

**CHAPTER 96. RECIDIVISM RISK REDUCTION INCENTIVE—
STATEMENT OF POLICY**

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Authority

The provisions of this Chapter 96 issued under 44 Pa.C.S. Chapter 53, unless otherwise noted.

Source

The provisions of this Chapter 96 adopted April 3, 2009, effective April 4, 2009, 39 Pa.B. 1674, unless otherwise noted.

§ 96.1. Authority and purpose.

(a) On September 25, 2008, the RRRI was established under the act. The RRRI seeks to improve public safety by encouraging eligible offenders to complete programs that scientific evidence suggests may reduce the risk that the offender will commit a future crime. Eligible offenders generally are low-risk offenders who have not committed personal injury crimes as defined in the Crime Victims Act (18 P. S. §§ 11.101—11.5102), any violation of 18 Pa.C.S. Chapter 61 (relating to the Uniform Firearms Act) or certain other enumerated offenses. A judge sentencing an eligible offender to confinement in the Department generally is required to impose both a traditional minimum sentence and an RRRI minimum sentence equal to 3/4 of the minimum sentence if the traditional minimum sentence is 3 years or less and to 5/6 of the minimum sentence if the traditional minimum sentence is greater than 3 years.

(b) The Department will conduct an assessment of the treatment needs and risks of eligible offenders it receives using Nationally recognized assessment tools. The results of the assessment will be used to develop a program plan that is designed to reduce the risk of recidivism using RRRI programs. An RRRI program is a program that scientific evidence suggests may reduce the risk that an offender will commit additional crimes. An offender who successfully completes the program plan, maintains a good conduct record and continues to remain an eligible offender can be paroled on the RRRI minimum sentence date unless the Board determines that parole would present an unreasonable risk to public safety or that other specified conditions have not been satisfied.

(c) This chapter was established under the acts, and is intended to inform judges, prosecutors, defense counsel, defendants, court personnel and the general public about the RRRI.

§ 97.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—44 Pa.C.S. Chapter 53 (relating to recidivism risk reduction incentive).

Board—The Pennsylvania Board of Probation and Parole.

Court—The trial judge exercising sentencing jurisdiction over an eligible offender under the act or the president judge or the president judge's designee if the original trial judge is no longer serving as a judge of the sentencing court.

Defendant—An individual charged with a criminal offense.

Department—The Department of Corrections of the Commonwealth.

Eligible offender—A defendant or prisoner convicted of a criminal offense who will be committed to the custody of the Department and who meets the following eligibility requirements:

- (i) Does not demonstrate a history of present or past violent behavior.
- (ii) Has not been subject to a sentence the calculation of which includes an enhancement for the use of a deadly weapon as defined under law or the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing, or the attorney for the Commonwealth has not demonstrated that the defendant has been found guilty of or was convicted of an offense involving a deadly weapon or offense under 18 Pa.C.S. Chapter 61 (relating to firearms and other dangerous articles) or the equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.
- (iii) Has not been found guilty or previously convicted or adjudicated delinquent for or an attempt or conspiracy to commit a personal injury crime as defined under section 103 of the Crime Victims Act (18 P. S. § 11.103), or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.
- (iv) Has not been found guilty or previously convicted or adjudicated delinquent for violating any of the following provisions or an equivalent offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation:
 - (A) 18 Pa.C.S. § 4302 (relating to incest).
 - (B) 18 Pa.C.S. § 5901 (relating to open lewdness).
 - (C) 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
 - (D) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
 - (E) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
 - (F) 18 Pa.C.S. Chapter 76, Subchapter C (relating to Internet child pornography).

(G) Received a criminal sentence under 42 Pa.C.S. § 9712.1 (relating to sentences for certain drug offenses committed with firearms).

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

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

(vi) Has not been found guilty or previously convicted of violating section 13(a)(3)(14), or (37) of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-113(a)(14)(3) or (37)), when the sentence was imposed under 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii), (4)(iii), (7)(iii) or (8)(iii) (relating to drug trafficking sentencing and penalties).

Program plan—An individualized plan recommended by the Department that contains approved treatment and other approved programs designed to reduce recidivism risk of a specific prisoner.

RRRI—Recidivism Risk Reduction Incentive.

§ 96.3. RRRI programs.

(a) Before designating a program as an RRRI program, the Department will publish for public comment a detailed description of the program, the types of offenders who will be eligible to participate in the program, the name and citation of research reports that demonstrate the effectiveness of the proposed program and the name and address of a Department contact person responsible for receiving public comment. Publication will be made by placing the description on the Department's public web site (www.cor.state.pa.us) as well as publishing the description in the *Pennsylvania Bulletin* and delivering a copy of the list to the Judiciary Committee of the Senate, the Judiciary Committee of the House of Representatives, the Board, the Pennsylvania Commission on Sentencing and the Victim Advocate.

(b) Public comment will be received for at least 60 days following the date of publication in the *Pennsylvania Bulletin*. The Department will consider public comment received prior to designating a program as an RRRI program.

§ 96.4. Commitment documents.

The Department's Court Commitment Form (DC-300B) has been modified to enable the entry of the traditional minimum sentence, an RRRI minimum sentence and a maximum sentence. The DC-300B also includes an area in which court officials can indicate if the attorney for the Commonwealth waived the eligibility requirements. The DC-300B is included in the Administrative Office of the Pennsylvania Courts' electronic docketing system.

§ 96.5. Assessment and program plan.

(a) The Department will assess the treatment needs and risks of every defendant sentenced to an RRRI minimum sentence. Assessments will be made using Nationally-recognized assessment tools that have been normed and validated.

(b) The Department will develop a program plan designed to reduce the risk of recidivism through the use of RRRI programs that are appropriate for the particular defendant. The program plan may also include non-RRRI programs that the Department in its sole discretion believes are appropriate for the particular defendant.

(c) Each defendant sentenced to an RRRI minimum sentence will be advised and asked to acknowledge that he is required to successfully complete the program plan. If the defendant refuses to sign the acknowledgement, a Department staff member will note the refusal to sign the acknowledgement.

§ 96.6. Notification to the Board and certification.

(a) The Department will, in a manner agreed to between the Board and the Department, inform the Board when a defendant who is scheduled for parole review is serving an RRRI minimum sentence.

(b) For each defendant serving an RRRI minimum sentence, the Department will, in a manner agreed to between the Board and the Department, and if appropriate, certify to the Board that the following conditions have been met:

(1) The Department conducted an appropriate assessment of the treatment needs and risks of the defendant using Nationally-recognized assessment tools that have been normed and validated.

(2) The Department developed a program plan based upon the assessment that was designed to reduce the risk of recidivism through the use of RRRI programs authorized and approved under the act that were appropriate for the particular defendant.

(3) The Department advised the defendant that he was required to successfully complete the program plan.

(4) The defendant successfully completed all required RRRI programs or other programs designated in the program plan.

(5) The defendant maintained a good conduct record following imposition of the RRRI minimum sentence. For purposes of this paragraph, generally a defendant may be deemed to have maintained good conduct if he incurred no more than one Class 1 misconduct or two Class 2 misconducts while incarcerated with the Department. However, reviewing staff shall have discretion to certify or refuse to certify that a defendant maintained good conduct based upon the totality of the defendant's conduct with the Department.

(6) The defendant continues to be an eligible offender.

(c) The Department will continue to monitor the factors in subsection (b) until the defendant has been actually released from custody and will notify the Board of any material change in one or more of the factors.

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