

## No. 2004-112

## AN ACT

## SB 217

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the Pennsylvania Commission on Sentencing; further providing for intermediate punishment guidelines; providing for State intermediate punishment guidelines; further providing for sentencing generally, for partial confinement, for total confinement, for intermediate punishment and for modification of intermediate punishment; providing for revocation of State intermediate punishment; further providing for county intermediate punishment; providing for State intermediate punishment; codifying provisions relating to reporting functions of the Department of Corrections; making a repeal related to the codification; and making editorial changes.

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

Section 1. Section 2151 of Title 42 of the Pennsylvania Consolidated Statutes is repealed.

Section 2. Title 42 is amended by adding sections to read:

**§ 2151.1. Definitions.**

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

*“Commission.” The Pennsylvania Commission on Sentencing established in section 2151.2 (relating to commission).*

**§ 2151.2. Commission.**

*(a) General rule.—The commission shall be established as an agency of the General Assembly and shall consist of 11 persons selected as provided in this subchapter.*

*(b) Seal.—The commission shall have a seal engraved with its name and such other inscription as may be specified by regulation of the commission.*

Section 3. Section 2154.1 of Title 42 is amended to read:

**§ 2154.1. Adoption of guidelines for *county* intermediate punishment.**

The commission shall adopt guidelines to identify offenders who would be eligible and appropriate for participation in *county* intermediate punishment programs. These guidelines shall be considered by the sentencing court in determining whether to sentence an offender pursuant to section 9763 (relating to sentence of *county* intermediate punishment). The guidelines shall:

(1) Use the description of “eligible offender” provided in [section 9729 (relating to intermediate punishment).] *Chapter 98 (relating to county intermediate punishment).*

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

Section 4. Title 42 is amended by adding a section to read:

**§ 2154.2. Adoption of guidelines for State intermediate punishment.**

*The commission shall adopt guidelines to identify offenders who would be appropriate for participation in State intermediate punishment programs. These guidelines shall be considered by the attorney for the Commonwealth and the sentencing court in determining whether to commit a defendant for evaluation and whether to sentence an eligible offender pursuant to Chapter 99 (relating to State intermediate punishment). The guidelines shall:*

*(1) Use the description of "eligible offender" provided in Chapter 99.*

*(2) Give primary consideration to protection of the public safety.*

Section 5. Sections 9721(a) and (a.1), 9755(h), 9756(c.1), 9763(a) and (c) and 9773 of Title 42 are amended to read:

§ 9721. Sentencing generally.

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

- (1) An order of probation.
- (2) A determination of guilt without further penalty.
- (3) Partial confinement.
- (4) Total confinement.
- (5) A fine.
- (6) [Intermediate] County intermediate punishment.
- (7) State intermediate punishment.

(a.1) Exception.—[Unless specifically authorized under section 9763 (relating to sentence of intermediate punishment),]

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

*(2) An eligible offender may be sentenced to State intermediate punishment pursuant to subsection (a)(7) and as described in Chapter 99, even if a mandatory minimum sentence would otherwise be provided by law.*

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§ 9755. Sentence of partial confinement.

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(h) Sentence of partial confinement combined with sentence of county intermediate punishment.—The court may impose a sentence of partial confinement without parole under this subsection only when:

- (1) the period of partial confinement is followed immediately by a sentence imposed pursuant to section 9763 (relating to sentence of county intermediate punishment) in which case the sentence of partial

confinement shall specify the number of days of partial confinement to be served; and

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

§ 9756. Sentence of total confinement.

\* \* \*

(c.1) Sentence of total confinement combined with sentence of *county* intermediate punishment.—The court may impose a sentence of imprisonment without parole under this subsection only when:

(1) the period of total confinement is followed immediately by a sentence imposed pursuant to section 9763 (relating to sentence of *county* intermediate punishment) in which case the sentence of total confinement shall specify the number of days of total confinement also to be served; and

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

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§ 9763. Sentence of *county* intermediate punishment.

(a) General rule.—In imposing a sentence of *county* intermediate punishment, the court shall specify at the time of sentencing the length of the term for which the defendant is to be in **[an] a county** intermediate punishment program established under Chapter 98 (relating to county intermediate punishment) or a combination of *county* intermediate punishment programs. The term may not exceed the maximum term for which the defendant could be confined and the program to which the defendant is sentenced. The court may order a defendant to serve a portion of the sentence under section 9755 (relating to sentence of partial confinement) or 9756 (relating to sentence of total confinement) and to serve a portion in **[an] a county** intermediate punishment program or a combination of *county* intermediate punishment programs.

\* \* \*

(c) Restriction.—

(1) **[A defendant subject to]** *Any person receiving a penalty imposed pursuant to 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked), former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance) or 75 Pa.C.S. § 3804 (relating to penalties) for a first, second or third offense under 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs)* may only be sentenced to *county* intermediate punishment[:

(i) **for a first, second or third offense under 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs); and**

(ii) after undergoing an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments).]  
*after undergoing an assessment under 75 Pa.C.S. § 3814 (relating to drug and alcohol assessments).*

(2) If the defendant is determined to be in need of drug and alcohol treatment, the defendant may only be sentenced to *county* intermediate punishment which includes participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to mandatory sentencing). [Such treatment may be combined with house arrest with electronic surveillance or a partial confinement program such as work release, a work camp or a halfway facility.] *The defendant may only be sentenced to county intermediate punishment in:*

- (i) *a residential inpatient program or a residential rehabilitative center;*
- (ii) *house arrest with electronic surveillance;*
- (iii) *a partial confinement program such as work release, work camp and halfway facility; or*
- (iv) *any combination of the programs set forth in this paragraph.*

(3) If the defendant is determined not to be in need of drug and alcohol treatment, the defendant may only be sentenced to *county* intermediate punishment [by] *in:*

- (i) house arrest [or] *with* electronic surveillance;
- (ii) partial confinement programs such as work release, work camps and halfway facilities; or
- (iii) any combination of the programs set forth in this [subsection] *paragraph.*

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§ 9773. Modification or revocation of *county* intermediate punishment sentence.

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

(b) Revocation.—The court may revoke a sentence of *county* intermediate punishment upon proof of a violation of specific conditions of the sentence. Upon revocation and subject to section 9763(d) [(relating to sentence of intermediate punishment)], the sentencing alternatives available to the court shall be the same as the alternatives available at the time of initial sentencing. *Upon a revocation of county intermediate punishment for any reason specified by law, the attorney for the Commonwealth may file notice, at any time prior to resentencing, of the Commonwealth's intention to proceed under an applicable provision of law requiring a mandatory minimum sentence.* Consideration shall be given to the time served in the *county* intermediate punishment program.

(c) **Hearing required.**—A court shall not revoke or increase the conditions of a sentence of *county* intermediate punishment without a hearing at which the court shall consider the record of the initial sentencing proceeding as well as the conduct of the defendant while serving a sentence of *county* intermediate punishment. A hearing is not required to decrease the conditions of the sentence.

Section 6. Title 42 is amended by adding a section to read:

**§ 9774. Revocation of State intermediate punishment sentence.**

(a) **General rule.**—*The court may at any time terminate a sentence of State intermediate punishment pursuant to Chapter 99 (relating to State intermediate punishment).*

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

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

Section 7. Section 9804(b) of Title 42 is amended to read:

**§ 9804. County intermediate punishment programs.**

\* \* \*

(b) **Eligibility.**—

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

(2) The Pennsylvania Commission on Sentencing shall employ the term “eligible offender” to further identify offenders who would be appropriate for participation in county intermediate punishment programs. In developing the guidelines, the commission shall give primary consideration to protection of the public safety.

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

(ii) If the defendant is determined to be in need of drug and alcohol treatment, a sentence to *county* intermediate punishment shall include participation in drug and alcohol treatment under 75 Pa.C.S. § 3815(c) (relating to mandatory sentencing). **[Such treatment may be combined with house arrest with electronic surveillance or a partial confinement program such as work release, a work camp**

or a halfway facility.] *The defendant may only be sentenced to county intermediate punishment in:*

(A) *a residential inpatient program or a residential rehabilitative center;*

(B) *house arrest with electronic surveillance;*

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

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

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

(A) *house arrest [and] with electronic surveillance;*

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

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

(5) A defendant subject to 75 Pa.C.S. § 3804 (relating to penalties) may only be sentenced to *county intermediate punishment* for a first, second or third offense under 75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).

Section 8. Title 42 is amended by adding a chapter to read:

#### CHAPTER 99 STATE INTERMEDIATE PUNISHMENT

Sec.

9901. Scope of chapter.

9902. Findings and purpose.

9903. Definitions.

9904. Referral to State intermediate punishment program.

9905. Drug offender treatment program.

9906. Written guidelines and regulations.

9907. Reports.

9908. Construction.

9909. Evaluation.

§ 9901. Scope of chapter.

This chapter relates to State intermediate punishment.

§ 9902. Findings and purpose.

The General Assembly finds as follows:

(1) Many crimes are committed by persons who, because of their addiction to drugs or alcohol, are unable to maintain gainful employment.

(2) These persons often commit crimes as a means of obtaining the funds necessary to purchase drugs or alcohol.

(3) Many persons commit crimes while under the influence of drugs or alcohol even though they are not addicted to such substances in a clinical sense.

(4) Punishing persons who commit crimes is an important aspect of recognizing the harm that criminals visit upon their victims.

(5) Many people who commit crimes will be able to become law-abiding, contributing members of society if they are able to obtain treatment for their drug or alcohol addiction or abuse.

(6) The purpose of this chapter is to create a program that punishes person who commit crimes, but also provides treatment that offers the opportunity for those persons to address their drug or alcohol addiction or abuse and thereby reduce the incidents of recidivism and enhance public safety.

### § 9903. Definitions.

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

“Commission.” The Pennsylvania Commission on Sentencing.

“Community-based therapeutic community.” A long-term residential addiction treatment program licensed by the Department of Health to provide addiction treatment services using a therapeutic community model and determined by the Department of Corrections to be qualified to provide addiction treatment to eligible offenders.

“Community corrections center.” A residential program that is supervised and operated by the Department of Corrections for inmates with prerelease status or who are on parole.

“Court.” The trial judge exercising sentencing jurisdiction over an eligible offender under this chapter or the president judge if the original trial judge is no longer serving as a judge of the sentencing court.

“Defendant.” An individual charged with a drug-related offense.

“Department.” The Department of Corrections of the Commonwealth.

“Drug offender treatment program.” An individualized treatment program established by the Department of Corrections consisting primarily of drug and alcohol addiction treatment that satisfies the terms and conditions listed in section 9905 (relating to drug offender treatment program).

“Drug-related offense.” A criminal offense for which a defendant is convicted and that the court determines was motivated by the defendant’s consumption of or addiction to alcohol or a controlled substance, counterfeit, designer drug, drug, immediate precursor or marihuana, as those terms are defined in the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

“Eligible offender.” Subject to section 9721(a.1) (relating to sentencing generally), a defendant designated by the sentencing court as a person convicted of a drug-related offense who:

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

commitment to a drug offender treatment program and that placement in a drug offender treatment program would be appropriate.

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

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

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

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

“Expulsion.” The permanent removal of a participant from a drug offender treatment program.

“Group home.” A residential program that is contracted out by the Department of Corrections to a private service provider for inmates with pre-release status or who are on parole.

“Individualized drug offender treatment plan.” An individualized addiction treatment plan within the framework of the drug offender treatment program.

“Institutional therapeutic community.” A residential drug treatment program in a State correctional institution, accredited as a therapeutic community for treatment of drug and alcohol abuse and addiction by the American Correctional Association or other nationally recognized accreditation organization for therapeutic community drug and alcohol addiction treatment.

“Outpatient addiction treatment facility.” An addiction treatment facility licensed by the Department of Health and designated by the Department of Corrections as qualified to provide addiction treatment to criminal justice offenders.

“Participant.” An eligible offender actually sentenced to State intermediate punishment pursuant to section 9721(a)(7) (relating to sentencing generally).

“Transitional residence.” A residence investigated and approved by the Department of Corrections as appropriate for housing a participant in a drug offender treatment program.

§ 9904. Referral to State intermediate punishment program.

(a) Referral for evaluation.—



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

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

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

(ii) Information relating to the defendant's history of delinquency or criminality, including the information maintained by the court pursuant to Chapter 63 (relating to juvenile matters), when available.

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

(iv) A presentence investigation report, when available.

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

(b) Assessment of addiction.—

(1) The department shall conduct an assessment of the addiction and other treatment needs of a defendant and determine whether the defendant would benefit from a drug offender treatment program. The assessment shall be conducted using a nationally recognized assessment instrument or an instrument that has been normed and validated on the department's inmate population by a recognized expert in such matters. The assessment instrument shall be administered by persons skilled in the treatment of drug and alcohol addiction and trained to conduct assessments. The assessments shall be reviewed and approved by a supervisor with at least three years of experience providing drug and alcohol counseling services.

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

(c) Proposed drug offender treatment program.—If the department in its discretion believes a defendant would benefit from a drug offender treatment program and placement in the drug offender treatment program is appropriate, the department shall provide the court, the defendant, the attorney for the Commonwealth and the commission with a proposed drug offender treatment program detailing the type of treatment proposed.

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

- (1) The eligible offender is likely to benefit from State intermediate punishment.
- (2) Public safety would be enhanced by the eligible offender's participation in State intermediate punishment.
- (3) Sentencing the eligible offender to State intermediate punishment would not depreciate the seriousness of the offense.
- (e) Consecutive probation.—Nothing in this chapter shall prohibit the court from sentencing an eligible offender to a consecutive period of probation. The total duration of the sentence may not exceed the maximum term for which the eligible offender could otherwise be sentenced.
- (f) Applicability and program limitations.—The court may not modify or alter the terms of the department's proposed individualized drug offender treatment plan without the agreement of the department and the attorney for the Commonwealth.
- (g) Videoconferencing.—The department shall make videoconferencing facilities available to allow the court to conduct proceedings necessary under this section when the eligible offender has been committed to the custody of the department pursuant to subsection (b).

§ 9905. Drug offender treatment program.

(a) Establishment.—The department shall establish and administer a drug offender treatment program as a State intermediate punishment. The program shall be designed to address the individually assessed drug and alcohol abuse and addiction needs of a participant and shall address other issues essential to the participant's successful reintegration into the community, including, but not limited to, educational and employment issues.

(b) Duration and components.—Notwithstanding any credit to which the defendant may be entitled under section 9760 (relating to credit for time served), the duration of the drug offender treatment program shall be 24 months and shall include the following:

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

(i) The time during which the defendants are being evaluated by the department under section 9904(b) (relating to referral to State intermediate punishment program).

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

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

(3) A period of at least six months' treatment through an outpatient addiction treatment facility. During the outpatient addiction treatment period of the drug offender treatment program, the participant may be housed in a community corrections center or group home or placed in an approved transitional residence. The participant must comply with any conditions established by the department regardless of where the

participant resides during the outpatient addiction treatment portion of the drug offender treatment program.

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

(c) Program management.—

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

(2) This subsection shall be construed to provide the department with the maximum flexibility to administer the drug offender treatment program both as a whole and for individual participants.

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

(e) Notice to court of completion of program.—When the department determines that a participant has successfully completed the drug offender treatment program, it shall notify the sentencing court, the attorney for the Commonwealth and the commission.

(f) Expulsion from program.—

(1) A participant may be expelled from the drug offender treatment program at any time in accordance with guidelines established by the department, including failure to comply with administrative or disciplinary procedures or requirements set forth by the department.

(2) The department shall promptly notify the court, the defendant, the attorney for the Commonwealth and the commission of the expulsion of a participant from the drug offender treatment program and the reason for such expulsion. The participant shall be housed in a State correctional institution or county jail pending action by the court.

(3) The court shall schedule a prompt State intermediate punishment revocation hearing pursuant to section 9774 (relating to revocation of State intermediate punishment sentence).

§ 9906. Written guidelines and regulations.

The department shall develop written guidelines for participant selection criteria and the establishment of drug offender treatment program selection

committees within each diagnostic and classification center of the department and shall address suspensions and expulsions from the drug offender treatment program. The guidelines shall not be subject to the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, and shall be effective for a period of two years upon publication in the Pennsylvania Bulletin. The guidelines shall be replaced by regulations promulgated by the department consistent with the Regulatory Review Act within the two-year period during which the guidelines are effective. The regulations shall include a requirement that community-based therapeutic communities utilized in the drug offender treatment program be accredited as a therapeutic community for treatment of drug and alcohol abuse and addiction by the Commission on Accreditation of Rehabilitation Facilities or other nationally recognized accreditation organization for community-based therapeutic communities for drug and alcohol addiction treatment.

§ 9907. Reports.

(a) Final report.—The department shall provide a final report to the court, the defendant, the attorney for the Commonwealth and the commission on a participant's progress in the drug offender treatment program.

(b) Evaluation and report to General Assembly.—The department and the commission shall monitor and evaluate the drug offender treatment program to ensure that the programmatic objectives are met. In odd-numbered years, the department shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. In even-numbered years, the commission shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. The report shall include:

(1) The number of offenders evaluated for the drug offender treatment program.

(2) The number of offenders sentenced to the drug offender treatment program.

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

(4) The number of offenders successfully completing the drug offender treatment program.

(5) The six-month, one-year, three-year and five-year recidivism rates for offenders who have completed the drug offender treatment program and for a comparison group of offenders who were not placed in the drug offender treatment program.

(6) Any changes the department or the commission believes will make the drug offender treatment program more effective.

§ 9908. Construction.

Notwithstanding any other provision of law to the contrary, this chapter shall not be construed to:

(1) Confer any legal right upon any individual, including an individual participating in the drug offender treatment program, to:

- (i) participate in a drug offender treatment program;
- (ii) continue participation in a drug offender treatment program;
- (iii) modify the contents of the drug offender treatment program; or
- (iv) file any cause of action in any court challenging the department's determination that a participant be suspended or expelled from or that a participant has successfully completed or failed to successfully complete treatment to be provided during any portion of a drug offender treatment program.

(2) Enlarge or limit the right of a participant to appeal the participant's sentence.

§ 9909. Evaluation.

The department and the commission shall monitor and evaluate the motivational boot camp program under the act of December 19, 1990 (P.L.1391, No.215), known as the Motivational Boot Camp Act, to ensure that the programmatic objectives are met. In even-numbered years, the department shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1. In odd-numbered years, the commission shall present a report of its evaluation to the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives no later than February 1.

Section 9. The following acts and parts of acts are repealed to the extent specified:

Section 5(e) of the act of December 19, 1990 (P.L.1391, No.215), known as the Motivational Boot Camp Act, absolutely.

All other acts and parts of acts insofar as they are inconsistent with the addition of 42 Pa.C.S. Ch. 99.

Section 10. This act shall take effect in 180 days.

APPROVED—The 19th day of November, A.D. 2004.

EDWARD G. RENDELL