

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1071 Session of 2018

INTRODUCED BY GREENLEAF, LEACH, HUGHES, SCHWANK, YUDICHAK AND BROWNE, MARCH 12, 2018

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, MARCH 19, 2018

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 61
2 (Prisons and Parole) of the Pennsylvania Consolidated
3 Statutes, in judicial boards and commissions, further
4 providing for powers and duties, for adoption of guidelines
5 for sentencing, for adoption of guidelines for county
6 intermediate punishment, for adoption of guidelines for
7 State intermediate punishment and for adoption of risk
8 assessment instrument; in sentencing, further providing for
9 sentencing generally, for order of probation, for sentence of
10 partial confinement, for sentence of total confinement, for
11 sentence of county intermediate punishment, for information
12 required upon commitment and subsequent disposition, for
13 modification or revocation of order of probation, for court-
14 imposed sanctions for offenders violating probation, for
15 modification or revocation of county intermediate punishment
16 sentence and for revocation of State intermediate punishment
17 sentence; in county intermediate punishment, further
18 providing for county intermediate punishment programs and for
19 continued eligibility; in motivational boot camp, further
20 providing for definitions, for selection of inmate
21 participants and for motivational boot camp program; in State
22 intermediate punishment, further providing scope of chapter,
23 for definitions, for referral to State intermediate
24 punishment program, for drug offender treatment program and
25 for reports; in recidivism risk reduction incentive, further
26 providing for definitions, for evaluation and for reports; in
27 Pennsylvania Board of Probation and Parole, further providing
28 for definitions, for advisory committee, for general powers
29 of board, for probation services, for parole power, providing
30 for short sentence parole, further providing for violation of
31 terms of parole and for parole procedure; and making
32 conforming amendments.

33 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 2153(a) of Title 42 of the Pennsylvania
3 Consolidated Statutes is amended by adding a paragraph and the
4 section is amended by adding a subsection to read:

5 § 2153. Powers and duties.

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

8 * * *

9 (16) Report to the General Assembly on:

10 (i) implementation of revisions to the guidelines
11 under sections 2154 (relating to adoption of guidelines
12 for sentencing) and 2154.1 (relating to adoption of
13 guidelines for restrictive conditions);

14 (ii) implementation and outcomes of justice
15 reinvestment funding to county probation;

16 (iii) use of court-imposed sanctions for violating
17 probation under section 9771.1 (relating to court-imposed
18 sanctions for violating probation);

19 (iv) in consultation with the Office of the Budget
20 and the Department of Corrections, the implementation of
21 short sentence parole under 61 Pa.C.S. § 6137.5 (relating
22 to short sentence parole), use of the State drug
23 treatment program under 61 Pa.C.S. Ch. 41 (relating to
24 State drug treatment program) and use of sanctions for
25 technical parole violations under 61 Pa.C.S. § 6138(c)(8)
26 (relating to violation of terms of parole); and

27 (v) evaluations of the effectiveness of various
28 criminal justice interventions and programming, including
29 restrictive conditions of probation, recidivism risk
30 reduction incentive programs, State drug treatment

1 program, State motivational boot camp program, pretrial
2 diversion programs, prisoner treatment programs and
3 prisoner reentry programs. For any evaluations of the
4 effectiveness of programs in reducing recidivism, the
5 commission shall report on:

6 (A) The number of individuals eligible for the
7 program, the number of individuals participating in
8 the program and the number of individuals who
9 successfully completed the program during the period
10 under study.

11 (B) The recidivism rates for participants of the
12 program and for a comparison group of individuals who
13 did not participate in the program.

14 (C) Potential changes in the program that the
15 commission believes would make the program more
16 effective.

17 (D) Any other information the commission deems
18 relevant.

19 * * *

20 (d) Hearings.--The General Assembly shall convene hearings
21 in the appropriate committees to hear and deliberate upon
22 reports under subsection (a) (16).

23 Section 2. Sections 2154 and 2154.1 of Title 42 are amended
24 to read:

25 § 2154. Adoption of guidelines for sentencing.

26 (a) General rule.--The commission shall adopt guidelines for
27 sentencing within the limits established by law which shall be
28 considered by the sentencing court in determining the
29 appropriate sentence for defendants who plead guilty or nolo
30 contendere to, or who were found guilty of, felonies and

1 misdemeanors. In adopting guidelines, the commission shall
2 recommend confinement that is consistent with the protection of
3 the public, the gravity of the offense as it relates to the
4 impact on the life of the victim and the community and the
5 rehabilitative needs of the offender. The guidelines shall
6 address the following retributive factors:

7 (1) Seriousness of the offense, by specifying the range
8 of sentences applicable to crimes of a given degree of
9 gravity[, including incapacitation of serious violent
10 offenders].

11 (2) Criminal history, by specifying a range of sentences
12 of increased severity or intensity of intervention for
13 offenders previously convicted of or adjudicated delinquent
14 for one or more misdemeanor or felony offenses committed
15 prior to the current offense. The commission may exclude or
16 reduce the valuation of less serious offenses and increase
17 the valuation of offenses committed while under supervision
18 or in a temporal or offense pattern.

19 (3) Criminal behavior, by specifying a range of
20 sentences of increased severity or intensity of intervention
21 for offenders [who pose a substantial risk to public safety]
22 with increased capability CULPABILITY, including those who <--
23 possessed or used a deadly weapon or inflicted substantial
24 harm during the commission of the current conviction offense.

25 (4) Aggravated and mitigated ranges, by specifying
26 variations from the range of sentences applicable on account
27 of aggravating or mitigating circumstances.

28 (5) The impact of any amendments to section 9756
29 (relating to sentence of total confinement).

30 (b) Adjustments.--The guidelines shall include the following

1 risk-related adjustments:

2 (1) Incapacitation of serious violent offenders.

3 (2) Modifications to criminal history to reflect risk to
4 reoffend and substantial risk to public safety to adjust the
5 length of total confinement for more serious criminal
6 history.

7 (3) Recommendations related to the use of county
8 intermediate punishment programs as restrictive conditions of
9 probation, the duration of terms of probation and maximum
10 terms of total and partial confinement and the use of
11 aggregate sentences.

12 (c) Interactive information.--The guidelines shall include
13 interactive information to support decisions with risk,
14 recidivism and cost information.

15 (d) Definitions.--As used in this section, the following
16 words and phrases shall have the meanings given to them in this
17 subsection unless the context clearly indicates otherwise:

18 "Possessed." On a defendant's person or within the
19 defendant's immediate physical control.

20 "Previously convicted of or adjudicated delinquent." Any
21 finding of guilt or adjudication of delinquency, whether or not
22 sentence has been imposed or disposition ordered prior to the
23 commission of the current offense.

24 § 2154.1. Adoption of guidelines for [county intermediate
25 punishment] restrictive conditions.

26 (a) General rule.--The commission shall adopt guidelines to
27 identify offenders who would be eligible and appropriate for
28 [participation in county intermediate punishment programs]
29 restrictive conditions of probation. These guidelines shall be
30 considered by the sentencing court in determining whether to

1 [sentence an offender] impose restrictive conditions pursuant to
2 section 9763 (relating to [sentence of county intermediate
3 punishment] conditions of probation). The guidelines shall[:

4 (1) Use the description of "eligible offender" provided
5 in Chapter 98 (relating to county intermediate punishment).

6 (2) Give] give primary consideration to reducing
7 recidivism for the protection of the public safety.

8 (b) Compliance.--The commission shall certify compliance
9 with any guidelines adopted by the commission for county
10 intermediate punishment or for imposing restrictive conditions
11 of probation and with any related statutory requirements and
12 report the results to the Pennsylvania Commission on Crime and
13 Delinquency.

14 Section 3. Section 2154.2 of Title 42 is repealed:

15 [§ 2154.2. Adoption of guidelines for State intermediate
16 punishment.

17 The commission shall adopt guidelines to identify offenders
18 who would be appropriate for participation in State intermediate
19 punishment programs. These guidelines shall be considered by the
20 attorney for the Commonwealth and the sentencing court in
21 determining whether to commit a defendant for evaluation and
22 whether to sentence an eligible offender pursuant to 61 Pa.C.S.
23 Ch. 41 (relating to State intermediate punishment). The
24 guidelines shall:

25 (1) Use the description of "eligible offender" provided
26 in 61 Pa.C.S. Ch. 41.

27 (2) Give primary consideration to protection of the
28 public safety.]

29 Section 4. Sections 2154.7(d), 9721(a), (a.1) and (b), 9754,
30 9755(d) and (h), 9756(c.1), 9763(a), (b)(14), (16) and (17), (c)

1 and (d), 9764(f), 9771(a) and (b) and 9771.1 of Title 42 are
2 amended to read:

3 § 2154.7. Adoption of risk assessment instrument.

4 * * *

5 (d) Alternative sentencing.--Subject to the eligibility
6 requirements of each program, the risk assessment instrument may
7 be an aide to help determine:

8 (1) for persons under supervision, intensity of
9 intervention, use of restrictive conditions and duration of
10 supervision; and

11 (2) appropriate candidates for alternative sentencing,
12 including the recidivism risk reduction incentive, State [and
13 county intermediate punishment programs] drug treatment
14 program and State motivational boot camps.

15 * * *

16 § 9721. Sentencing generally.

17 (a) General rule.--In determining the sentence to be imposed
18 the court shall, except as provided in subsection (a.1),
19 consider and select one or more of the following alternatives,
20 and may impose them consecutively or concurrently:

- 21 (1) An order of probation.
22 (2) A determination of guilt without further penalty.
23 (3) Partial confinement.
24 (4) Total confinement.
25 (5) A fine.
26 [(6) County intermediate punishment.
27 (7) State intermediate punishment.]

28 (a.1) Exception.--

29 (1) Unless specifically authorized under section 9763
30 (relating to [a sentence of county intermediate punishment])

1 or 61 Pa.C.S. Ch. 41 (relating to State intermediate
2 punishment)] conditions of probation), subsection (a) shall
3 not apply where a mandatory minimum sentence is otherwise
4 provided by law.

5 (2) [An eligible offender may be sentenced to State
6 intermediate punishment pursuant to subsection (a)(7) and as
7 described in 61 Pa.C.S. Ch. 41 or to] A person may be
8 eligible for the State drug treatment program as described in
9 61 Pa.C.S. Ch. 41 or State motivational boot camp as
10 described in 61 Pa.C.S. Ch. 39 (relating to motivational boot
11 camp), even if a mandatory minimum sentence would otherwise
12 be provided by law.

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

19 (b) General standards.--In selecting from the alternatives
20 set forth in subsection (a), the court shall follow the general
21 principle that the sentence imposed should call for total
22 confinement that is consistent with section 9725 (relating to
23 total confinement) and the protection of the public, the gravity
24 of the offense as it relates to the impact on the life of the
25 victim and on the community, and the rehabilitative needs of the
26 defendant. The court shall also consider any guidelines for
27 sentencing and resentencing adopted by the Pennsylvania
28 Commission on Sentencing and taking effect under section 2155
29 (relating to publication of guidelines for sentencing,
30 resentencing and parole, risk assessment instrument and

1 recommitment ranges following revocation). In every case in
2 which the court imposes a sentence for a felony or misdemeanor,
3 modifies a sentence, resentsences [an offender] a person
4 following revocation of probation[, county intermediate
5 punishment or State intermediate punishment] or resentsences
6 following remand, the court shall make as a part of the record,
7 and disclose in open court at the time of sentencing, a
8 statement of the reason or reasons for the sentence imposed. In
9 every case where the court imposes a sentence or resentence
10 outside the guidelines adopted by the Pennsylvania Commission on
11 Sentencing under sections 2154 (relating to adoption of
12 guidelines for sentencing), 2154.1 (relating to adoption of
13 guidelines for [county intermediate punishment), 2154.2
14 (relating to adoption of guidelines for State intermediate
15 punishment)] restrictive conditions), 2154.3 (relating to
16 adoption of guidelines for fines), 2154.4 (relating to adoption
17 of guidelines for resentencing) and 2154.5 (relating to adoption
18 of guidelines for parole) and made effective under section 2155,
19 the court shall provide a contemporaneous written statement of
20 the reason or reasons for the deviation from the guidelines to
21 the commission, as established under section 2153(a)(14)
22 (relating to powers and duties). Failure to comply shall be
23 grounds for vacating the sentence or resentence and resentencing
24 the defendant.

25 * * *

26 § 9754. Order of probation.

27 (a) General rule.--In imposing an order of probation the
28 court shall specify at the time of sentencing the length of any
29 term during which the defendant is to be supervised, which term
30 may not exceed the maximum term for which the defendant could be

1 confined, and the authority that shall conduct the supervision.
2 The court shall consider probation guidelines adopted by the
3 Pennsylvania Commission on Sentencing under sections 2154
4 (relating to adoption of guidelines for sentencing) and 2154.1
5 (relating to adoption of guidelines for restrictive conditions).

6 (b) Conditions generally.--The court shall attach [such of
7 the reasonable conditions authorized by subsection (c) of this
8 section as it deems necessary to insure or assist the defendant
9 in leading a law-abiding life.

10 (c) Specific conditions.--The court may as a condition of
11 its order require the defendant:

12 (1) To meet his family responsibilities.

13 (2) To devote himself to a specific occupation or
14 employment.

15 (2.1) To participate in a public or nonprofit community
16 service program unless the defendant was convicted of murder,
17 rape, aggravated assault, arson, theft by extortion,
18 terroristic threats, robbery or kidnapping.

19 (3) To undergo available medical or psychiatric
20 treatment and to enter and remain in a specified institution,
21 when required for that purpose.

22 (4) To pursue a prescribed secular course of study or
23 vocational training.

24 (5) To attend or reside in a facility established for
25 the instruction, recreation, or residence of persons on
26 probation.

27 (6) To refrain from frequenting unlawful or disreputable
28 places or consorting with disreputable persons.

29 (7) To have in his possession no firearm or other
30 dangerous weapon unless granted written permission.

1 (8) To make restitution of the fruits of his crime or to
2 make reparations, in an amount he can afford to pay, for the
3 loss or damage caused thereby.

4 (9) To remain within the jurisdiction of the court and
5 to notify the court or the probation officer of any change in
6 his address or his employment.

7 (10) To report as directed to the court or the probation
8 officer and to permit the probation officer to visit his
9 home.

10 (11) To pay such fine as has been imposed.

11 (12) To participate in drug or alcohol treatment
12 programs.

13 (13) To satisfy any other conditions reasonably related
14 to the rehabilitation of the defendant and not unduly
15 restrictive of his liberty or incompatible with his freedom
16 of conscience.

17 (14) To remain within the premises of his residence
18 during the hours designated by the court.] reasonable
19 conditions authorized by section 9763 (relating to conditions
20 of probation).

21 (d) Sentence following violation of probation.--The sentence
22 to be imposed in the event of the violation of a condition shall
23 not be fixed prior to a finding on the record that a violation
24 has occurred.

25 § 9755. Sentence of partial confinement.

26 * * *

27 (d) Conditions to release.--The court may in addition
28 include in its order such of the conditions as are enumerated in
29 section [9754 (relating to order of probation)] 9763 (relating
30 to conditions of probation) as may be reasonably related to the

1 sentence.

2 * * *

3 (h) Sentence of partial confinement combined with [sentence
4 of county intermediate punishment] probation.--The court may
5 impose a sentence of partial confinement without parole under
6 this subsection only when:

7 (1) the period of partial confinement is followed
8 immediately by [a sentence] restrictive conditions of
9 probation imposed pursuant to section 9763 (relating to
10 [sentence of county intermediate punishment]) conditions of
11 probation) in which case the sentence of partial confinement
12 shall specify the number of days of partial confinement to be
13 served; and

14 (2) the maximum sentence of partial confinement imposed
15 on one or more indictments to run consecutively or
16 concurrently total 90 days or less.

17 § 9756. Sentence of total confinement.

18 * * *

19 (c.1) Sentence of total confinement combined with [sentence
20 of county intermediate punishment] probation.--The court may
21 impose a sentence of imprisonment without parole under this
22 subsection only when:

23 (1) the period of total confinement is followed
24 immediately by [a sentence] restrictive conditions of
25 probation imposed pursuant to section 9763 (c) or (d)
26 (relating to [sentence of county intermediate punishment])
27 conditions of probation) in which case the sentence of total
28 confinement shall specify the number of days of total
29 confinement also to be served; and

30 (2) the maximum sentence of total confinement imposed on

1 one or more indictments to run consecutively or concurrently
2 total 90 days or less.

3 * * *

4 § 9763. [Sentence of county intermediate punishment] Conditions
5 of probation.

6 (a) General rule.--In imposing [a sentence of county
7 intermediate punishment] probation, the court shall consider
8 guidelines adopted by the Pennsylvania Commission on Sentencing
9 under section 2154 (relating to adoption of guidelines for
10 sentencing) or 2154.1 (relating to adoption of guidelines for
11 restrictive conditions) and specify at the time of sentencing
12 the conditions of probation, including the length of the term
13 [for which the defendant is to be in a county intermediate
14 punishment program established under Chapter 98 (relating to
15 county intermediate punishment) or a combination of county
16 intermediate punishment programs. The term may not exceed the
17 maximum term for which the defendant could be confined and the
18 program to which the defendant is sentenced. The court may order
19 a defendant to serve a portion of the sentence under section
20 9755 (relating to sentence of partial confinement) or 9756
21 (relating to sentence of total confinement) and to serve a
22 portion in a county intermediate punishment program or a
23 combination of county intermediate punishment programs.] of
24 restrictive conditions under subsection (c) or (d). The term of
25 restrictive conditions under subsection (c) shall be equal to or
26 greater than the mandatory minimum term of imprisonment required
27 by statute.

28 (b) Conditions generally.--The court may attach any of the
29 following conditions upon the defendant as it deems necessary:

30 * * *

1 (14) To participate in drug or alcohol screening and
2 treatment programs, including outpatient [and inpatient]
3 programs.

4 * * *

5 [(16) To remain within the premises of the defendant's
6 residence during the hours designated by the court.

7 (17) To be subject to electronic monitoring.]

8 (c) [Restriction] Restrictive DUI probation conditions.--

9 (1) Any person receiving a penalty imposed pursuant to
10 75 Pa.C.S. § 1543(b) (relating to driving while operating
11 privilege is suspended or revoked), former 75 Pa.C.S. § 3731
12 (relating to driving under influence of alcohol or controlled
13 substance) or 75 Pa.C.S. § 3804 (relating to penalties) for a
14 first, second or third offense under 75 Pa.C.S. Ch. 38
15 (relating to driving after imbibing alcohol or utilizing
16 drugs) may only [be sentenced to county intermediate
17 punishment] have probation imposed after undergoing an
18 assessment under 75 Pa.C.S. § 3814 (relating to drug and
19 alcohol assessments).

20 (2) If the defendant is determined to be in need of drug
21 and alcohol treatment, the defendant may only [be sentenced
22 to county intermediate punishment which] have probation that
23 includes participation in drug and alcohol treatment under 75
24 Pa.C.S. § 3815(c) (relating to mandatory sentencing). The
25 defendant [may only be sentenced to county intermediate
26 punishment in] shall have restrictive DUI probation
27 conditions of:

28 (i) a residential inpatient program or a residential
29 rehabilitative center;

30 (ii) house arrest with electronic surveillance;

1 (iii) a partial confinement program such as work
2 release, work camp and halfway facility; or

3 (iv) any combination of the programs set forth in
4 this paragraph.

5 (3) If the defendant is determined not to be in need of
6 drug and alcohol treatment, the defendant [may only be
7 sentenced to county intermediate punishment in] shall have
8 restrictive DUI probation conditions of:

9 (i) house arrest with electronic surveillance;

10 (ii) partial confinement programs such as work
11 release, work camps and halfway facilities; or

12 (iii) any combination of the programs set forth in
13 this paragraph.

14 (4) If the defendant is determined to be in need of
15 additional treatment under 75 Pa.C.S. § 3814(2), the judge
16 shall impose a minimum sentence as provided by law and a
17 maximum sentence equal to the statutorily available maximum.
18 A sentence to the statutorily available maximum imposed under
19 this subsection may, in the discretion of the sentencing
20 court, be ordered to be served in a county prison,
21 notwithstanding the provisions of section 9762 (relating to
22 sentencing proceeding; place of confinement).

23 (d) [Sentence following violation of condition.--The
24 sentence to be imposed in the event of the violation of a
25 condition under subsection (b) shall not be imposed prior to a
26 finding on the record that a violation has occurred.
27 Notwithstanding any other provision of law requiring notice
28 prior to sentencing, in the event of a violation of a condition
29 under subsection (b), the attorney for the Commonwealth may file
30 notice at any time prior to resentencing of the Commonwealth's

1 intention to proceed under an applicable provision of law
2 requiring a mandatory minimum sentence.] Restrictive conditions
3 of probation.--Probation may include restrictive conditions
4 that:

5 (1) house the person full time or part time, including
6 inpatient treatment; or

7 (2) significantly restrict the person's movement and
8 monitor the person's compliance with the program, including
9 electronic monitoring or home confinement.

10 § 9764. Information required upon commitment and subsequent
11 disposition.

12 * * *

13 (f) Release from county correctional facility to State
14 probation or parole.--

15 (1) Prior to the release of an inmate from a county
16 correctional facility to State probation or parole
17 supervision, the facility shall provide to the Department of
18 Corrections and the Pennsylvania Board of Probation and
19 Parole the information contained in subsections [(a)(1)
20 through (4)] (a) and (b) with the exception of subsection (a)
21 (5).

22 (2) Prior to the release of an inmate from a county
23 correctional facility to State probation or parole
24 supervision, the facility shall provide to the inmate his
25 current medications as prescribed and any customary and
26 necessary medical supplies as determined by the prescribing
27 physician.

28 * * *

29 § 9771. Modification or revocation of order of probation.

30 (a) General rule.--The court [may] has inherent power to at

1 any time terminate continued supervision or lessen [or increase]
2 the conditions upon which an order of probation has been
3 imposed.

4 (b) Revocation.--The court may increase the conditions,
5 impose a brief sanction under section 9771.1 (relating to court-
6 imposed sanctions for violating probation) or revoke an order of
7 probation upon proof of the violation of specified conditions of
8 the probation. Upon revocation the sentencing alternatives
9 available to the court shall be the same as were available at
10 the time of initial sentencing, due consideration being given to
11 the time spent serving the order of probation. The attorney for
12 the Commonwealth may file notice at any time prior to
13 resentencing of the Commonwealth's intention to proceed under an
14 applicable provision of law requiring a mandatory minimum
15 sentence.

16 * * *

17 § 9771.1. Court-imposed sanctions for [offenders] violating
18 probation.

19 (a) Program.--Notwithstanding the provisions of section 9771
20 (relating to modification or revocation of order of probation),
21 the court of common pleas of a judicial district may establish a
22 program to impose swift, predictable and [immediate] brief
23 sanctions on [offenders] persons who violate their probation.

24 [(b) Coordination with other officials.--The court shall
25 work with probation administrators and officers, jail
26 administrators, prosecutors, public defenders and law
27 enforcement in the judicial district to develop and implement
28 the program.]

29 (c) Eligibility.--

30 (1) The court shall determine which offenders are

1 eligible for and admitted into the program. The program shall
2 focus on, but not be limited to, offenders who have committed
3 drug-related crimes.

4 (2) An offender shall be ineligible for the program if
5 the offender has been convicted or adjudicated delinquent of
6 a crime of violence as defined in section 9714 (relating to
7 sentences for second and subsequent offenses) or of a crime
8 requiring registration under Subchapter H (relating to
9 registration of sexual offenders).

10 (d) Warning hearing.--

11 (1) At the time of sentencing, the court shall hold a
12 warning hearing for each participant in the program to
13 clearly communicate program expectations and consequences and
14 to encourage the participant's compliance and success.

15 (2) The court shall emphasize the expectations that the
16 participant remain drug free and comply with any treatment or
17 services ordered by the court as a condition of the
18 participant's probation.

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

23 (e) Drug testing.--The program shall require, when
24 applicable, randomized drug testing.]

25 (f) Violation hearing.--If a participant commits a probation
26 violation, the participant shall promptly be arrested, and a
27 hearing shall be held no later than two business days after the
28 arrest date.

29 (g) Sanctions.--

30 (1) The court shall impose a term of imprisonment of up

1 to:

- 2 (i) three days for a first violation;
- 3 (ii) seven days for a second violation;
- 4 (iii) fourteen days for a third violation; and
- 5 (iv) twenty-one days for a fourth or subsequent
- 6 violation of probation.

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

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

13 (h) Exceptions.--If the participant is able to provide a
14 compelling reason for the probation violation, the court may
15 grant an exception to the sanctions authorized under subsection
16 (g).

17 (i) Revocation of probation.--

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

20 (2) Upon revocation, the sentencing alternatives shall
21 be the same as were available at the time of initial
22 sentencing, due consideration being given to the time spent
23 serving the order of probation.

24 (j) Local rules.--

25 (1) The court may adopt local rules for the
26 administration of this program. Except as provided for under
27 paragraph (2), the local rules may not be inconsistent with
28 this section or any rules adopted by the Supreme Court.

29 (2) The court may adopt local rules that are
30 inconsistent with subsection (g) regarding the terms of

1 imprisonment or other sanctions or conditions provided for
2 under subsection (g).

3 Section 5. Sections 9773 and 9774 of Title 42 are repealed:

4 [§ 9773. Modification or revocation of county intermediate
5 punishment sentence.

6 (a) General rule.--The court may at any time terminate a
7 sentence of county intermediate punishment or increase or
8 decrease the conditions of a sentence pursuant to section 9763
9 (relating to sentence of county intermediate punishment).

10 (b) Revocation.--The court may revoke a sentence of county
11 intermediate punishment upon proof of a violation of specific
12 conditions of the sentence. Upon revocation and subject to
13 section 9763(d), the sentencing alternatives available to the
14 court shall be the same as the alternatives available at the
15 time of initial sentencing. Upon a revocation of county
16 intermediate punishment for any reason specified by law, the
17 attorney for the Commonwealth may file notice, at any time prior
18 to resentencing, of the Commonwealth's intention to proceed
19 under an applicable provision of law requiring a mandatory
20 minimum sentence. Consideration shall be given to the time
21 served in the county intermediate punishment program.

22 (c) Hearing required.--A court shall not revoke or increase
23 the conditions of a sentence of county intermediate punishment
24 without a hearing at which the court shall consider the record
25 of the initial sentencing proceeding as well as the conduct of
26 the defendant while serving a sentence of county intermediate
27 punishment. A hearing is not required to decrease the conditions
28 of the sentence.

29 § 9774. Revocation of State intermediate punishment sentence.

30 (a) General rule.--The court may at any time terminate a

1 sentence of State intermediate punishment pursuant to 61 Pa.C.S.
2 Ch. 41 (relating to State intermediate punishment).

3 (b) Revocation.--The court shall revoke a sentence of State
4 intermediate punishment if after a hearing it determines that
5 the participant was expelled from or failed to complete the
6 program.

7 (c) Proceedings upon revocation.--Upon revocation of a State
8 intermediate punishment sentence, the sentencing alternatives
9 available to the court shall be the same as the alternatives
10 available at the time of initial sentencing. The attorney for
11 the Commonwealth must file notice, at any time prior to
12 resentencing, of the Commonwealth's intention to proceed under
13 an applicable provision of law requiring a mandatory minimum
14 sentence.]

15 Section 6. Sections 9804 and 9810(a) of Title 42 are amended
16 to read:

17 § 9804. County intermediate punishment programs.

18 (a) Description.--County intermediate punishment [program
19 options shall include the following:

20 (1) Restrictive intermediate punishments providing for
21 the strict supervision of the offender, including programs
22 that:

23 (i) house the offender full or part time;

24 (ii) significantly restrict the offender's movement
25 and monitor the offender's compliance with the program;
26 or

27 (iii) involve a combination of programs that meet
28 the standards set forth under subparagraphs (i) and (ii).

29 (2) When utilized in combination with restrictive
30 intermediate punishments, restorative sanctions providing for

1 nonconfinement sentencing options that:

2 (i) Are the least restrictive in terms of the
3 constraint of the offender's liberties.

4 (ii) Do not involve the housing of the offender,
5 either full or part time.

6 (iii) Focus on restoring the victim to pre-offense
7 status.] programs are restrictive conditions of probation
8 imposed under section 9763(c) or (d) (relating to
9 conditions of probation), which may be subject to
10 guidelines adopted under section 2154.1 (relating to
11 adoption of guidelines for restrictive conditions).

12 (b) Eligibility.--

13 (1) (i) [No person other than the eligible offender
14 shall be sentenced to a county intermediate punishment
15 program.] Upon adoption of guidelines for imposing
16 restrictive conditions adopted by the Pennsylvania
17 Commission on Sentencing under section 2154.1, only
18 eligible persons may have restrictive conditions imposed.

19 (ii) The prosecuting attorney, in the prosecuting
20 attorney's sole discretion, may advise the court that the
21 Commonwealth has elected to waive the eligibility
22 requirements [of this chapter] if the victim has been
23 given notice of the prosecuting attorney's intent to
24 waive the eligibility requirements and an opportunity to
25 be heard on the issue.

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

29 (2) [The Pennsylvania Commission on Sentencing shall
30 employ the term "eligible offender" to further identify

1 offenders who would be appropriate for participation in
2 county intermediate punishment programs. In developing the
3 guidelines, the commission shall give primary consideration
4 to protection of the public safety.] Only programs that meet
5 the requirements of restrictive conditions of probation under
6 section 9763(c) or (d) and are certified in accordance with
7 section 2154.1(b) shall be eligible for county intermediate
8 punishment program funding.

9 [(4) (i) Any person receiving a penalty imposed
10 pursuant to 75 Pa.C.S. § 1543(b) (relating to driving
11 while operating privilege is suspended or revoked), 3804
12 (relating to penalties) or 3808(a)(2) (relating to
13 illegally operating a motor vehicle not equipped with
14 ignition interlock) shall undergo an assessment under 75
15 Pa.C.S. § 3814 (relating to drug and alcohol
16 assessments).

17 (ii) If the defendant is determined to be in need of
18 drug and alcohol treatment, a sentence to county
19 intermediate punishment shall include participation in
20 drug and alcohol treatment under 75 Pa.C.S. § 3815(c)
21 (relating to mandatory sentencing). The defendant may
22 only be sentenced to county intermediate punishment in:

23 (A) a residential inpatient program or a
24 residential rehabilitative center;

25 (B) house arrest with electronic surveillance;

26 (C) a partial confinement program such as work
27 release, work camp and halfway facility; or

28 (D) any combination of the programs set forth in
29 this subparagraph.

30 (iii) If the defendant is determined not to be in

1 need of drug and alcohol treatment or if the defendant
2 receives a penalty imposed under 30 Pa.C.S. § 5502(c.1)
3 (relating to operating watercraft under influence of
4 alcohol or controlled substance), the defendant may only
5 be sentenced to a county intermediate punishment program
6 in:

7 (A) house arrest with electronic surveillance;

8 (B) partial confinement programs such as work
9 release, work camps and halfway facilities; or

10 (C) any combination of the programs set forth in
11 this paragraph.

12 (5) A defendant subject to 75 Pa.C.S. § 3804 (relating
13 to penalties) or 30 Pa.C.S. § 5502(c.1) may only be sentenced
14 to county intermediate punishment for a first, second or
15 third offense under 75 Pa.C.S. Ch. 38 (relating to driving
16 after imbibing alcohol or utilizing drugs) or 30 Pa.C.S. §
17 5502.]

18 § 9810. Continued eligibility.

19 (a) Evaluation.--In order to remain eligible for [continued
20 grant] county intermediate punishment funding, a county shall
21 comply with commission standards and regulations and participate
22 in an evaluation to determine program effectiveness. The form of
23 the evaluation shall be determined by the commission[.] and
24 shall include certification by the Pennsylvania Commission on
25 Sentencing under section 2154.1(b) (relating to adoption of
26 guidelines for restrictive conditions).

27 * * *

28 Section 7. The definition of "eligible inmate" in section
29 3903 of Title 61 is amended to read:

30 § 3903. Definitions.

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

4 * * *

5 "Eligible inmate." A person sentenced to a term of
6 confinement under the jurisdiction of the Department of
7 Corrections who is serving a term of confinement, the minimum of
8 which is not more than two years and the maximum of which is
9 five years or less, or an inmate who is serving a term of
10 confinement, the minimum of which is not more than three years
11 where that inmate is within two years of completing his minimum
12 term, and who has not reached 40 years of age at the time he is
13 approved for participation in the motivational boot camp
14 program. The term shall not include any inmate who is subject to
15 a sentence the calculation of which included an enhancement for
16 the use of a deadly weapon as defined pursuant to the sentencing
17 guidelines promulgated by the Pennsylvania Commission on
18 Sentencing, any inmate who has been convicted or adjudicated
19 delinquent of any crime requiring registration under 42 Pa.C.S.
20 Ch. 97 Subch. H (relating to registration of sexual offenders)
21 or any inmate with a current conviction or a prior conviction
22 within the past ten years for [any of the following offenses:

23 18 Pa.C.S. § 2502 (relating to murder).

24 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

25 18 Pa.C.S. § 2506 (relating to drug delivery resulting in
26 death).

27 18 Pa.C.S. § 2901(a) (relating to kidnapping).

28 18 Pa.C.S. § 3301(a)(1)(i) (relating to arson and related
29 offenses).

30 18 Pa.C.S. § 3502 (relating to burglary) in the case of

1 burglary of a structure adapted for overnight accommodation
2 in which at the time of the offense any person is present.

3 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
4 robbery).

5 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

6 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3)(iii) or (4)
7 (iii) (relating to drug trafficking sentencing and

8 penalties).] drug trafficking as defined in section 4103

9 (relating to definitions) or a crime of violence as defined

10 in 42 Pa.C.S. § 9714(g) (relating to sentences for second or
11 subsequent offenses).

12 * * *

13 Section 8. Sections 3904(b) and 3905(e) of Title 61 are
14 amended to read:

15 § 3904. Selection of inmate participants.

16 * * *

17 (b) Duties of sentencing judge.--The sentencing judge shall
18 employ the sentencing guidelines to identify those defendants
19 who are eligible for participation in a motivational boot camp.
20 The judge shall have the discretion to exclude a defendant from
21 eligibility if the judge determines that the defendant would be
22 inappropriate for placement in a motivational boot camp. The
23 judge shall note on the sentencing order whether the defendant
24 has been [identified as eligible] excluded from eligibility for
25 a motivational boot camp program.

26 * * *

27 § 3905. Motivational boot camp program.

28 * * *

29 [(e) Evaluation.--The department and the commission shall
30 monitor and evaluate the motivational boot camp programs to

1 ensure that the programmatic objectives are met. Both shall
2 present biennial reports of the evaluations to the Judiciary
3 Committee of the Senate and the Judiciary Committee of the House
4 of Representatives no later than February 1 in alternate years.]

5 Section 9. The heading of Chapter 41 of Title 61 is amended
6 to read:

7 CHAPTER 41

8 STATE [INTERMEDIATE PUNISHMENT] DRUG TREATMENT PROGRAM

9 Section 10. Section 4101 of Title 61 is amended to read:

10 § 4101. Scope of chapter.

11 This chapter relates to the State [intermediate punishment]
12 drug treatment program.

13 Section 11. The definitions of "eligible offender" and
14 "participant" in section 4103 of Title 61 are amended and the
15 section is amended by adding a definition to read:

16 § 4103. Definitions.

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

20 * * *

21 "Drug trafficking." A violation of section 13(a)(14), (30)
22 or (37) of the act of April 14, 1972 (P.L.233, No.64), known as
23 The Controlled Substance, Drug, Device and Cosmetic Act, where
24 the controlled substance is:

25 (1) Marijuana, if the amount of marijuana involved is at
26 least 50 pounds or at least 51 live plants.

27 (2) A narcotic drug classified in Schedule I or Schedule
28 II under section 4 of The Controlled Substance, Drug, Device
29 and Cosmetic Act, if the aggregate weight of the compound or
30 mixture containing the substance involved is at least 100

1 grams.

2 (3) Any of the following, if the aggregate weight of the
3 compound or mixture of the substance involved is at least 100
4 grams:

5 (i) Coca leaves.

6 (ii) A salt, compound, derivative or preparation of
7 coca leaves.

8 (iii) A salt, compound, derivative or preparation
9 which is chemically equivalent or identical with any of
10 the substances under subparagraphs (i) and (ii).

11 (iv) A mixture containing any of the substances
12 under subparagraphs (i) and (ii), except decocainized
13 coca leaves or extracts of coca leaves which do not
14 contain cocaine or ecgonine.

15 (4) Any of the following, if the aggregate weight of the
16 compound or mixture of the substance involved is at least 100
17 grams:

18 (i) Methamphetamine.

19 (ii) Phencyclidine.

20 (iii) A salt, isomer or salt of an isomer of
21 methamphetamine or phencyclidine.

22 (iv) A mixture containing:

23 (A) Methamphetamine or phencyclidine.

24 (B) A salt of methamphetamine or phencyclidine.

25 (C) An isomer of methamphetamine or
26 phencyclidine.

27 (D) A salt of an isomer of methamphetamine or
28 phencyclidine.

29 "Eligible [offender." Subject to 42 Pa.C.S. § 9721(a.1)
30 (relating to sentencing generally), a defendant] person."

1 (1) A person who has not been designated by the
2 sentencing court as ineligible and is a person convicted of a
3 drug-related offense who:

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

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

13 [(3) Would be placed in the custody of the
14 department if not sentenced to State intermediate
15 punishment.] (iii) Is a person sentenced to a term of
16 confinement under the jurisdiction of the department, the
17 minimum of which is not more than two years, or a person
18 who is serving a term of confinement, the minimum of
19 which is not more than five years where the person is
20 within two years of completing the person's minimum term.

21 [(4)] (iv) Provides written consent permitting
22 release of information pertaining to the [defendant's]
23 person's participation in [a drug offender] the State
24 drug treatment program.

25 (2) The term shall not include a [defendant] person who
26 is subject to a sentence the calculation of which includes an
27 enhancement for the use of a deadly weapon, as defined
28 pursuant to law or the sentencing guidelines promulgated by
29 the Pennsylvania Commission on Sentencing, a [defendant]
30 person who has been convicted or adjudicated delinquent of

1 any crime requiring registration under 42 Pa.C.S. Ch. 97
2 Subch. H (relating to registration of sexual offenders) or a
3 [defendant] person with a current conviction or a prior
4 conviction within the past ten years for [any of the
5 following offenses:

6 18 Pa.C.S. § 2502 (relating to murder).

7 18 Pa.C.S. § 2503 (relating to voluntary manslaughter).

8 18 Pa.C.S. § 2506 (relating to drug delivery resulting in
9 death).

10 18 Pa.C.S. § 2901(a) (relating to kidnapping).

11 18 Pa.C.S. § 3301(a)(1)(i) (relating to arson and related
12 offenses).

13 18 Pa.C.S. § 3502 (relating to burglary), in the case of
14 burglary of a structure adapted for overnight accommodation
15 in which at the time of the offense any person is present.

16 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to
17 robbery).

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

19 18 Pa.C.S. § 7508 (a)(1)(iii), (2)(iii), (3)(iii) or (4)
20 (iii) (relating to drug trafficking sentencing and
21 penalties).] drug trafficking as defined in 42 Pa.C.S. § 4103
22 (relating to definitions) or a crime of violence as defined
23 in 42 Pa.C.S. § 9714(g) (relating to sentences for second or
24 subsequent offenses).

25 * * *

26 "Participant." An eligible [offender actually sentenced to
27 State intermediate punishment pursuant to 42 Pa.C.S. § 9721(a)
28 (7) (relating to sentencing generally).] person placed in the
29 State drug treatment program.

30 * * *

1 Section 12. Sections 4104, 4105 and 4107 of Title 61 are
2 amended to read:

3 § 4104. [Referral to State intermediate punishment] Selection
4 for the State drug treatment program.

5 (a) [Referral for evaluation.--

6 (1) Prior to imposing a sentence, the court may, upon
7 motion of the Commonwealth, commit a defendant to the custody
8 of the department for the purpose of evaluating whether the
9 defendant would benefit from a drug offender treatment
10 program and whether placement in the drug offender treatment
11 program is appropriate.

12 (1.1) Duties of commission and sentencing judge.--

13 (1) Through the use of sentencing guidelines, the
14 commission shall employ the term "eligible person" as defined
15 in this chapter to further identify persons who would be
16 potentially appropriate for participation in the State drug
17 treatment program. The sentencing judge shall employ the
18 sentencing guidelines to identify persons who are eligible
19 for participation in the State drug treatment program. The
20 judge shall consider the position of a victim of the crime,
21 as advised by the prosecuting attorney, on whether to exclude
22 the person from eligibility for placement in the State drug
23 treatment program. The judge shall exclude the person from
24 eligibility if the prosecuting attorney opposes eligibility.
25 The judge shall note on the sentencing order if a person has
26 been excluded from eligibility for the State drug treatment
27 program. If the person is not excluded from eligibility, the
28 minimum sentence imposed shall operate as the minimum for
29 parole eligibility purposes if the person is not placed in
30 the program by the department under subsection (c) or if the

1 person is expelled from the program under section 4105(f)
2 (relating to State drug treatment program).

3 (2) (i) The prosecuting attorney shall advise the court
4 if the prosecuting attorney or a victim of the crime opposes
5 eligibility and, in the prosecuting attorney's sole
6 discretion, may advise the court that the Commonwealth has
7 elected to waive the eligibility requirements of this chapter
8 if the victim has been given notice of the prosecuting
9 attorney's intent to waive the eligibility requirements and
10 an opportunity to be heard on the issue.

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

14 [(2) Upon committing a defendant to the department, the
15 court shall forward to the department:

16 (i) A summary of the offense for which the defendant
17 has been convicted.

18 (ii) Information relating to the defendant's history
19 of delinquency or criminality, including the information
20 maintained by the court under 42 Pa.C.S. Ch. 63 (relating
21 to juvenile matters), when available.

22 (iii) Information relating to the defendant's
23 history of drug or alcohol abuse or addiction, when
24 available.

25 (iv) A presentence investigation report, when
26 available.

27 (v) Any other information the court deems relevant
28 to assist the department with its assessment of the
29 defendant.]

30 (b) Assessment of [addiction.--

1 (1) ~~The~~] addiction.--The department shall conduct an
2 assessment of the addiction and other treatment needs of [a
3 defendant] an eligible person and determine whether the
4 [defendant] person would benefit from [a drug offender] the
5 State drug treatment program. The assessment shall be
6 conducted using a nationally recognized assessment instrument
7 or an instrument that has been normed and validated on the
8 department's inmate population by a recognized expert in such
9 matters. The assessment instrument shall be administered by
10 persons skilled in the treatment of drug and alcohol
11 addiction and trained to conduct assessments. The assessments
12 shall be reviewed and approved by a supervisor with at least
13 three years of experience providing drug and alcohol
14 counseling services.

15 (2) The department shall conduct risk and other
16 assessments it deems appropriate and shall provide a report
17 of its assessments to the court, the defendant, the attorney
18 for the Commonwealth and the commission within 60 days of the
19 court's commitment of the defendant to the custody of the
20 department.]

21 (c) [Proposed drug offender] Placement in the State drug
22 treatment program.--If the department in its discretion believes
23 [a defendant] an eligible person would benefit from [a drug
24 offender] the State drug treatment program and placement in the
25 [drug offender treatment] program is appropriate, the department
26 shall [provide] make the placement and notify the court, counsel
27 for the defendant[,] and the attorney for the Commonwealth [and
28 the commission with a proposed drug offender treatment program
29 detailing the type of treatment proposed] of the placement.

30 [(d) Prerequisites for commitment.--Upon receipt of a

1 recommendation for placement in a drug offender treatment
2 program from the department and agreement of the attorney for
3 the Commonwealth, the court may sentence an eligible offender to
4 a period of 24 months of State intermediate punishment if the
5 court finds that:

6 (1) The eligible offender is likely to benefit from
7 State intermediate punishment.

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

10 (3) Sentencing the eligible offender to State
11 intermediate punishment would not depreciate the seriousness
12 of the offense.

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

19 (1) The department has recommended placement in a drug
20 offender treatment program.

21 (2) The attorney for the Commonwealth and the offender
22 have agreed to the placement and modification of sentence.

23 (3) The court makes the findings set forth under
24 subsection (d).

25 (4) The resentencing has occurred within 365 days of the
26 date of the defendant's admission to the custody of the
27 department.

28 (5) The court has otherwise complied with all other
29 requirements for the imposition of sentence including victim
30 notification under the act of November 24, 1998 (P.L.882,

1 No.111), known as the Crime Victims Act.]

2 (f) Consecutive probation.--Nothing in this chapter shall
3 prohibit the court from sentencing an eligible [offender] person
4 to a consecutive period of probation. The total duration of the
5 sentence may not exceed the maximum term for which the eligible
6 [offender] person could otherwise be sentenced.

7 [(g) Applicability and program limitations.--The court may
8 not modify or alter the terms of the department's proposed
9 individualized drug offender treatment plan without the
10 agreement of the department and the attorney for the
11 Commonwealth.

12 (h) Videoconferencing.--The department shall make
13 videoconferencing facilities available to allow the court to
14 conduct proceedings necessary under this section when the
15 eligible offender has been committed to the custody of the
16 department pursuant to subsection (b).

17 (i) Victims.--Victims of personal injury crimes shall be
18 given the opportunity to receive notice of and to provide prior
19 comment on any recommendation by the department under subsection
20 (b) or (d) that the offender participate in the State
21 Intermediate Punishment Program.

22 (j) Definitions.--As used in this section, the term
23 "personal injury crime" shall be defined as in section 103 of
24 the act of November 24, 1998 (P.L.882, No.111), known as the
25 Crime Victims Act.]

26 § 4105. [Drug offender] State drug treatment program.

27 (a) Establishment.--The department shall establish and
28 administer [a drug offender] the State drug treatment program
29 [as a State intermediate punishment]. The program shall be
30 designed to address the individually assessed drug and alcohol

1 abuse and addiction needs of a participant and shall address
2 other issues essential to the participant's successful
3 reintegration into the community, including, but not limited to,
4 educational and employment issues.

5 (b) Duration and components.--Notwithstanding any credit to
6 which the defendant may be entitled under 42 Pa.C.S. § 9760
7 (relating to credit for time served), the duration of the State
8 drug [offender] treatment program [shall be] is 24 months [and],
9 but if the participant is unable to complete the program within
10 24 months and is otherwise compliant with the program, subject
11 to the discretion of the department, the program duration may be
12 extended up to 30 months total in order for the participant to
13 successfully complete the program. The program shall include the
14 following:

15 (1) A period in a State correctional institution of not
16 less than seven months. This period shall include:

17 (i) The time during which the [defendants are]
18 eligible person is being evaluated by the department
19 under section 4104(b) (relating to [referral to State
20 intermediate punishment] selection for the State drug
21 treatment program).

22 (ii) Following evaluation under subparagraph (i),
23 not less than four months shall be in an institutional
24 therapeutic community.

25 (2) A period of treatment in a community-based
26 therapeutic community of at least two months.

27 (3) A period of at least six-months' treatment through
28 an outpatient addiction treatment facility. During the
29 outpatient addiction treatment period of the [drug offender
30 treatment] program, the participant may be housed in a

1 community corrections center or group home or placed in an
2 approved transitional residence. The participant must comply
3 with any conditions established by the department regardless
4 of where the participant resides during the outpatient
5 addiction treatment portion of the [drug offender treatment]
6 program.

7 (4) A period of supervised reintegration into the
8 community for the balance of the [drug offender treatment]
9 program, during which the participant shall continue to be
10 supervised by the department and comply with any conditions
11 imposed by the department.

12 (5) Upon certification by the department of the
13 participant's successful completion of the program, the
14 entire term of confinement that rendered the participant
15 eligible to participate in the State drug treatment program
16 shall be deemed to have been served.

17 (c) Program management.--

18 (1) Consistent with the minimum time requirements set
19 forth in subsection (b), the department may transfer, at its
20 discretion, a participant between a State correctional
21 institution, an institutional therapeutic community, a
22 community-based therapeutic community, an outpatient
23 addiction treatment program and an approved transitional
24 residence. The department may also transfer a participant
25 back and forth between less restrictive and more restrictive
26 settings based upon the participant's progress or regression
27 in treatment or for medical, disciplinary or other
28 administrative reasons.

29 (2) This subsection shall be construed to provide the
30 department with the maximum flexibility to administer the

1 State drug [offender] treatment program both as a whole and
2 for individual participants.

3 (d) Right of refusal to admit.--The administrator of a
4 community-based therapeutic community or outpatient addiction
5 treatment facility may refuse to accept a participant whom the
6 administrator deems to be inappropriate for admission and may
7 immediately discharge to the custody of the department any
8 participant who fails to comply with facility rules and
9 treatment expectations or refuses to constructively engage in
10 the treatment process.

11 (e) Notice to court of completion of program.--When the
12 department determines that a participant has successfully
13 completed the State drug [offender] treatment program, it shall
14 notify the sentencing court, the attorney for the Commonwealth
15 and the commission.

16 (f) Expulsion from program.--

17 (1) A participant may be expelled from the State drug
18 [offender] treatment program at any time in accordance with
19 guidelines established by the department, including failure
20 to comply with administrative or disciplinary procedures or
21 requirements set forth by the department. An expelled
22 participant shall be housed in a State correctional
23 institution to serve the remainder of the participant's
24 sentence. The expelled participant shall be eligible for
25 parole at the minimum sentence but may not be eligible for
26 short sentence parole under section 6137.5 (relating to short
27 sentence parole).

28 (2) The department shall promptly notify the court, the
29 [defendant] participant, the attorney for the Commonwealth
30 and the commission of the expulsion of a participant from the

1 State drug [offender] treatment program and the reason for
2 such expulsion. [The participant shall be housed in a State
3 correctional institution or county jail pending action by the
4 court.

5 (3) The court shall schedule a prompt State intermediate
6 punishment revocation hearing pursuant to 42 Pa.C.S. § 9774
7 (relating to revocation of State intermediate punishment
8 sentence).]

9 § 4107. [Reports] Evaluation.

10 [(a) Final report.--The department shall provide a final
11 report to the court, the defendant, the attorney for the
12 Commonwealth and the commission on a participant's progress in
13 the drug offender treatment program.]

14 (b) Evaluation and report to General Assembly.--The
15 department [and the commission] shall monitor and evaluate the
16 State drug [offender] treatment program to ensure that the
17 programmatic objectives are met. [In odd-numbered years, the]
18 Every three years, the department shall present a report of its
19 evaluation to the Judiciary Committee of the Senate and the
20 Judiciary Committee of the House of Representatives no later
21 than February 1. [In even-numbered years, the commission shall
22 present a report of its evaluation to the Judiciary Committee of
23 the Senate and the Judiciary Committee of the House of
24 Representatives no later than February 1.] The General Assembly
25 shall convene hearings in the appropriate committees to hear and
26 deliberate upon reports under this section. The report shall
27 include:

28 (1) The number of [offenders] persons evaluated for the
29 State drug [offender] treatment program.

30 (2) The number of [offenders sentenced to] persons

1 placed into the State drug [offender] treatment program.

2 (3) The number of [offenders] persons sentenced to a
3 State correctional institution who may have been eligible for
4 the State drug [offender] treatment program.

5 (4) The number of [offenders] persons successfully
6 completing the State drug [offender] treatment program.

7 (5) The six-month, one-year, three-year and five-year
8 recidivism rates for [offenders] persons who have completed
9 the State drug [offender] treatment program and for a
10 comparison group of [offenders] persons who were not placed
11 in the State drug [offender] treatment program.

12 (6) Any changes the department [or the commission]
13 believes will make the State drug [offender] treatment
14 program more effective.

15 Section 13. The definition of "eligible offender" in section
16 4503 of Title 61 is amended to read:

17 § 4503. Definitions.

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

21 * * *

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

26 (1) Does not demonstrate a history of present or past
27 violent behavior.

28 (2) Has not been subject to a sentence the calculation
29 of which includes an enhancement for the use of a deadly
30 weapon as defined under law or the sentencing guidelines

1 promulgated by the Pennsylvania Commission on Sentencing or
2 the attorney for the Commonwealth has not demonstrated that
3 the defendant has been found guilty of or was convicted of an
4 offense involving a deadly weapon or offense under 18 Pa.C.S.
5 Ch. 61 (relating to firearms and other dangerous articles) or
6 the equivalent offense under the laws of the United States or
7 one of its territories or possessions, another state, the
8 District of Columbia, the Commonwealth of Puerto Rico or a
9 foreign nation.

10 (3) Has not been found guilty of or previously convicted
11 of or adjudicated delinquent for or an attempt or conspiracy
12 to commit a personal injury crime as defined under section
13 103 of the act of November 24, 1998 (P.L.882, No.111), known
14 as the Crime Victims Act, except for an offense under 18
15 Pa.C.S. § 2701 (relating to simple assault) when the offense
16 is a misdemeanor of the third degree, or an equivalent
17 offense under the laws of the United States or one of its
18 territories or possessions, another state, the District of
19 Columbia, the Commonwealth of Puerto Rico or a foreign
20 nation.

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

27 18 Pa.C.S. § 4302(a) (relating to incest).

28 18 Pa.C.S. § 5901 (relating to open lewdness).

29 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
30 child pornography).

1 Received a criminal sentence pursuant to 42 Pa.C.S. §
2 9712.1 (relating to sentences for certain drug offenses
3 committed with firearms).

4 Any offense for which registration is required under
5 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
6 sexual offenders).

7 Drug trafficking as defined in section 4103 (relating
8 to definitions).

9 (5) Is not awaiting trial or sentencing for additional
10 criminal charges, if a conviction or sentence on the
11 additional charges would cause the defendant to become
12 ineligible under this definition.

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

20 * * *

21 Section 14. Sections 4509 and 4510 of Title 61 are repealed:

22 [§ 4509. Evaluation.

23 (a) General rule.--The department, the board and the
24 commission shall monitor and evaluate the recidivism risk
25 reduction incentive programs. Evaluations under this section
26 should be scientifically rigorous and seek to determine the
27 effectiveness of the programs, including whether specific
28 recidivism risk reduction incentive programs have reduced the
29 recidivism rates of the program participants as compared to
30 previously incarcerated and similarly situated inmates.

1 (b) Publication.--The department, the board and the
2 commission shall make evaluations conducted under this section
3 and underlying data available to the public. The publicly
4 available data and evaluations shall comply with generally
5 accepted practices of the research community, including
6 expectations relating to subject privacy and identifying
7 information.

8 § 4510. Reports.

9 (a) Recidivism risk reduction.--The department, the board
10 and the commission shall monitor and evaluate the recidivism
11 risk reduction incentive programs to ensure that the goals and
12 objectives of this chapter are met and shall report to the
13 General Assembly as follows:

14 (1) In even-numbered years, the department shall present
15 a report of its evaluation to the Judiciary Committee of the
16 Senate and the Judiciary Committee of the House of
17 Representatives no later than February 1. The report shall
18 include all of the following:

19 (i) The number of inmates determined by the
20 department to be eligible offenders under this chapter
21 and the offenses for which the eligible offenders were
22 committed to the custody of the department.

23 (ii) The number of inmates committed to the custody
24 of the department who were subject to a recidivism risk
25 reduction incentive minimum sentence.

26 (iii) The number of inmates paroled at the
27 recidivism risk reduction incentive minimum date.

28 (iv) Any potential changes that would make the
29 program more effective.

30 (v) The six-month, one-year, three-year and five-

1 year recidivism rates for inmates released at the
2 recidivism risk reduction incentive minimum sentence.

3 (vi) Any other information the department deems
4 relevant.

5 (2) In odd-numbered years, the commission shall present
6 a report of its evaluation to the Judiciary Committee of the
7 Senate and the Judiciary Committee of the House of
8 Representatives no later than February 1. The report shall
9 include all of the following:

10 (i) Whether the goals of this chapter could be
11 achieved through amendments to parole or sentencing
12 guidelines.

13 (ii) The various options for parole or sentencing
14 guidelines under subparagraph (i).

15 (iii) The status of any proposed or implemented
16 guidelines designed to implement the provisions of this
17 chapter.

18 (iv) Any potential changes to the program that would
19 be likely to reduce the risk of recidivism of inmates and
20 improve public safety.

21 (v) Any other information the commission deems
22 relevant.

23 (b) Educational plan.--

24 (1) The Pennsylvania Commission on Crime and Delinquency
25 shall publish a report of a proposed educational program plan
26 within one year of the effective date of this section. The
27 proposed educational program plan shall be developed in
28 consultation with the department, the commission, the board,
29 the Pennsylvania District Attorneys Association, the victim
30 advocate and representatives of the judiciary and the

1 criminal defense bar and other criminal justice stakeholders.

2 (2) The plan shall seek to provide cost-effective
3 training or information through electronic means,
4 publications or continuing educational programs that address
5 the following topics:

6 (i) The treatment programs available through the
7 board and the department.

8 (ii) The availability of programs and eligibility
9 requirements that can reduce recidivism risk, including
10 State intermediate punishment, motivational boot camp and
11 recidivism risk reduction incentive programs.

12 (iii) The calculation of sentencing credit and
13 practices that could inadvertently prevent an inmate from
14 receiving sentence credit.

15 (iv) Recent statutory changes relating to
16 sentencing, place of confinement, medical releases,
17 transfer of inmates and parole.]

18 Section 15. The heading of Subchapter B of Chapter 61 of
19 Title 61 is amended to read:

20 SUBCHAPTER B

21 ADMINISTRATION OF THE PENNSYLVANIA PAROLE BOARD

22 Section 16. Section 6101 and 6111 heading and (a) of Title
23 61 are amended to read:

24 § 6101. Definitions.

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

28 "Board." The Pennsylvania [Board of Probation and] Parole
29 Board.

30 § 6111. Pennsylvania [Board of Probation and] Parole Board.

1 (a) Establishment.--The Pennsylvania [Board of Probation
2 and] Parole Board is an independent administrative board for the
3 administration of the [probation and] parole laws of this
4 Commonwealth.

5 * * *

6 Section 17. Section 6123 of Title 61 is repealed:

7 [~~§ 6123. Advisory committee.~~

8 (a) Establishment.--An advisory committee on probation is
9 reestablished to assist the board.

10 (b) Composition.--The advisory committee shall consist of
11 nine members, seven of whom shall be appointed by the Governor,
12 with the consent of a majority of the members of the Senate. At
13 least two shall be judges of courts of record of this
14 Commonwealth, at least one shall be a county commissioner, at
15 least one shall be a chief county probation officer, and the
16 remaining members shall be qualified in the field of probation
17 and parole either by training or experience. The President pro
18 tempore of the Senate and the Speaker of the House of
19 Representatives shall each appoint a member of their respective
20 houses to serve as members of the committee.

21 (c) Terms.--

22 (1) The term of a member hereafter appointed, except to
23 fill a vacancy, shall be for four years and until their
24 successors have been appointed and qualified, but in no event
25 more than 90 days beyond the expiration of their appointed
26 term.

27 (2) The terms of members of the committee who are
28 appointed by virtue of holding an office as a member of the
29 General Assembly, judge, chief county probation officer or
30 county commissioner shall continue only so long as that

1 person remains in that office.

2 (3) Vacancies occurring in an office of a member of the
3 advisory committee by expiration of term, death, resignation,
4 removal or for any other reason shall be filled in the manner
5 provided by section 8 of Article IV of the Constitution of
6 Pennsylvania for the remainder of the term.

7 (4) Whenever the term of an advisory committee member,
8 other than one who is a member of the General Assembly,
9 expires, that member's position shall be immediately deemed a
10 vacancy, and the Governor shall nominate a person to fill
11 that membership position on the committee within 90 days of
12 the date of expiration, even if the member continues to
13 remain on the committee. The Governor shall designate one of
14 the members of the committee as its chairperson.

15 (d) Reimbursement of expenses.--Each member of the advisory
16 committee shall be paid all reasonable and necessary travel and
17 other expenses incurred by him in the performance of his duties.

18 (e) Assistance to be provided.--The advisory committee shall
19 aid the chairperson and the board in formulating and reviewing
20 standards for probation personnel and probation services in the
21 counties.]

22 Section 18. Sections 6131(a)(3), (4) and (5), 6133(c) and
23 (d) and 6137(a)(1) of Title 61 are amended to read:

24 § 6131. General powers of board.

25 (a) General rule.--The board shall have the power and its
26 duty shall be:

27 * * *

28 (3) To collect and maintain a record of all persons who
29 are placed on [probation and] parole.

30 [(4) To collect, compile and publish statistical and

1 other information relating to probation and parole work in
2 all courts and such other information the board may deem of
3 value in probation service.

4 (5) To establish, by regulation, uniform Statewide
5 standards for:

6 (i) Presentence investigations.

7 (ii) The supervision of probationers.

8 (iii) The qualifications for probation personnel.

9 (iv) Minimum salaries.

10 (v) Quality of probation service.

11 The standards for the qualifications of probation personnel
12 shall only apply to probation personnel appointed after the
13 date the standards are established. Should any probation
14 personnel appointed prior to the date the standards were
15 established fail to meet the standards, the court having
16 jurisdiction of such personnel may request the board to
17 establish in-service training for them in accordance with the
18 standards.]

19 * * *

20 § 6133. Probation services.

21 * * *

22 (c) [Grant-in-aid.--

23 (1) A county that provides additional probation staff
24 for presentence investigations and improved probation
25 supervision and programs shall receive a grant-in-aid from
26 the Commonwealth through the board for additional costs
27 incurred thereby but only to the extent that the additional
28 staff and program meet the qualifications and standards
29 established by the board.

30 (2) The grant-in-aid shall provide 80% of the personnel

1 salary costs incurred by a county to administer these
2 additional services and programs.

3 (3) If insufficient funds are appropriated, each county
4 shall receive a prorated reduction in the grant-in-aid.

5 (4) The board shall establish rules and regulations for
6 the allocation of funds available for such grants-in-aid.]

7 Supervision and investigation.--Supervision and presentence
8 investigations by court order or request shall be provided in
9 accordance with board regulations.

10 (d) In-service training.--The board shall provide in-service
11 training for personnel of county probation offices when
12 requested to do so by the court having jurisdiction of the
13 probation office[.] as provided by memorandum of understanding
14 with the Pennsylvania Commission on Crime and Delinquency and
15 contingent upon the availability of money.

16 § 6137. Parole power.

17 (a) General criteria for parole.--

18 (1) The board may parole subject to consideration of
19 guidelines established under 42 Pa.C.S. § 2154.5 (relating to
20 adoption of guidelines for parole) or subject to section
21 6137.5 (relating to short sentence parole) and may release on
22 parole any inmate to whom the power to parole is granted to
23 the board by this chapter, except an inmate condemned to
24 death or serving life imprisonment, whenever in its opinion:

25 (i) The best interests of the inmate justify or
26 require that the inmate be paroled.

27 (ii) It does not appear that the interests of the
28 Commonwealth will be injured by the inmate's parole.

29 * * *

30 Section 19. Title 61 is amended by adding a section to read:

1 § 6137.5. Short sentence parole.

2 (a) General rule.--This section applies to persons committed
3 to the department with a minimum sentence of confinement under
4 42 Pa.C.S. § 9756(b) (relating to sentence of total confinement)
5 of two years or less or a recidivism risk reduction incentive
6 minimum sentence under 42 Pa.C.S. § 9756(b.1) of two years or
7 less, whichever is shorter. Regardless of sentence imposed, this
8 section does not apply to:

9 (1) persons committed for or with an aggregate sentence
10 containing a personal injury crime as defined in section 103
11 of the act of November 24, 1998 (P.L.882, No.111), known as
12 the Crime Victims Act;

13 (2) persons committed for or with an aggregate sentence
14 containing an offense under 18 Pa.C.S. § 6105 (relating to
15 persons not to possess, use, manufacture, control, sell or
16 transfer firearms); or

17 (3) persons who are currently serving a sentence to
18 State prison and have been denied parole on that sentence
19 prior to the effective date of this section.

20 (b) Approval of parole.--The board shall, without requiring
21 an interview, approve for parole at the expiration of the
22 eligible person's minimum date or recidivism risk reduction
23 incentive minimum date, whichever is shorter, unless the person
24 has:

25 (1) been found guilty of a major disciplinary infraction
26 while confined in a county correctional institution or State
27 correctional institution; or

28 (2) a pending felony charge or outstanding felony arrest
29 warrant or detainer, except that this section may be applied
30 to allow a person to be paroled to a detainer related to an

1 underlying felony charge.

2 (c) Nonapplicability.--The requirements of sections 6135
3 (relating to investigation of circumstances of offense), 6137(a)
4 (3.1), (e)(1), (f) and (g) (relating to parole power) and 6139
5 (relating to parole procedure) and section 1101(e) of the Crime
6 Victims Act do not apply to paroles under this section.

7 (d) Assessment.--The department shall provide a risk and
8 needs assessment to the board and the board shall establish
9 initial conditions of parole based on the assessment.

10 (e) Procedures.--The chairman of the board shall adopt
11 procedures to carry out this section.

12 (f) Definition.--As used in this section, the term "major
13 disciplinary infraction" means:

14 (1) committing a violation equivalent to an incident
15 that could lead to a conviction under 18 Pa.C.S. (relating to
16 crimes and offenses);

17 (2) wearing a disguise;

18 (3) tattooing;

19 (4) gambling;

20 (5) Threatening harm to another person upon or following
21 release; or

22 (6) possessing dangerous contraband while incarcerated.

23 Section 20. Section 6138(c) of Title 61 is amended by adding
24 a paragraph to read:

25 § 6138. Violation of terms of parole.

26 * * *

27 (c) Technical violators.--

28 * * *

29 (8) A parolee under the board's supervision who is
30 alleged to have committed a technical parole violation may be

1 arrested and detained for a period not to exceed seven days,
2 provided that either the parolee is detained on a 48-hour
3 warrant or the parolee is brought before a hearing examiner
4 within 48 hours to determine if the parolee shall be released
5 or held for the remainder of the seven days or a shorter
6 period. The chairman of the board shall adopt procedures
7 governing the appropriate use of brief detention under this
8 section so that technical violations enumerated under
9 paragraph (1) are not resolved with brief detention.

10 * * *

11 Section 21. Section 6139(a)(6) and (b) of Title 61 are
12 amended to read:

13 § 6139. Parole procedure.

14 (a) Specific requirements.--

15 * * *

16 (6) In no case shall a parole be granted, or an
17 application for parole be dismissed, unless a board member,
18 hearing examiner or other person so designated by the board
19 shall have seen and heard the parolee in person in regard
20 thereto within six months prior to the granting or dismissal
21 thereof. This requirement does not apply to paroles under
22 section 6137.5 (relating to short sentence parole) or to
23 persons scored as low probability to parole or high
24 probability to parole under parole guidelines adopted under
25 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for
26 parole).

27 * * *

28 (b) Reliance on reports.--In granting and revoking paroles
29 and in discharging from parole, the members of the board acting
30 thereon shall not be required to personally hear or see all the

1 witnesses and evidence submitted to them for their action, but
2 they may act on the report submitted to them by their agents and
3 employees, together with any pertinent and adequate information
4 furnished to them by fellow members of the board or by others.
5 In granting or revoking parole or bringing an alleged parole
6 violator before a hearing examiner, the appearance may be
7 conducted via videoconferencing or similar virtual presence
8 technology.

9 * * *

10 Section 22. This act shall take effect as follows:

11 (1) The following shall take effect in 60 days:

12 (i) The amendment of 42 Pa.C.S. §§ 2154, 2154.1 and
13 2154.7.

14 (ii) The repeal of 42 Pa.C.S. § 2154.2.

15 (iii) The amendment of 61 Pa.C.S. Ch. 61 Subch. B
16 heading.

17 (iv) The amendment of 61 Pa.C.S. §§ 6101, 6111,
18 6131(a)(3), (4) and (5) and 6133(c) and (d).

19 (v) The repeal of 61 Pa.C.S. § 6123.

20 (2) The following shall take effect in 120 days:

21 (i) The amendment of 61 Pa.C.S. §§ 6137(a)(1),
22 6138(c) and 6139(a)(6) and (b).

23 (ii) The addition of 61 Pa.C.S. § 6137.5.

24 (3) The remainder of this act shall take effect
25 immediately.