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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1799 Session of  
2019

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INTRODUCED BY McCLINTON, HARRIS, HOHENSTEIN, RABB, HILL-EVANS,  
KINSEY, BULLOCK, FRANKEL, FIEDLER, DAWKINS AND WHEATLEY,  
SEPTEMBER 12, 2019

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 12, 2019

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania consolidated statutes, in judicial boards and  
3 commissions, further providing for powers and duties of the  
4 Pennsylvania Commission on Sentencing and for adoption of  
5 guidelines for parole, repealing provisions relating to  
6 adoption of risk assessment instrument and further providing  
7 for publication of guidelines for sentencing, resentencing  
8 and parole, risk assessment instrument and recommitment  
9 ranges following revocation.

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

12 Section 1. Sections 2153(a)(14) and (15) and 2154.5(a)(6) of  
13 Title 42 of the Pennsylvania Consolidated Statutes are amended  
14 to read:

15 § 2153. Powers and duties.

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

18 \* \* \*

19 (14) Establish a program to systematically monitor  
20 compliance with the guidelines, [with the risk assessment  
21 instrument,] with recommitment ranges and with mandatory

1 sentencing laws to document eligibility for and releases  
2 pursuant to a county reentry plan, to document eligibility  
3 for and imposition of recidivism risk reduction incentive  
4 minimum sentences and to document all parole and reparole  
5 decisions by the board and any other paroling authority by:

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

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

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

20 (i) Resources that are required under current  
21 guidelines[, risk assessment instrument] and ranges.

22 (ii) Resources that would be required to carry out  
23 any proposed changes to the guidelines[, risk assessment  
24 instrument] and ranges.

25 \* \* \*

26 § 2154.5. Adoption of guidelines for parole.

27 (a) Adoption.--The commission shall adopt guidelines that  
28 shall be considered by the board and any other paroling entity  
29 when exercising its power to parole and reparole all persons  
30 sentenced by any court in this Commonwealth to imprisonment in

1 any correctional institution. The guidelines shall do all of the  
2 following:

3 \* \* \*

4 (6) [Use validated risk assessment tools, be] Be  
5 evidence based and take into account available research  
6 relating to the risk of recidivism, minimizing the threat  
7 posed to public safety and factors maximizing the success of  
8 reentry.

9 \* \* \*

10 Section 2. Section 2154.7 of Title 42 is repealed:

11 [§ 2154.7. Adoption of risk assessment instrument.]

12 (a) General rule.--The commission shall adopt a sentence  
13 risk assessment instrument for the sentencing court to use to  
14 help determine the appropriate sentence within the limits  
15 established by law for defendants who plead guilty or nolo  
16 contendere to or who were found guilty of felonies and  
17 misdemeanors. The risk assessment instrument may be used as an  
18 aide in evaluating the relative risk that an offender will  
19 reoffend and be a threat to public safety.

20 (b) Sentencing guidelines.--The risk assessment instrument  
21 may be incorporated into the sentencing guidelines under section  
22 2154 (relating to adoption of guidelines for sentencing).

23 (c) Presentence investigation report.--Subject to the  
24 provisions of the Pennsylvania Rules of Criminal Procedure, the  
25 sentencing court may use the risk assessment instrument to  
26 determine whether a more thorough assessment is necessary and to  
27 order a presentence investigation report.

28 (d) Alternative sentencing.--Subject to the eligibility  
29 requirements of each program, the risk assessment instrument may  
30 be an aide to help determine appropriate candidates for

1 alternative sentencing, including the recidivism risk reduction  
2 incentive, State and county intermediate punishment programs and  
3 State motivational boot camps.

4 (e) Definition.--As used in this section, the term "risk  
5 assessment instrument" means an empirically based worksheet  
6 which uses factors that are relevant in predicting recidivism.]

7 Section 3. Section 2155 of Title 42 is amended to read:

8 § 2155. Publication of guidelines for sentencing, resentencing  
9 and parole[, risk assessment instrument] and  
10 recommitment ranges following revocation.

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

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

22 (i) Pennsylvania District Attorneys Association.

23 (ii) Chiefs of Police Associations.

24 (iii) Fraternal Order of Police.

25 (iv) Public Defenders Organization.

26 (v) Law school faculty members.

27 (vi) State Board of Probation and Parole.

28 (vii) Department of Corrections.

29 (viii) Pennsylvania Bar Association.

30 (ix) Pennsylvania Wardens Association.

1 (x) Pennsylvania Association on Probation, Parole  
2 and Corrections.

3 (xi) Pennsylvania Conference of State Trial Judges.

4 (xii) Any other interested person or organization.

5 (2) Publish in the Pennsylvania Bulletin sentencing  
6 guidelines, resentencing guidelines following revocation of  
7 probation, county intermediate punishment and State  
8 intermediate punishment, parole guidelines[, risk assessment  
9 instrument] and recommitment ranges following revocation by  
10 the board of paroles granted as adopted by the commission.

11 (b) Rejection by General Assembly.--Subject to gubernatorial  
12 review pursuant to section 9 of Article III of the Constitution  
13 of Pennsylvania, the General Assembly may by concurrent  
14 resolution reject in their entirety any guidelines[, risk  
15 assessment instrument] or recommitment ranges adopted by the  
16 commission within 90 days of their publication in the  
17 Pennsylvania Bulletin pursuant to subsection (a) (2).

18 (c) Effective date.--

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

29 (2) If not disapproved, the commission shall conduct  
30 training and orientation for trial court judges and board

1 members prior to the effective date of the guidelines[, risk  
2 assessment instrument] and recommitment ranges.  
3 Section 4. This act shall take effect in 60 days.