIES TO DETERMINE THE  
9 EFFECTIVENESS IN SATISFYING OFFENDERS' FINANCIAL OBLIGATIONS  
10 INCLUDING RESTITUTION. THE DEPARTMENT OF CORRECTIONS AND EACH  
11 COUNTY SHALL MAKE AVAILABLE TO THE COMMISSION ANY INFORMATION  
12 RELEVANT TO THIS STUDY REQUESTED IN WRITING BY THE COMMISSION.  
13 THE STUDY SHALL BE COMPLETED NO LATER THAN DECEMBER 31, 2021.  
14 COPIES OF THE STUDY SHALL BE PROVIDED TO THE DEPARTMENT OF  
15 CORRECTIONS, EACH COUNTY AND THE MAJORITY AND MINORITY  
16 CHAIRPERSON OF THE JUDICIARY COMMITTEE OF THE SENATE AND THE  
17 MAJORITY AND MINORITY CHAIRPERSON OF THE JUDICIARY COMMITTEE OF  
18 THE HOUSE OF REPRESENTATIVES.

19 SECTION 23. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

20 (1) THE FOLLOWING SHALL TAKE EFFECT IN 60 DAYS:

21 (I) THE AMENDMENT OF 42 PA.C.S. §§ 2154, 2154.1,  
22 2154.7(D) AND 9728(B)(5).

23 (II) THE REPEAL OF 42 PA.C.S. § 2154.2.

24 (III) THE AMENDMENT OF 61 PA.C.S. CH. 61 SUBCH. B  
25 HEADING.

26 (IV) THE AMENDMENT OF 61 PA.C.S. §§ 6101, 6111  
27 HEADING AND (A), 6131(A)(3), (4) AND (5) AND 6133(C) AND  
28 (D).

29 (V) THE REPEAL OF 61 PA.C.S. § 6123.

30 (2) THE FOLLOWING SHALL TAKE EFFECT IN 120 DAYS:

1                   (I)    THE AMENDMENT OR ADDITION OF 61 PA.C.S. §§  
2                   6137(A) (1), 6138(C) (8) AND 6139(A) (6) AND (B).  
3                   (II)   THE ADDITION OF 61 PA.C.S. § 6137.5.  
4                   (3)   THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
5                   IMMEDIATELY.