Session Law Creating the Pennsylvania Commission on Sentencing (1978)

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Chapter 21 of Title 42 is amended by adding a subchapter to read:

Subchapter F

Pennsylvania Commission on Sentencing

Sec.

2151. Pennsylvania Commission on Sentencing.

2152. Composition of Commission.

2153. Powers and Duties.

2154. Adoption of Guidelines for Sentencing.


§ 2151. Pennsylvania Commission on Sentencing.

(A) General Rule. – The Pennsylvania Commission on Sentencing shall consist of 11 persons selected as provided in this subchapter.

(B) Seal. – The Pennsylvania Commission on Sentencing shall have a seal engraved with this name and such other inscription as may be specified by regulation of the commission.

§ 2152. Composition of Commission.

(A) General Rule. – The Pennsylvania Commission on Sentencing shall consist of:

(1) Two members of the House of Representatives selected by the Speaker of the House of Representatives, no more than one of whom shall be of the same political party.

(2) Two members of the Senate of Pennsylvania selected by the President Pro Tempore of the Senate, no more than one of whom shall be of the same political party.

(3) Four judges of courts of records selected by the Chief Justice of Pennsylvania.

(4) Three persons appointed by the Governor, who shall be respectively:

(I) A district attorney.
(II) A defense attorney.

(III) Either a professor of law or a criminologist.

(B) Terms of Office. – The members of the commission shall serve for terms of two years and until a successor has been selected and qualified. A vacancy on the commission shall be filled for the balance of the term.

(C) Chairman and Executive Director. – The Commission shall select a chairman from its members and an executive director. The Chairman shall:

(1) Preside at meetings of the commission.

(2) Direct the preparation of requests for appropriations for the commission and the use of funds made available to the commission.

(D) Meetings and Quorum. –

(1) The commission shall meet not less frequently than quarterly to establish its general policies and rules.

(2) The commission shall be deemed an “agency” within the meaning of the Act of July 19, 1974 (P.L. 486, No. 175), referred to as the public agency open meeting law.

(3) Nine Commissioners shall constitute a quorum.

(4) Minutes of meetings shall be kept by the executive director and filed at the executive office of the commission.

(E) Records of Action. – Except as otherwise provided by statute the commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

(F) Expenses. – Each commissioner shall be entitled to reimbursement for his accountable expenses incurred while engaged in the business of the commission.

§ 2153. POWERS AND DUTIES.

(A) General Rule. – The commission, pursuant to rules and regulations, shall have the power to:

(1) Establish general policies and promulgate such rules and regulations for the commission as are necessary to carry out the purposes of this subchapter and chapter 97 (relating to sentencing).

(2) Utilize, with their consent, the services, equipment, personnel, information and facilities of federal, state, local, and private agencies and instrumentalities with or without reimbursement therefor.

(3) Enter into and perform such contracts, leases, cooperative agreements and other transactions as may be necessary in the conduct of the functions of the commission, with any
public agency or with any person, firm, association, corporation, educational institution or nonprofit organization.

(4) Request such information, data, and reports from any officer or agency of the commonwealth government as the commission may from time to time require and as may be produced consistent with other law.

(5) Arrange with the head of any government unit for the performance by the government unit of any function of the commission, with or without reimbursement.

(6) Issue invitations requesting the attendance and testimony of witnesses and the production of any evidence that relates directly to a matter with respect to which the commission or any member thereof is empowered to make a determinations under this subchapter.

(7) Establish a research and development program within the commission for the purpose of:
   (I) Serving as a clearinghouse and information center for the collection, preparation and dissemination of information on commonwealth sentencing practices.
   (II) Assisting and serving in a consulting capacity to state courts, departments and agencies in the development, maintenance and coordination of sound sentencing practices.

(8) Collect systematically the data obtained from studies, research and the empirical experience of public and private agencies concerning the sentencing processes.

(9) Public data concerning the sentencing processes.

(10) Collect systematically and disseminate information concerning sentences actually imposed.

(11) Collect systematically and disseminate information regarding effectiveness of sentences imposed.

(12) Make recommendations to the General Assembly concerning modification or enactment of sentencing and correctional statutes which the commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy.

(B) Annual Reports. – The Commission shall report annually to the General Assembly, the Administrative Office of Pennsylvania Courts and the Governor on the activities of the commission.

(C) Additional Powers and Duties. – The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this subchapter or as may be provided under any other provision of law and may delegate to any commissioner or designated person such powers as may be appropriate other than the power to establish general policies, guidelines, rules and factors under subsection (a)(1).
§ 2154. ADOPTION OF GUIDELINES FOR SENTENCING.

The Commission shall adopt guidelines for sentencing within the limits established by law which shall be considered by the sentencing court in determining the appropriate sentence for felonies and misdemeanors committed by a defendant. The guidelines shall:

(1) Specify the range of sentences applicable to crime of a given degree of gravity.

(2) Specify a range of sentences of increased severity for defendants previously convicted of a felony or felonies or convicted of a crime involving the use of a deadly weapon.

(3) Prescribe variations from the range of sentences applicable on account of aggravating or mitigating circumstances.

§ 2155. PUBLICATION OF GUIDELINES FOR SENTENCING.

(A) General Rule. – The Commission shall:

(1) Prior to adoption, publish in the Pennsylvania Bulletin all proposed initial and subsequent sentencing guidelines and hold public hearings not earlier than 30 days and not later than 60 days thereafter to afford an opportunity for the following persons and organizations to testify:

   (I) Pennsylvania District Attorneys Association.
   (II) Chiefs of Police Association.
   (III) Fraternal Order of Police.
   (IV) Public Defenders Organization.
   (V) Law school faculty members.
   (VI) State Board of Probation and Parole.
   (VII) Bureau of Correction.
   (VIII) Pennsylvania Bar Association.
   (IX) Pennsylvania Wardens Association.
   (X) Pennsylvania Association on Probation, Parole and Corrections.
   (XI) Pennsylvania Conference of State Trial Judges.
   (XII) Any other interested person or organization.

(2) Publish in the Pennsylvania Bulletin all initial and subsequent sentencing guidelines as adopted by the commission.

(B) Rejections by General Assembly. – The General Assembly may by concurrent resolution reject in their entirety any initial or subsequent guidelines adopted by the commission within 90 days of their publication in the Pennsylvania Bulletin pursuant to subsection (A)(2).
(C) Effective Date. – Initial and any subsequent guidelines adopted by the commission shall become effective 90 days after publication in the Pennsylvania Bulletin pursuant to subsection (A)(2) unless rejected in their entirety by the General Assembly by a concurrent resolution.

(B) The Pennsylvania Commission on Sentencing shall adopt and publish in the Pennsylvania Bulletin pursuant to 42 Pa.C.S. § 2155(A)(2) (relating to publication of guidelines for sentencing) the initial sentencing guidelines within 18 months of the first meeting of the commission. The provisions of 18 Pa.C.S. § 1386 (relating to effective date).

(C) The provisions of subsection (A), 42 Pa.C.S. § 9781 (relating to appellate review of sentence), and section 6 of the Act of November 26, 1978 (P.L.1316, No.319), entitled “An Act Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, Further Providing for Sentencing and Providing for Alteration of Identification Marks on Personal Property,” are not severable and if any provisions thereof or the application thereof to any person or circumstance is held invalid, the remainder of subsection (A), 42 Pa.C.S. § 9781 and such section 6 shall be invalid.

(D) Subchapter G (Relating to Pennsylvania Commission on Sentencing) of Title 18, and sections 7 and 8(A) and (B) of the Act of November 26, 1978 (P.L.1316, No.319), entitled “An Act Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, Further Providing for Sentencing and Providing for Alteration of Identification Marks on Personal Property,” are repealed except as follows:

(1) Section 1386 is hereby expressly saved from repeal and shall be redesignated as provided by article IV of this Act.

(2) The original terms of members of the Pennsylvania Commission on Sentencing shall be staggered as provided by the former provisions of 18 Pa.C.S. § 1381(A) (relating to composition).

(E) Subchapter F of Chapter 21 (relating to Pennsylvania Commission on Sentencing) of Title 42 and subsection (C) of this section shall expire and be deemed null and void four years from the date on which initial guidelines are adopted pursuant to 42 Pa.C.S. § 2155 (relating to publication of guidelines for sentencing) unless this subsection is amended or replaced prior to such expiration date.