

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING COMMISSION ON SENTENCING [204 PA. CODE CH. 309]

Proposed State Parole Guidelines

The Pennsylvania Commission on Sentencing hereby publishes for public comment proposed State Parole Guidelines, 204 Pa. Code Chapter 309, Subchapter A, §§ 309.1—309.5. The proposed guidelines are set forth in Annex A. A previous version of the guidelines was published in the *Pennsylvania Bulletin* on July 11, 2020 (50 Pa.B. 3409).

The Commission is authorized by 42 Pa.C.S. § 2154.5 to adopt guidelines that shall be considered by the Pennsylvania Parole Board and any other paroling entity when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any correctional institution. The guidelines are to:

- (1) Give primary consideration to the protection of the public and to victim safety;
- (2) Provide for due consideration of victim input;
- (3) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board;
- (4) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;
- (5) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and
- (6) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

There is no right to parole in the Commonwealth. There is, however, the right to consideration of parole. The State Parole Guidelines are advisory and do not remove the discretionary authority of the Pennsylvania Parole Board.

On June 4, 2020, the Commission approved for the purpose of public hearings proposed State Parole Guidelines. Two virtual (Zoom webinar) hearings were held to receive public comment: a hearing on August 31, 2020, limited to testimony from incarcerated individuals housed at four State Correctional Institutions; and a hearing on September 9, 2020, open to testimony from the general public.

On September 10, 2020, the Commission tabled action on adoption of the parole guidelines pending validation and deployment by the Pennsylvania Department of Corrections of a new risk assessment instrument, the Static Risk Offender Needs Guide—Revised (STRONG-R), intended to replace the Level of Service Inventory—

Revised (LSI-R) as the validated risk assessment instrument. On March 10, 2022, due to delays in the implementation of STRONG-R, the Commission voted to resume consideration of the proposed parole guidelines, to serve as interim parole guidelines until the validation and deployment of the STRONG-R and subsequent reconstruction of the parole guidelines. The Commission approved minor changes to the proposed State Parole Guidelines that were published on June 4, 2020 and authorized the scheduling of hearings to receive public comment.

In accordance with 42 Pa.C.S. § 2155, the Commission shall publish in the *Pennsylvania Bulletin* proposed 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 Associations
- (iii) Fraternal Order of Police
- (iv) Public Defenders Organization
- (v) Law School faculty members
- (vi) Pennsylvania Parole Board
- (vii) Pennsylvania Department of Corrections
- (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

The Commission has scheduled the following public hearings:

<i>Hearing I.</i>	
<i>Date:</i>	Tuesday, May 31, 2022
<i>Time:</i>	10:00 a.m.
<i>Zoom:</i>	Zoom Webinar Registration Link: https://bit.ly/PCS2022May31PubHrng

Testimony during Hearing I is limited to incarcerated individuals committed to the Pennsylvania Department of Corrections. Those wishing to attend Hearing I via Zoom Webinar may register at the link provided above.

<i>Hearing II.</i>	
<i>Date:</i>	Wednesday, June 1, 2022
<i>Time:</i>	2:00 p.m.
<i>Zoom:</i>	Webinar Registration Link: https://bit.ly/PCS2022June1PubHrng
<i>Onsite Location:</i>	Pennsylvania Capitol Complex, 523 Irvis Building, Harrisburg, PA

Those wishing to attend Hearing II and/or testify during Hearing II via Zoom Webinar may register at the link provided above. Those wishing to testify in person during Hearing II may register by contacting the Commission (Cathy Dittman—814-863-5729 or cwd2@psu.edu) to schedule on-site testimony.

Persons or organizations wishing to testify are asked to register at least five business days prior to the hearing and to provide an electronic copy of any testimony. Written comments from persons or organizations not wishing to testify should be received by the Commission at least five business days before the last-scheduled public hearing. Forward all testimony and documents to Cathy Dittman (cwd2@psu.edu).

All Commission meetings are open to the public. Any proposals adopted by the Commission will be submitted to the General Assembly for review by way of publication in the *Pennsylvania Bulletin* and will become effective 90 days after publication unless rejected by concurrent resolution of the General Assembly.

REPRESENTATIVE TODD STEPHENS,
Chair

Commentary

This Commentary highlights key factors considered in the initial development and subsequent modification of the proposed State Parole Guidelines. The proposed State Parole Guidelines are set forth in Annex A.

As provided in statute, 61 Pa.C.S. § 6102 (relating to operation of parole system generally):

The parole system shall operate consistently with the following provisions:

(1) The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.

(2) In providing these benefits to the criminal justice system, the Board and any other paroling entity shall first and foremost seek to protect the safety of the public.

(3) In addition to this goal, the Board and any other paroling entity shall address input by crime victims, assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders, shall consider any applicable guidelines established by the commission and shall ensure that parole proceedings, release and recommitment are administered in an efficient and timely manner.

Further, 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole) requires the Commission to adopt guidelines for parole that consider the following:

(1) Give primary consideration to the protection of the public and to victim safety;

(2) Provide for due consideration of victim input;

(3) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board;

(4) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;

(5) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and

(6) Use validated risk assessment tools, be evidence based and take into account available research relating to

the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

Pursuant to 61 Pa.C.S. § 6137 (relating to parole power), the Board is required to consider guidelines for parole and reparole established by the Commission, and to report to the Commission the parole and reparole decision and provide a contemporaneous written statement of reasons for any deviation from the guidelines. In addition to consideration of the guidelines, the Board may develop and use internal decisional instruments.

The guidelines for parole established by the Commission are advisory guidelines, which must be considered by the Board but for which the Board may exercise discretion in deviating from the recommendations. The guidelines do not remove the discretionary authority of the Pennsylvania Parole Board, and do not prevent the Board from adopting policies and procedures related to parole decision-making.

As described in the document published prior to the 2020 public hearings, the Commission has proposed a two-step process for consideration of state parole. The first step involves the preparation and consideration of the State Parole Guidelines recommendation; the second step involves the consideration by the Board of these guidelines and other factors that may require or suggest a deviation from the guidelines.

The preparation of the State Parole Guidelines recommendations involves two categories of factors: risk and preparedness. As required by statute, a validated risk assessment instrument, the Level of Service Inventory—Revised (LSI-R), is used to address public and victim safety, while the analysis of objective criteria related to behavior and compliance and the weighting of factors identified during the parole interview are used to address readiness for parole. Based on these factors, and whether the individual's current or prior convictions include a violent offense, the proposed State Parole Guidelines provide recommendations to grant or refuse parole. The State Parole Guidelines Matrices, found at § 309.4(a) and (b) contain the parole recommendations.

The parole guidelines also require the Board to consider statutory mandates and factors such as public safety inputs and reentry needs to further individualize the decision by the Board and inform the exercise of discretion. The State Parole Guidelines Form, found at § 309.5, is used to document and report decisions by the Board and reasons for deviation from the guidelines to the Commission.

Following the public hearings held in 2020, the Commission approved several modifications to the proposed State Parole Guidelines that were initially published. These include changes to the interview factors in order to give greater consideration to progress in rehabilitation, treatment, and education; replacing override factors with a non-exclusive list of reasons for deviation from the parole guidelines; and collecting additional information based on the parole decision: when parole is granted, conditions imposed that are not required by statute nor recommended by a validated risk assessment case management plan; and when parole is denied, reasons for scheduling a review that is more than one year from the date of the parole decision. The Commission also continued discussions with the Department of Corrections and the Parole Board regarding the transition away from the use of the LSI-R as the validated risk assessment instrument.

On September 10, 2020, the Commission tabled action on adoption of the parole guidelines pending validation and deployment by the Pennsylvania Department of Corrections (DOC) of a new risk assessment instrument, the Static Risk Offender Needs Guide—Revised (STRONG-R), which is intended to replace the LSI-R as the validated risk assessment instrument. Although the LSI-R has been validated for the general DOC population, concerns have been raised about predictive validity for specific populations (e.g., African Americans, females). While the LSI-R continues to be used by the DOC and the Parole Board, work is underway to adopt the STRONG-R for use with the DOC population, to provide improved reliability and validity, to facilitate reentry by using a single instrument within the institutional and in the community, and to take advantage of the enhanced case management attributes of this new instrument.

Due to delays in the implementation of STRONG-R and recognizing the continued use of the LSI-R by the DOC and Parole Board, the Commission voted on March 10, 2022 to resume consideration of the State Parole Guidelines. Because of the nearly two-year delay in action, the Commission voted to publish a revised version of the proposed guidelines, and to schedule public hearings. If adopted and implemented following public hearings, the State Parole Guidelines will serve as interim parole guidelines until the validation and deployment of the STRONG-R, and the subsequent reconstruction of the parole guidelines.

Commentary on Annex A

§ 309.1. Preliminary provisions.

Sub-section (a) provides the statutory authority for adopting guidelines for parole (42 Pa.C.S. § 2154.5).

Sub-section (b) provides definitions of terms used in the guidelines, as obtained from the Pennsylvania Parole Board, Department of Corrections, and Commission on Sentencing.

§ 309.2. State parole guidelines standards.

Section 309.2 addresses standards provided in statute for consideration of the guidelines by the Pennsylvania Parole Board, and the reporting of decisions to the Commission.

§ 309.3. Procedure for determining state parole guidelines.

The guidelines recommendations are based on two categories of factors: 1) the risk to public safety, as measured by the risk of recidivism and 2) an assessment of an offender's preparedness for parole release, as measured by pre-interview and interview factors. Both categories were developed based on data analysis of past parole decisions, recidivism, and decision makers' policies and philosophies.

The risk score utilizes the ten criminogenic domains of the Level of Services Inventory-Revised (LSI-R). Scores range from 0 to 54, with higher scores indicating a higher rate of recidivism risk. The guidelines include three risk levels based on risk score: low (0—19), medium (20—33), and high (34 and greater).

The preparedness score is based on seven pre-interview factors and four interview factors. Each is scored as a '1' or '0,' with '1' being more positive or indicating success. Pre-interview factors are a combination of actuarial and dynamic factors and include the Department of Corrections recommendation. Interview factors are grounded in the professional judgement of the decision makers. The

guidelines include three preparedness levels based on preparedness scores: low (0—7), medium (8-9), and high (10-11).

The recommendation to grant or refuse parole is based on the intersection of the risk and preparedness categories. These slightly vary depending upon whether the offender has a current or past conviction for a violent offense.

The guidelines are advisory, and the Board may deviate from the guidelines. Reasons for deviation are required and must be reported to the Commission with other parole-related information. Reasons include but are not limited to mental health or medication compliance status, negative interest in parole, an outstanding detainer, judicial input, prosecution or public safety input, and if the maximum sentence date occurs in less than one year.

The guidelines apply to parole decisions for offenders initially being considered for parole and to those previously denied parole. They also apply to parole violators being considered for re-parole.

§ 309.4. State parole guidelines matrices.

The state parole matrices contain recommendations to grant or refuse parole based on two categories of factors: risk of re-offense and preparedness for parole. Each cell recommends either 'grant' or 'refuse' parole. One matrix (a) applies to offenders with a current (instant) or previous conviction for a violent offense. The other matrix (b) applies to offenders without a current (instant) or previous conviction for a violent offense. The recommendations are based on recidivism analysis and grant rates, with a difference between the two matrices found at the intersection of the medium preparedness and medium risk categories.

§ 309.5. State parole guidelines form.

The form documents the risk level associated with the LSI-R score, all pre-interview and interview factors and the associated preparedness level, the state parole guidelines recommendation based on the applicable matrix (violent, non-violent), the decision by the Board, any reason(s) for deviation from the guidelines, and information on conditions of parole or reasons for delay in reviewing a case in which parole is denied.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING

CHAPTER 309. PAROLE GUIDELINES

Subchapter A. STATE PAROLE GUIDELINES

§ 309.1. Preliminary provisions.

(a) Authorization.

(1) As authorized by 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole), the Commission shall adopt guidelines that shall be considered by the Pennsylvania Parole Board when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any state correctional institution.

(i) The guidelines shall do all of the following:

(A) Give primary consideration to the protection of the public and to victim safety;

(B) Provide for due consideration of victim input;

(C) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the Board;

(D) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;

(E) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and

(F) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

(ii) Notwithstanding any other provision of law, this section shall not remove the discretionary parole authority of the Board when exercising its power to parole and reparole.

(b) *Definitions.* For purposes of this chapter:

“Aggregated Sentence.” Two or more consecutive sentences that have been combined whereby the aggregate minimum term is the sum of the consecutive minimum terms and the aggregate maximum term is the sum of the consecutive maximum terms.

“Conviction Offense.” Offense for which the original sentence was imposed.

“Court.” A court of record.

“Detainer.” A written order of the court or paroling authority to hold a person in custody in a correctional institution pending further legal action.

“Hearing Examiner.” An agent of the Parole Board who is empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the Parole Board.

“Judicial Proceeding.” A sentencing hearing in which all offenses for which the offender is convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple OTNs.

“Non-Violent Offender.” An offender not currently or previously convicted of a violent offense, for which the State Parole Guidelines Matrix (Non-Violent) applies. Non-violent offenders include but are not limited to those eligible for the following:

“Rebuttable Parole.” A statutorily designated non-violent inmate who has been certified by the DOC based on a good conduct record and nonviolent history.

“Recidivism Risk Reduction Incentive (RRRI).” A sentence imposed upon a non-violent inmate that can allow the opportunity to reduce the minimum sentence upon completion of recommended programming, while maintaining a good conduct record.

“Short Sentence Parole.” Offenders sentenced to state incarceration with an aggregate minimum sentence of two years or less or a recidivism risk reduction incentive minimum sentence of two years or less, excluding ineligibility as defined in 61 Pa.C.S. § 6137.1, may be approved by the Board for parole

without requiring an interview. If an offender is committed to the Department of Corrections after the expiration of the minimum sentence, parole may be approved within 30 days after commitment.

“Original Sentence.” The sentence resulting from the original conviction. It is from this sentence the Board paroles the inmate and the parolee serves the remaining time on the street unless recommitted by the Board.

“Panel.” A two-member unit of the Parole Board comprised of either two Board Members or one Board Member and one Hearing Examiner, empowered to make parole release decisions and recommitment decisions.

“Parole.” The conditional release from imprisonment of an inmate from a correctional facility to serve the remainder of his/her unexpired sentence in the community under supervision as long as (s)he satisfactorily complies with all terms and conditions provided in the parole order.

“Parole Preparedness Category.” One of two factors used to determine the recommendations contained in the State Parole Guidelines matrix. The parole preparedness category is a scale based on 11 factors identified prior to and during the parole interview, intended to measure an inmate’s readiness for parole release. A higher score indicates greater preparedness. One point is assigned for each positive assessment; 0 points for each negative assessment.

“Parole Risk Category.” One of two factors used to determine the recommendations contained in the State Parole Guidelines matrix. The parole risk category is determined through the Level of Service Inventory-Revised (LSI-R). The LSI-R is a validated risk-screening instrument used by the Department of Corrections. LSI-R assesses an inmate’s general risk based on each of 10 criminogenic domains. Scores range from 0 to 54, with scores of 0 to 19 designated as low risk, scores of 20 to 33 designated as medium risk, and scores of 34 to 54 designated high risk.

“Pennsylvania Parole Board (Board).” An independent executive branch agency comprised of nine members appointed by the Governor and confirmed by the Senate for six-year terms.

“Reasons for deviation.” Common reasons found for deviation from parole guidelines include mental health/medication compliance, negative interest in parole, judicial input, prosecution/public safety input, detainer status, and less than one year until maximum sentence reached. Other reasons may apply. Decision makers are required to provide one or more reasons when deviating from the State Parole Guidelines recommendation.

“Sentencing Guidelines Software Web Application (SGS Web).” A JNET-based application operated by the Commission which includes the modules for Sentencing, Resentencing, and Parole Guidelines. SGS Web serves as the source of data for the original reported sentence and associated information and the reporting source for revocations and resentences.

“State Parole.” The Pennsylvania Parole Board has paroling authority for offenders sentenced to state incarceration.

“Underlapping Concurrent Sentence.” A sentence that is served at the same time as the controlling sentence but has a shorter minimum and/or maximum sentence than the controlling sentence.

“*Violent Offender.*” An offender with a current or previous conviction as provided below, or offenses otherwise designated by the Pennsylvania Parole Board as violent offense, for which the State Parole Guidelines Matrix (Violent) applies:

42 Pa.C.S. § 9714(g)

42 Pa.C.S. § 9718.1

42 Pa.C.S. § 9799.14

§ 309.2. State parole guidelines standards.

(a) *Guidelines.* The Board shall consider the State Parole Guidelines when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to a state correctional institution.

(b) *Effective Date.* The State Parole Guidelines apply to all persons sentenced to a state correctional institution and considered for parole on or after January 1, 2023. Amendments to the parole guidelines shall apply to all persons sentenced to a state correctional institution and considered for parole on or after the effective date of the Amendment.

(c) *Reasons.* In every case in which the Board renders a parole decision, the Board shall make as part of the record a statement of the reason or reasons for the decision to grant or refuse parole.

(d) *Deviation from the Guidelines.* In every case in which the Board deviates from the guidelines, the Board shall identify reasons for deviation from the guidelines, and the reasons for the deviation from the guidelines shall be recorded on the State Parole Guidelines Form, a copy of which shall be electronically transmitted to the Pennsylvania Commission on Sentencing in the manner described in § 309.2(e).

(e) *Reporting decision.* Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software application (SGS Web) shall be used at the Board’s direction to prepare and submit State Parole Guidelines Forms and guidelines-required parole decision information for each consideration of parole or reparole. An example of the State Parole Guidelines Form is found at § 309.5.

(1) The completed State Parole Guidelines Form shall be made a part of the record and the information electronically submitted to the Commission no later than 30 days after the date of the parole decision.

(2) In the case of revocation and recommitment, the completed State Parole Guidelines Form used to report the grant of parole shall be attached to the State Parole Guidelines Form prepared for each consideration of reparole.

§ 309.3. Procedures for determining state parole guidelines.

(a) The State Parole Guidelines consider two categories of factors to determine the parole recommendation: parole risk category and parole preparedness category.

(1) *Parole Risk Category.*

(i) The LSI-R score is calculated prior to the interview, and the score is used to determine the risk level.

(ii) *Risk Level.* The LSI-R score is divided into three levels:

(A) High Risk (scores 34 and greater)

(B) Medium Risk (scores of 20 to 33)

(C) Low Risk (scores 19 and less)

(2) *Parole Preparedness Category.*

(i) *Pre-Interview Factors.* The pre-interview factors are determined based on a review of Department of Corrections records and scored as a ‘1’ or a ‘0,’ with 1 being successful or positive.

(A) Factors directly related to the offender’s behavior and compliance:

(I) Enrollment in and/or completion of required programs.

(II) Misconduct free for the past 12 months.

(III) Free of criminal or assaultive misdeeds for the past 12 months.

(IV) One or no prior probation or parole revocations.

(V) Free of alcohol or drug dependence.

(VI) Compliance with all prescribed medications.

(B) Factor related to the recommendation of the Department of Corrections.

(ii) *Interview Factors.* The interview preparedness factors are based on the professional judgement of the decision maker(s) following a parole interview and scored as a ‘1’ or a ‘0,’ with 1 being positive or successful.

(A) Factors related to progress and commitment to rehabilitation:

(I) Motivation for success or progress in rehabilitation, treatment, or education.

(II) Acceptance of responsibility.

(III) Insight and positive response to address criminal behavior.

(B) Stable release plan (community and/or family support).

(iii) *Preparedness Level.* The preparedness score is the total of the pre-interview and interview factors and is divided into three levels:

(A) Low preparedness: Score 0 to 7.

(B) Medium preparedness: Score 8 to 9.

(C) High preparedness: Score 10 to 11.

(c) The State Parole Guidelines recommendations are based on the combination of the risk level and preparedness level and include consideration of whether the individual is classified as a violent offender or a non-violent offender. These recommendations are contained in two matrices and found at § 309.4(a) (relating to State Parole Guidelines Matrix (Violent)) and § 309.4(b) (relating to State Parole Guidelines Matrix (Non-Violent)).

(d) *Deviations from the Guidelines.* The State Parole Guidelines are advisory. The Board must consider the guidelines but may exercise discretion in deviating from the recommendation.

(1) Reasons for deviations from the State Parole Guidelines shall be provided on the State Parole Guidelines Form and reported to the Commission.

(2) Reasons for deviation from the State Parole Guidelines may include but are not limited to the following:

(i) Mental health or medication compliance.

(ii) An inmate’s negative interest in parole.

(iii) Judicial input.

(iv) Prosecution and public safety input.

(v) Outstanding detainer.

(vi) Maximum sentence date is less than one year from interview date.

(3) *Additional information.* The following information shall be provided on the State Parole Guidelines Form and reported to the Commission:

(i) If parole is granted, condition(s) of parole ordered but not required by statute or recommended by a validated risk assessment case management plan.

(ii) If parole is denied, reason(s) a review is scheduled more than one year from the date of the parole decision.

(e) *Additional Applications.*

(1) The State Parole Guidelines must be considered in all cases for which the Board is authorized to exercise discretionary parole, including all initial and subsequent parole decisions.

(2) For individuals recommitted as parole violators, the State Parole Guidelines must be considered prior to re-parole.


§ 309.4(a). State Parole Guidelines Matrix (Violent).

		<i>Preparedness Category</i>		
		Low	Medium	High
<i>Risk Category</i>	High	Refuse	Refuse	Grant
	Medium	Refuse	Refuse	Grant
	Low	Refuse	Grant	Grant

§ 309.4(b). State Parole Guidelines Matrix (Non-Violent).

		<i>Preparedness Category</i>		
		Low	Medium	High
<i>Risk Category</i>	High	Refuse	Refuse	Grant
	Medium	Refuse	Grant	Grant
	Low	Refuse	Grant	Grant

§ 309.5. State Parole Guidelines Form.

 Pennsylvania Commission on Sentencing STATE PAROLE GUIDELINES FORM		Commission ID: _____ Date Risk Score Calculated: _____																																									
Offender Name: _____	State ID Number: _____	Type of Case: _____ V/NV/RRRI																																									
Date of Birth: _____	Parole ID Number: _____	Type of Interview: _____ Min/Min Subseq																																									
Age at Interview: _____	Inmate Number: _____	Reparole/Reparole Subsq																																									
	Institution: _____	Application																																									
Current Offense: _____		Date of Interview: _____																																									
Total Sentence: _____		Violence Indicator: _____																																									
Minimum Date: _____		Requires SORNA Registration: _____																																									
Maximum Date: _____		Alcohol or Drug Related: _____																																									
		Firearm/Other Weapon Used: _____																																									
Summary of Risk: Level of Service Inventory-Revised																																											
Overall Rating		Overall Risk Category																																									
LSI-R Score: _____																																											
Summary of Preparedness Factors																																											
Overall Rating		Overall Preparedness Category:																																									
Pre-Interview																																											
Are required programs completed or in progress?	-	<u>Out of 11 Factors</u>																																									
Misconduct free for the past year?	-	0 - 7 Low																																									
Free of assaultive/criminal misconducts for the past year?	-	8 - 9 Medium																																									
Free of prior probation/parole revocations?	-	10 - 11 High																																									
Free of alcohol or drug dependence?	-																																										
Compliant with all prescribed medications?	-																																										
Postive recommendation from DOC?	-																																										
Interview																																											
Expressed motivation for success or exhibited progress in rehabilitation, treatment, or education	-																																										
Expressed acceptance of responsibility	-																																										
Expressed insight and postive response to criminal behavior?	-																																										
Stable release plan (community and/or family support)?	-	Total Score = _____																																									
State Parole Guidelines Matrix (Violent)		State Parole Guidelines Matrix (Non-Violent)																																									
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Parole Decision																																											
Grant parole _____		Refuse Parole _____																																									
Does this decision deviate from the State Parole Guidelines recommendation? Yes No																																											
Reasons for Deviation from the State Parole Guidelines																																											
Mental Health / Medication Compliance	_____																																										
Negative Interest in Parole	_____																																										
Judicial Input	_____																																										
Prosecution/Public Safety Input	_____																																										
Detainer Status	_____																																										
Approaching Maximum Sentence (less than 1 year)	_____																																										
Other reason(s):	_____																																										

Additional Information																																											
If parole is <u>granted</u> , list condition(s) not required by statute or recommended by a validated risk assessment case management plan:																																											

If parole is <u>denied</u> , provide reason(s) for a scheduled review greater than one year from the date of this parole decision:																																											

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING COMMISSION ON SENTENCING

[204 PA. CODE CH. 311]

Proposed State Parole Recommitment Ranges

The Pennsylvania Commission on Sentencing hereby publishes for public comment proposed State Parole Recommitment Ranges, 204 Pa. Code Chapter 311, §§ 311.1—311.5. The proposed recommitment ranges are set forth in Annex A. A previous version of the recommitment ranges was published in the *Pennsylvania Bulletin* on July 11, 2020 (50 Pa.B. 3417).

The Commission is authorized by 42 Pa.C.S. § 2154.6 to adopt recommitment ranges following revocation of parole to be considered by the Pennsylvania Parole Board when exercising its power to reparole, commit, and recommit for parole violations. Recommitment ranges shall take into account the: 1) seriousness of the initial conviction offense, 2) the level of seriousness of the violation, and 3) rehabilitative needs of the defendant. The State Parole Recommitment Ranges are advisory and do not remove the discretionary authority of the Pennsylvania Parole Board.

On June 4, 2020, the Commission approved for the purpose of public hearings proposed State Parole Recommitment Ranges. Two virtual (Zoom webinar) hearings were held to receive public comment: a hearing on August 31, 2020, limited to testimony from incarcerated individuals housed at four State Correctional Institutions; and a hearing on September 9, 2020, open to testimony from the general public.

On September 10, 2020, the Commission tabled action on adoption of the recommitment ranges due to delays in adoption of the related parole guidelines. On March 10, 2022, the Commission voted to resume consideration of the proposed parole guidelines, and so resumed consideration of proposed recommitment ranges. The Commission approved without change the proposed State Parole Recommitment Ranges that were published on June 4, 2020 and authorized the scheduling of hearings to receive public comment. The proposed recommitment ranges are intended to document existing practices and serve as interim recommitment ranges until the adoption of the 8th Edition Sentencing Guidelines and the reconstruction of the initial parole guidelines following validation and deployment of the Static Risk Offender Needs Guide—Revised (STRONG-R) risk assessment instrument by the Department of Corrections.

In accordance with 42 Pa.C.S. § 2155, the Commission shall publish in the *Pennsylvania Bulletin* proposed 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 Associations
- (iii) Fraternal Order of Police
- (iv) Public Defenders Organization
- (v) Law School faculty members
- (vi) Pennsylvania Parole Board

- (vii) Pennsylvania Department of Corrections
- (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

The Commission has scheduled the following public hearings:

<i>Hearing I.</i>	
<i>Date:</i>	Tuesday, May 31, 2022
<i>Time:</i>	10:00 a.m.
<i>Zoom:</i>	Zoom Webinar Registration Link: https://bit.ly/PCS2022May31PubHrng

Testimony during Hearing I is limited to incarcerated individuals committed to the Pennsylvania Department of Corrections. Those wishing to attend Hearing I via Zoom Webinar may register at the link provided above.

<i>Hearing II.</i>	
<i>Date:</i>	Wednesday, June 1, 2022
<i>Time:</i>	2:00 p.m.
<i>Zoom:</i>	Webinar Registration Link: https://bit.ly/PCS2022June1PubHrng
<i>Onsite Location:</i>	Pennsylvania Capitol Complex, 523 Irvis Building, Harrisburg, PA

Those wishing to attend Hearing II and/or testify during Hearing II via Zoom Webinar may register at the link provided above. Those wishing to testify in person during Hearing II may register by contacting the Commission (Cathy Dittman—814-863-5729 or cwd2@psu.edu) to schedule on-site testimony.

Persons or organizations wishing to testify are asked to register at least five business days prior to the hearing and to provide an electronic copy of any testimony. Written comments from persons or organizations not wishing to testify should be received by the Commission at least five business days before the last-scheduled public hearing. Forward all testimony and documents to Cathy Dittman (cwd2@psu.edu).

All Commission meetings are open to the public. Any proposals adopted by the Commission will be submitted to the General Assembly for review by way of publication in the *Pennsylvania Bulletin* and will become effective 90 days after publication unless rejected by concurrent resolution of the General Assembly.

REPRESENTATIVE TODD STEPHENS,
Chair

Commentary

This Commentary provides selected highlights of the proposed State Parole Recommitment Ranges. The proposed State Parole Recommitment Ranges are set forth in Annex A.

As provided in statute, 61 Pa.C.S. § 6102 (relating to operation of parole system generally), the parole system shall operate consistently with the following provisions:

(1) The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender while protecting the

public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.

(2) In providing these benefits to the criminal justice system, the Board and any other paroling entity shall first and foremost seek to protect the safety of the public.

(3) In addition to this goal, the Board and any other paroling entity shall address input by crime victims, assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders, shall consider any applicable guidelines established by the commission and shall ensure that parole proceedings, release and recommitment are administered in an efficient and timely manner.

Regarding recommitment following violation of terms, 61 Pa.C.S. § 6137(h) (relating to power to recommit), authorizes:

(1) The Board may, during the period for which an inmate shall have been sentenced, recommit the inmate, if paroled, for violation of the terms and conditions of his parole and from time to time to reparole and recommit in the same manner and with the same procedure as in the case of an original parole or recommitment if, in the judgment of the Board:

(i) There is a reasonable probability that the inmate will be benefited by paroling the inmate again.

(ii) It does not appear that the interests of the Commonwealth will be injured by paroling the inmate again.

(2) In exercising these powers, the board shall consider any applicable recommitment ranges established by the commission under 42 Pa.C.S. § 2154.6 (relating to adoption of recommitment ranges following revocation of parole by Board).

(i) Cases involving deviations from guidelines. In each case in which the board deviates from the recommitment ranges established under 42 Pa.C.S. § 2154.6, the board shall provide a contemporaneous written statement of the reason for the deviation from the recommitment ranges to the commission, as established under 42 Pa.C.S. § 2153(a)(14).

42 Pa.C.S. § 2154.6 (relating to adoption of recommitment ranges following revocation of parole by the board) requires the Commission to adopt recommitment ranges for violations of parole that consider the following:

- (1) the seriousness of the initial conviction offense;
- (2) the level of seriousness of the violation; and
- (3) the rehabilitative needs of the defendant.

A recommitment range is a recommendation for a period of time for which a parole violator may be recommitment to serve an additional part of the term the parole violator would have been compelled to serve had the parole violator not been paroled. At the end of the recommitment period, the parole violator may be reviewed for parole or, without further review, shall be reparoled.

61 Pa.C.S. § 6137 (relating to parole power) requires the Board to consider recommitment ranges established by the Commission, and to report to the Commission the recommitment decision and provide a contemporaneous written statement of reasons for any deviation from the recommitment ranges. In addition to consideration of the guidelines, the Board may develop and use internal decisional instruments.

The recommitment ranges established by the Commission are advisory recommendations, which must be considered by the Board but for which the Board may exercise discretion in deviating from the recommendations. The recommitment ranges do not remove the discretionary authority of the Pennsylvania Parole Board, and do not prevent the Board from developing policies and procedures related to recommitment decisions.

Development of State Parole Recommitment Ranges

Development of the state parole recommitment ranges began in 2013 and included a review of the existing statutes, practices, and policies followed by the Parole Board in assigning recommitment time. The review included analyses of parole data and recidivism data prepared by the Board. An updated review of statutes and practices occurred in 2019 prior to the publication of proposed parole guidelines and recommitment ranges.

For conviction violations, to provide proportionality in consideration of the seriousness of the violation, the Commission's proposal links the Offense Gravity Scores of the new conviction with the recommended recommitment range. For repeat violations, the Commission has proposed a one-point increase in the Offense Gravity Score for a second conviction violation and a two-point increase in the Offense Gravity Score for a third or subsequent conviction violation.

For technical violation, while statute controls the maximum period of recommitments, the Commission's proposal includes a minimum period for the more serious technical violators who, by statute, are housed in a state correctional facility or contracted county jail.

Following public hearings in 2020, the Commission tabled action on parole guidelines and recommitment ranges pending validation and deployment of a new risk assessment instrument, STRONG-R, by the Department of Corrections.

More recently, the Commission approved for public comment a working draft of proposals linked to a comprehensive review of the sentencing guidelines. An issue discussed as part of the comprehensive review was whether committing a new offense while under supervision (i.e., probation or parole) should be factored into the guidelines as a sentencing enhancement. If so, this may impact resentencing guidelines and parole recommitment ranges.

The proposed recommitment ranges are intended to document existing practices and serve as interim recommitment ranges to provide structure and increased consistency. However, as proposed, they fall short of the legislative mandate in that they only indirectly address the seriousness of the initial conviction offense and do not address the rehabilitative needs of the defendant. As noted during public hearings, the rebuilding of recommitment ranges should include consideration of successful time on parole and consistent standards for granting credit for time spent at liberty and/or awaiting recommitment, and recommendations for programming during recommitment to address reasons for revocation and rehabilitative needs. To address recommitment ranges more effectively for convicted state parole violators, consideration should be given to the seriousness of the initial conviction offense, the duration of the unserved balance, the seriousness of the new offense, and any consideration of recommitment in the sentencing guidelines for the new offense.

The proposed recommitment ranges standardize current practices, improve the consistency and transparency

of decisions, and enhance data collection and analysis. The rebuilding of the recommitment ranges upon adoption of the 8th Edition Sentencing Guidelines and the reconstruction of the initial parole should better coordinate the use of these various guidelines. The Commission welcomes comment on factors that should be considered in adopting recommitment ranges, as well as suggestions for better coordinating recommitment ranges with sentencing and parole guidelines.

Commentary on Annex A

§ 311.1(a). *Preliminary Provisions. Authorization.*

Statute 42 Pa.C.S. § 2154.6 authorizes the Commission to adopt recommitment ranges following revocation of parole by the Pennsylvania Board of Parole.

§ 311.1(b). *Preliminary Provisions. Definitions.*

This section provides definitions of terms used in the proposed State Parole Recommitment Ranges, as obtained from the PA Parole Board, PA Department of Corrections, and Pennsylvania Commission on Sentencing.

§ 311.2. *State Parole Violator Recommitment Range Standards.*

The recommitment ranges are advisory and will be considered by the Pennsylvania Parole Board. They apply to revocations of parole following the appropriate hearings. The State Parole Recommitment Ranges will apply to any violations and hearings initiated on or after the effective date of the State Parole Recommitment Ranges.

The Parole Board will provide to the Commission a contemporaneous written statement of reasons for any deviations from the State Parole Recommitment Ranges. The Commissions JNET-based Sentencing Guidelines Software Web application will be used to report, identify or calculate the appropriate recommitment range, report the recommitment time ordered, and report the recommitment and reparole or release of an offender.

§ 311.3. *Procedure for Determining State Parole Violator Recommitment Range.*

The Parole Board will determine if the revocation is due to a technical or conviction violation. Conviction violations include those circumstances involving both a technical and conviction violation.

The Board will determine recommitment time considering the seriousness of the initial conviction offense, the seriousness of the technical violation or the new offense, and the rehabilitative needs of the offender.

§ 311.4. *Technical State Parole Violator Ranges: General.*

Recommitment ranges for technical state parole violations is first based upon whether it meets the criteria for incarceration in a state correctional institution or contracted county jail 61 Pa.C.S. § 6138(c)(1.3). A technical offender is recommitted to a state correctional institution or contracted county jail if the violation was of a sexual nature, assaultive or had a threat of bodily harm, involved a weapon, or a threat to public safety. Additional criteria include if the offender absconded or cannot be diverted to a community center or if the violation included an intentional or unexcused failure to adhere to programming or conditions on more than three occasions.

If it meets those criteria set forth in 61 Pa.C.S. § 6138(c)(1.3), statute caps recommitment at six months (61 Pa.C.S. § 6138(d)(3)(i)) for the first recommitment. Statute caps the second recommitment on the initial sentence at 9 months (61 Pa.C.S. § 6138(d)(3)(ii)); the State Parole Recommitment Ranges recommend a recom-

mitment of not less than 6 months. A third or subsequent revocation on the initial sentence is capped at 12 months by statute (61 Pa.C.S. § 6138(d)(3)(iii)); the State Parole Recommitment Ranges recommends not less than 9 months recommitment. Statute also states that these caps are not applicable if there are disciplinary infractions or if an offender spent more than 90 days in segregated housing or refused programming or work assignments.

If the technical violation does not meet those criteria in 61 Pa.C.S. § 6138(c)(1.3), recommitment time may be served at another facility operated or contracted by the Department of Corrections. Statute recommends not more than six months recommitment time (61 Pa.C.S. § 6138(e)).

§ 311.5. *Convicted State Parole Recommitment Ranges: General.*

If a parolee is convicted of a new criminal offense while on parole, the Parole Board orders recommitment of the offender after a revocation hearing. A convicted parole violator is subject to recommitment in a state correctional facility. The Board will order the offender to serve an additional part of the term which the offender would have been compelled to serve if not paroled.

The recommitment time is determined using the recommitment ranges based on the Offense Gravity Score of the new offense. Ranges increase for the second revocation and third/subsequent revocation of the initial offense if there is a new offense conviction. If the balance of the original sentence is less than the recommitment time, the balance of the sentence is the minimum recommitment time.

The Board has discretion to decrease or increase recommitment time as provided in aggravating and mitigating ranges also based on the Offense Gravity Score of the new conviction offense. Statute 61 Pa.C.S. § 6138(a)(2.1) provides the Board discretion to award credit time to a parolee for paroled time based on criteria set forth.

An offender completes the original sentence, including recommitment time, prior to completion of the sentence for the new crime.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING

CHAPTER 311. STATE PAROLE RECOMMITMENT RANGES

§ 311.1. Preliminary provisions.

(a) *Authorization.*

(1) As authorized by 42 Pa.C.S. § 2154.6 (relating to recommitment ranges following revocation of parole by the Board), the Commission shall adopt recommitment ranges that shall be considered by the Board when exercising its power to reparole, commit and recommit for violations of parole any person sentenced by a court in this Commonwealth to imprisonment in any correctional institution.

(i) The recommitment ranges shall take into account:

- (A) The seriousness of the initial conviction offense;
- (B) The level of seriousness of the violation; and
- (C) The rehabilitative needs of the defendant.

(ii) At the end of the recommitment period, the parole violator shall be reviewed for parole or, without further review, shall be reparaoled.

(b) *Definitions.* For purposes of this chapter:

“Convicted Parole Violator.” Parolee under the jurisdiction of the Board who, during the period of parole or while delinquent on parole, commits a crime punishable by imprisonment, for which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere at any time thereafter in a court of record, may at the discretion of the board be recommitment as a parole violator (61 Pa.C.S. § 6138(a)).

“Conviction.” A finding of guilt or the entering of a plea of guilty or nolo contendere for a misdemeanor or felony offense in a court of record, whether or not judgement of sentence has been imposed.

“Conviction Offense.” Offense for which the original sentence was imposed.

“Detainer.” A written order of the court or paroling authority to hold a person in custody in a correctional institution pending further legal action.

“Hearing Examiner.” An agent of the Parole Board who is empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the Parole Board.

“Hearings.” Include the following:

Detention. Held within 30 days of parolee’s detention, unless waived or a criminal preliminary hearing has been previously held, to determine whether there is probable cause that a parolee should be detained or returned pending disposition of new criminal charge(s).

Gagnon I Hearing. A first-level, probable cause hearing held to determine whether there is sufficient evidence to charge an offender with a violation of parole.

Gagnon II Hearing. A second-level, fact finding hearing held by a Common Pleas Court to determine whether an offender has in fact violated the terms and conditions of parole, and if so, whether the offender should be sent to prison as a violator or continue on parole.

Preliminary. Held no later than 14 days after a parolee’s detention, to determine whether there is probable cause to believe that a parolee committed a violation of a condition of parole.

Rescission. To decide whether there is good cause for rescinding parole.

Revocation. Held within 120 days of a plea of guilty, nolo contendere, or a guilty verdict, or from official notification of return to state institution, if detained elsewhere, to determine whether a parolee should be recommitment as a convicted parole violator.

Violation. Held no later than 120 days from the preliminary hearing, to determine whether a parolee should be recommitment as a technical violator.

“Judicial Proceeding.” A sentencing hearing in which all offenses for which the offender is convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple OTNs.

“Non-Violent Offender.” An offender who is not currently or was previously convicted of a violent offense.

“Offense Gravity Score (OGS).” An assignment in the sentencing guidelines reflecting the seriousness of a conviction offense (see: 204 Pa. Code § 303.3 and § 303.15).

“Order of Service of Sentence.” The Parole Act specifies that a Convicted Parole Violator must serve any new sentence of confinement before his/her backtime, if the new sentence is to a prison other than the prison of original parole (all state prisons are considered to be one prison). If the new sentence is to the same prison, backtime must be served first.

“Parole.” The conditional release of an inmate from incarceration. There is no right to parole. An offender sentenced to state or county incarceration is eligible for parole upon reaching minimum sentence. Offenders may be paroled prior to their minimums if made eligible for county re-entry programs at the time of sentencing to county incarceration or upon reaching an RRRI minimum for state incarceration. Upon release to parole, the offender serves the balance of the sentence (maximum) in the community under supervision and with conditions imposed, unless the parole is revoked.

“Parole Decision.” The Board or the Court (sentencing judge) renders a decision to grant parole or refuse to grant parole.

“Parole Violation.” A finding following a hearing that the offender failed to comply with terms and conditions of parole.

Technical Violation. Failure to comply with the terms and conditions of parole, other than by the commission of a new offense of which the offender is convicted in a court of record.

Conviction Violation. Commission of a new offense during the period of parole, resulting in a conviction for a misdemeanor or felony in a court of record, whether or not judgement of sentence has been imposed. Violations including both technical and conviction violation are considered conviction violations.

“Parole Violator.” An offender under parole supervision in the community who commits a technical violation or conviction violation.

“Pennsylvania Parole Board (Board).” An independent executive branch agency comprised of nine members appointed by the Governor and confirmed by the Senate for six-year terms. The Board makes parole, parole revocation and recommitment, and reparole decisions.

“Presumptive Range.” A period of recommitment, set as a minimum and maximum term of months for each condition of parole as well as most criminal offenses, that a parolee who violates his/her parole may expect to spend in confinement prior to being eligible for reparole.

“Prior record score (PRS).” A category in the sentencing guidelines reflecting the seriousness of the criminal history of an offender (see: 204 Pa. Code § 303.4).

“Recommitment.” The return of a parolee to incarceration for violation of the conditions of his/her parole or because of a conviction for a new crime. It is an administrative determination that an offender, because he/she violated parole, should be returned to an institution to serve all or part of the unexpired term of the sentence.

“Recommitment Range.” A range of time within which a parole violator may be recommitment to serve an additional part of the term the parole violator would have been compelled to serve had the parole violator not been paroled.

“Revocation.” A decision to revoke parole and to recommit an offender to incarceration after a revocation or violation hearing.

“Sentencing Guidelines Software Web Application (SGS Web).” A JNET-based application operated by the Commission which includes the modules for Sentencing, Resentencing, and Parole Guidelines. SGS Web serves as the source of data for the original reported sentence and associated information and the reporting source for revocations and resentences.

“Street Time.” The period of conditional liberty and freedom from confinement on a particular sentence that a parolee enjoys during which time the parolee is in compliance with the terms and conditions of parole.

“Technical Parole Violator.” Parolee who violates the terms and conditions of his parole, other than by the commission of a new crime of which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere in a court of record, may be detained pending a hearing before the board or waiver of the hearing or recommitted after a hearing before the board or a waiver of the hearing (61 Pa.C.S. § 6138(c)).

“Violent Offender.” An offender with a current or previous conviction as provided below, or an offense otherwise designated by the Pennsylvania Parole Board as violent offense, for which Parole Guidelines for Violent Offenders applies:

42 Pa.C.S. § 9714(g)

42 Pa.C.S. § 9718.1

42 Pa.C.S. § 9799.14

§ 311.2. State Parole Violator Recombitment Range Standards.

(a) The Pennsylvania Parole Board shall consider recommitment ranges in determining the appropriate recommitment time for technical and convicted parole violators.

(b) In every case in which the Pennsylvania Parole Board deviates from the recommitment ranges, the Board shall provide a contemporaneous written statement of the reasons for the deviation from the recommitment ranges to the Commission as established under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties).

(c) The parole violator recommitment ranges apply to revocations of parole following when recommitment is ordered by the Pennsylvania Parole Board.

(d) The parole violator recommitment ranges shall apply to all state parole violation and revocation hearings initiated on or after the effective date of the recommitment ranges.

(e) Unless otherwise provided by the Commission, the JNET-based Sentencing Guideline Software Web application (SGS Web) shall be used by the Pennsylvania Parole Board to:

- (1) describe violation and identify or calculate the appropriate recommitment range,
- (2) report recommitment time ordered,
- (3) report the date of recommitment and date of eligibility for re-parole or release of the offender, and
- (4) attach a copy of the completed State Parole Guidelines Form used to report the grant of parole.

§ 311.3. Procedure for Determining State Parole Violator Recombitment Range.

(a) For each state parole recommitment of an offender, the procedure for determining the appropriate recommitment range is as follows:

(1) Upon recommitment, determine if the offender is classified as a convicted parole violator (61 Pa.C.S. § 6138(a)(1) and (1.1)) or a technical parole violator (61 Pa.C.S. § 6138(c)(1) or (c)(1.3)).

(i) A technical parole violator is a parolee under the jurisdiction of the Board who violates the terms and conditions of his parole, other than by the commission of a new crime of which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere in a court of record, may be detained pending a hearing before the board or waiver of the hearing or recommitted after a hearing before the board or a waiver of the hearing.

(ii) A convicted parole violator is a parolee under the jurisdiction of the Board who, during the period of parole or while delinquent on parole, commits a crime punishable by imprisonment, for which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere at any time thereafter in a court of record, may at the discretion of the Board be recommitted as a parole violator (61 Pa.C.S. § 6138(a)(1) and (1.1)).

(2) If the offender is a technical parole violator, determine if the offender meets criteria set forth in 61 Pa.C.S. § 6138(c)(1.3):

(i) violation was sexual in nature;

(ii) violation involved assaultive behavior or included a credible threat to cause bodily injury to another;

(iii) violation involved possession or control of a weapon;

(iv) parolee absconded and cannot be safely diverted to a community corrections center, community corrections facility, or any secured facility operated or contracted by the Department;

(v) an identifiable threat exists to public safety and parolee cannot be safely diverted to a community corrections center, community corrections facility, or any secured facility operated or contracted by the Department;

(vi) the violation involved an intentional and unexcused failure to adhere to recommended programming or conditions on more than three occasions, and the parolee cannot be safely diverted.

(3) Identify the appropriate recommitment range.

(b) Determine recommitment time to be served, taking into account the:

(1) seriousness of the initial conviction offense,

(2) the level of seriousness of the violation or new offense, and

(3) the rehabilitative needs of the defendant.

§ 311.4. Technical State Parole Violator Recombitment Ranges: General.

(a) Ranges of parole recommitment to be served shall be utilized if a parolee violates a general or specific condition of parole, and the Pennsylvania Parole Board orders recommitment as a technical violator after the appropriate violation hearing(s).

(b) Technical parole violators as defined in 61 Pa.C.S. § 6138(c)(1) are subject to revocation of state parole and recommitment. Recommitment is served in a community corrections center, community corrections facility, or any secured facility operated or contracted by the Department.

(1) Technical parole violators shall serve not more than six (6) months (61 Pa.C.S. § 6138(e)(1)).

(2) The Pennsylvania Parole Board may re-parole an offender prior to the six (6) months provided written justification is given (61 Pa.C.S. § 6138(e)(2)).

(3) Technical parole violators as defined in 61 Pa.C.S. § 6138(c)(1.3) are subject to revocation of state parole and recommitment. Recommitment is served in a state correctional institution or a contracted county jail.

(i) For the first recommitment, a technical parole violator shall serve not more than six (6) months (61 Pa.C.S. § 6138(d)(3)(i)). The Pennsylvania Parole Board may re-parole an offender prior to the six (6) months provided written justification is given (61 Pa.C.S. § 6138(d)(4)).

(ii) For the second recommitment for the same sentence, a technical parole violator shall serve not less than six (6) months and not more than nine (9) months (61 Pa.C.S. § 6138(d)(3)(ii)).

(iii) For the third and subsequent recommitment for the same sentence, a technical parole violator shall serve not less than nine (9) months and not more than one (1) year (61 Pa.C.S. § 6138(d)(3)(iii)).

(iv) Maximum recommitment time shall not be applicable (61 Pa.C.S. § 6138(d)(5)) for a recommitment technical parole violator who 1) commits a disciplinary infraction involving assaultive behavior, sexual assault, a weapon or controlled substance, 2) spent more than 90 days in segregated housing due to one or more disciplinary infractions, or 3) refused programming or work assignments.

§ 311.5. Convicted State Parole Violator Commitment Ranges: General.

(a) Ranges of parole recommitment to be served shall be utilized if a parolee is convicted of a new criminal offense while on parole and the Board orders recommitment as a convicted parole violator after the revocation hearing.

(b) Convicted parole violators as defined in 61 Pa.C.S. § 6138(a)(1) and (1.1) are subject to revocation of state parole and recommitment. Recommitment time is served in a correctional facility.

(c) If the Board orders the recommitment of a convicted parole violator, the parolee shall be recommitted to serve an additional part of the term which the parolee would have been compelled to serve had the parolee not been paroled.

(d) The convicted parole violator will complete the original sentence, including recommitment time, and complete a sentence for the new crime in accordance with 61 Pa.C.S. § 6138(a)(5) and (a)(5.1).

(e) The Board may, at its discretion, award credit to a parolee recommitted for time spent at liberty on parole as established in criteria set forth in 61 Pa.C.S. § 6138(a)(2.1).

(f) The Board may, at its discretion, reparole a convicted parole violator (61 Pa.C.S. § 6138(a)(3)).

(g) The recommitment ranges for convicted parole violators are intended to structure the discretion of the

Board while allowing for individual circumstances in terms of mitigation and aggravation to be considered in the final decision.

(h) The recommitment ranges for convicted state parole violators are based on the current Offense Gravity Score of the new offense as described below.

<i>Offense Gravity Score</i>	<i>Recommitment Range (in months)</i>
15	60—Expiration of maximum sentence
14	48—Expiration of maximum sentence
13	48—Expiration of maximum sentence
12	36—Expiration of maximum sentence
11	36—Expiration of maximum sentence
10	24—48
9	24—36
8	18—36
7	18—24
6	12—24
5	12—18
4	6—18
3	6—12
2	3—9
1	1—6

(i) For individuals convicted of out-of-state or federal offenses, the Board will determine the current equivalent Offense Gravity Score.

(j) If a convicted parole violator who is re-paroled is convicted of a second offense while on parole for the initial sentence, the Board will consider a recommitment range increased by one Offense Gravity Score for the instant offense.

(k) If a convicted parole violator who is re-paroled is convicted of a third or subsequent offense while on parole for the initial sentence, the Board will consider a recommitment range increased by two Offense Gravity Scores for the instant offense.

(l) When the Board determines that an aggravating circumstance(s) is present, it may impose a recommitment period as follows:

(1) For Offense Gravity Score of 15, the Board may impose a recommitment period up to 24 months longer than the upper limit of the recommitment range.

(2) For Offense Gravity Scores of 11, 12, 13, and 14, the Board may impose a recommitment period up to 12 months longer than the upper limit of the recommitment range.

(3) For Offense Gravity Score of 9 and 10, the Board may impose a recommitment period up to nine months longer than the upper limit of the recommitment range.

(4) For Offense Gravity Scores of 5, 6, 7, and 8, the Board may impose a recommitment period up to six months longer than the upper limit of the recommitment range.

(5) For Offense Gravity Scores of 1, 2, 3, and 4, the Board may impose a recommitment period up to three months longer than the upper limit of the recommitment range.

(m) When the Board determines that a mitigating circumstance(s) is present, it may impose a recommitment period as follows:

(1) For an Offense Gravity Score of 15, the Board may impose a recommitment period up to 24 months less than the lower limit of the recommitment range.

(2) For Offense Gravity Scores of 11, 12, 13, and 14, the Board may impose a recommitment period up to 12 months less than the lower limit of the recommitment range.

(3) For an Offense Gravity Score of 9 and 10, the Board may impose a recommitment period up to nine months less than the lower limit of the recommitment range.

(4) For Offense Gravity Scores of 5, 6, 7, and 8, the Board may impose a recommitment period up to six months less than the lower limit of the recommitment range.

(5) For Offense Gravity Scores of 1, 2, 3, and 4, the Board may impose a recommitment period up to three months less than the lower limit of the recommitment range.

(6) If a paroled offender is recommitment on two or more offenses for the same criminal incident while on parole, the Board will consider the recommitment range for the offense with the greater Offense Gravity Score.

(o) If a paroled offender is convicted of another offense while on parole and the balance of the original sentence is less than the recommended minimum recommitment time, the balance of the sentence is the minimum.

[Pa.B. Doc. No. 22-598. Filed for public inspection April 22, 2022, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 300]

Order Amending Rules 301, 302 and 321 and Adopting Rule 350 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges; No. 466 Magisterial Rules Docket

Order

Per Curiam

And Now, this 12th day of April, 2022, upon the recommendation of the Minor Court Rules Committee; the proposal having been published for public comment at 50 Pa.B. 3104 (June 27, 2020) and 51 Pa.B. 5596 (September 4, 2021) pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 301, 302, and 321 are amended and Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 350 is adopted, in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective on October 1, 2022.

Additions to the rules are shown in bold and are underlined.

Deletions from the rules are shown in bold and brackets.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

Rule 301. Definition. Scope.

A. As used in this chapter, [¹] “action” means a civil action brought before a magisterial district judge.

B. Civil action includes any action within the jurisdiction of a magisterial district judge except an action by a landlord against a tenant for the recovery of the possession of real property.

C. As used in this chapter, “complaint” or [C] civil [A] action shall include, where applicable, the attached and completed Civil Action Hearing Notice form.

[**Official Note**] **Comment:** Civil action includes actions formerly denominated “assumpsit” or “trespass” (**commonly called contract and tort cases, respectively**) and civil claims for fines and penalties. See [**Section 1515(a)(3) of the Judicial Code,**] 42 Pa.C.S. § 1515(a)(3) prescribing the jurisdiction of magisterial district judges.

The rules in this chapter [**will**] apply to all civil actions before magisterial district judges except an action by a landlord against a tenant for the recovery of possession of real property, which [**are**] **is** governed by Chapter 500 of these rules.

Except as otherwise provided in Rule 350, the rules in this chapter apply to de novo appeals filed pursuant to 75 Pa.C.S. § 3369(j)(4), relating to automated work zone speed enforcement violations.

Statutes authorizing a civil fine or penalty include [**the following:** (1) **Section 10.1 of the Act of April 27, 1927, P.L. 465, No. 299, added by section 2 of the Act of December 21, 1988, P.L. 1315, No. 168, 35 P.S. § 1230.1 relating to clean indoor air; and Sections 617.1 and 817-A of the Act of July 31, 1968, P.L. 805, No. 247, as added by sections 62 and 77 of the Act of December 21, 1988, P.L. 1329, No. 170,**] 53 P.S. §§ 10617.1[,] **and** 10817-A relating to violations of zoning and joint municipal zoning ordinances.

Rule 302. Venue.

* * * * *

[**Official Note**] **Comment:** This rule [**replaces the temporary venue provisions of § 14 of the Schedule to Article V, Pennsylvania Constitution, 1968. It**] combines, with some minor changes, the Pennsylvania Rules of Civil Procedure relating to venue. See:

- (1) Individuals: Pa.R.Civ.P. [**No.**] 1006(a).
- (2) Partnerships: Pa.R.Civ.P. [**No.**] 2130(a).
- (3) Corporations: Pa.R.Civ.P. [**No.**] 2179(a).
- (4) Insurance Policies: Pa.R.Civ.P. [**No.**] 2179(b).

[¹ Rules in 300 Series.]

(5) Unincorporated Associations: Pa.R.Civ.P. [No.] 2156(a).

(6) Political Subdivisions: Pa.R.Civ.P. [No.] 2103(b).

This rule is not intended to repeal special statutory venue provisions, [**not included therein (see Rule 382(3)),**] such as the: **(1) venue provisions [of the Goods and Services Installment Sales Act, Act of October 28, 1966, P.L. 7, Art. XII, § 1205, 69 P.S. § 2205,] for actions involving installment sales of goods and services, 12 Pa.C.S. § 6307; (2) [nor is it intended to contravene the special] venue provisions [of § 811] of the Fair Debt Collection Practices Act, 5 U.S.C. § 1692i, pertaining to actions brought by debt collectors against consumers; and (3) venue provisions for appeals from automated work zone speed enforcement violations, 75 Pa.C.S. § 3369(j)(4). See Pa.R.Civ.P.M.D.J. 382(1) (pertaining to Acts of Assembly providing for special venue provisions that are not suspended).**

For a definition of “transaction or occurrence,” see *Craig v. W.J. Thiele & Sons, Inc.*, [**395 Pa. 129,**] 149 A.2d 35 (**Pa. 1959**).

Subdivision G is intended to take care of indistinct, “center line” or other confusing boundaries in the respects mentioned. When a complaint is transferred under subdivision H, it is treated as if originally filed in the transferee court on the date first filed in a court. If service of the complaint has already been made, no new service may be necessary, but the transferee court must set a new date, time and place for the new hearing and notify the parties thereof. It is the intent of this rule that cases may be transferred to any Pennsylvania court with appropriate jurisdiction and venue, including the Philadelphia Municipal Court. Likewise, nothing in this rule prohibits a court other than a magisterial district court from transferring a case to a magisterial district court with proper jurisdiction and venue, in accordance with the procedural rules of the transferring court. The jurisdictional limits of the magisterial district courts and the Philadelphia Municipal Court are governed by [**Sections 1515 and 1123 of the Judicial Code, respectively.**] 42 Pa.C.S. §§ 1515 and 1123, **respectively.**

There are no costs for transfer of the complaint and no additional filing costs when a case is transferred from one magisterial district court to another magisterial district court. There are no additional filing costs when a case is transferred from the Philadelphia Municipal Court to a magisterial district court.

There may be additional service costs when a case is transferred.

Rule 321. Hearings and Evidence.

The magisterial district judge shall be bound by the rules of evidence, except that a bill, estimate, receipt, or statement of account [**which**] **that** appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy, or authenticity.

[**Official Note**] **Comment:** The exception to the rules of evidence provided by this rule was inserted because the Pennsylvania statutes making certain business entries admissible in evidence [(see the **Judicial Code, § 6108, 42 Pa.C.S. § 6108**)] apparently do not apply to bills, receipts, and the like [**which**] **that** are

made in the regular course of business but are not made as “records.” See **42 Pa.C.S. § 6108**. The fact that this exception permits the introduction of these items of evidence without affidavit or other evidence of their truth, accuracy, or authenticity does not, of course, preclude the introduction of evidence contradicting them. The exception was deemed necessary because the items of evidence made admissible thereby are probably the proofs most commonly used in minor judiciary proceedings. See **Rule 350D(2) for additional exceptions applicable to appeals from automated work zone speed enforcement violations.**

The following text is entirely new.

(*Editor’s Note:* The following rule is printed in regular type to enhance readability.)

Rule 350. Automated Work Zone Speed Enforcement Violation Appeals.

A. As used in this rule:

(1) “Appellant” means the owner of a vehicle who has requested the appeal of a determination by a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4).

(2) “Appellee” means the Pennsylvania Department of Transportation, the Pennsylvania Turnpike Commission, or the system administrator designated by those agencies pursuant to 75 Pa.C.S. § 3369(h)(3)(i).

B. *Venue.* An appeal filed pursuant to this rule shall only be filed in the magisterial district court in the magisterial district where the violation of 75 Pa.C.S. § 3369(c) occurred.

C. *Notice of Appeal.*

(1) An appellant may appeal a determination of a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4) by filing a notice of appeal on a form prescribed by the State Court Administrator together with a copy of the hearing officer’s determination.

(2) The appellant shall pay all costs for filing and service of the notice of appeal at the time of filing or, if without the financial resources to pay the costs of litigation, the appellant shall file a petition to proceed *in forma pauperis* pursuant to Rule 206E.

(3) After setting the hearing date pursuant to Rule 305, the magisterial district judge shall serve the notice of appeal on the appellee by mailing a copy to the appellee at the address listed on the hearing officer’s determination by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form. The return receipt shall show that the notice of appeal was received by the appellee.

D. *Hearing; Evidence.*

(1) The proceeding shall be conducted *de novo* in accordance with these rules as if the action was initially commenced in a magisterial district court with the appellee having the burden of proof.

(2) The hearing is subject to the standards of evidence set forth in Rule 321, except that photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation may also be entered as evidence by any party without affidavit or other evidence of their truth, accuracy, or authenticity.

Comment: 75 Pa.C.S. § 3369 established a program to provide for automated speed enforcement systems in active work zones on certain highways under the jurisdiction of the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission. This rule

was adopted to address the provisions of the statute that permits a *de novo* appeal to a magisterial district court from a determination of a hearing officer following an administrative hearing to contest an alleged violation of 75 Pa.C.S. § 3369(c). Because these actions are *de novo* appeals, they shall proceed as any other civil action commenced in a magisterial district court except as provided by this rule.

Insofar as other procedures under these rules may be applicable, the appellant shall be deemed the “defendant” and the appellee shall be deemed the “plaintiff.”

The initiating document in an appeal filed pursuant to Rule 350 is the notice of appeal, which shall be used in lieu of a complaint.

Photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation were added to the existing business record exceptions in Rule 321 because they are the proofs most likely to be used to support the permitted defenses to 75 Pa.C.S. § 3369(c).

The appellant shall pay civil fines incurred pursuant to 75 Pa.C.S. § 3369(e) to the appellee and not to the magisterial district court. *See* Pa.R.Civ.P.M.D.J. 323, cmt. (clarifying that payments are made to the prevailing party and not the magisterial district court). If the magisterial district judge enters judgment in favor of the appellant, *i.e.*, the vehicle owner, the appellant is entitled to recover taxable costs from the appellee. *See* Pa.R.Civ.P.M.D.J. 206B (“[T]he prevailing party in magisterial district court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.”) Procedures for enforcement of judgments, including judgments in favor of the appellant for taxable costs from the appellee, are set forth in Rules 401 *et seq.*

See Rules 1001 *et seq.* for procedures to appeal a judgment rendered by a magisterial district judge or to file a *praecipe* for a writ of *certiorari* in civil actions, including actions brought pursuant to this rule.

MINOR COURT PROCEDURAL RULES COMMITTEE ADOPTION REPORT

Amendment of Pa.R.Civ.P.M.D.J. 301, 302, and 321 and Adoption of Pa.R.Civ.P.M.D.J. 350

On April 12, 2022, the Supreme Court amended Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 301, 302, and 321 and adopted new Rule 350 (“Rules”). These rule changes relate to appeals from hearing officer adjudications of automated work zone speed enforcement system violations (“AWZSES”). The Minor Court Procedural Rules Committee (“Committee”) has prepared this Adoption Report describing the rulemaking process as it relates to these Rules. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, Comment. The statements contained herein are those of the Committee, not the Court.

Act 86 of 2018 (“Act”) authorized the use of automated work zone speed enforcement systems (“AWZSES”) in active work zones along the Pennsylvania Turnpike and “[f]ederal aid highways only under the jurisdiction of the [PennDOT].” *See* 75 Pa.C.S. § 3369(a). The Act also established civil penalties for a speeding offense in a highway work zone recorded by an AWZSES. When the AWZSES records a speeding violation in an active work

zone, a system administrator (*i.e.*, agency vendor) will prepare and send a violation notice to the registered vehicle owner identified by the system. *See id.* § 3369(d). The vehicle owner may request a hearing before a hearing officer to contest the alleged violation. *See id.* § 3369(j)(1). The Act permits a vehicle owner to appeal the hearing officer’s decision before a magisterial district judge:

If the owner requests in writing that the decision of the hearing officer be appealed, the system administrator shall file the notice of violation and supporting documents with the office of the magisterial district judge for the magisterial district where the violation occurred, and the magisterial district judge shall hear and decide the matter *de novo*.

See id. § 3369(j)(4). PennDOT and the Pennsylvania Turnpike Commission (collectively, “agencies”) implemented AWZSES and it is operational. In anticipation of appeals from hearing officer determinations filed pursuant to 75 Pa.C.S. § 3369(j)(4), the Committee drafted Rule amendments to (1) clarify that Pa.R.Civ.P.M.D.J. 301–382 apply to AWZSES violation appeals; and (2) provide certain exceptions for these actions due to their unique nature as *de novo* appeals from hearing officer determinations. The Committee published a proposal relating to AWZSES appeals for public comment at 50 Pa.B. 3104 (June 27, 2020) and accepted comments through August 4, 2020. The Committee then made further revisions to the proposal based on feedback received.

The Committee published for public comment additional changes to the proposal at 51 Pa.B. 5596 (September 4, 2021). Rule 301 is amended to provide the Rules apply to AWZSES appeals, except as otherwise provided by new Rule 350. Rule 302 is amended to include AWZSES appeals to the list of actions with special venue provisions, as well as other amendments to enhance readability. Rule 321 is amended to add a cross-reference to new Rule 350(D)(2), providing exceptions to evidentiary requirements for AWZSES appeals. These amendments are nearly identical to the Rule amendments published in 2020.

New Rule 350 contains a special venue rule, evidentiary exceptions, and clarifies the nature of the parties and proceeding in an AWZSES violation appeal. New Rule 350 requires a vehicle owner appealing from a hearing officer determination to file a notice of appeal along with a copy of the hearing officer determination with the magisterial district court. The notice of appeal takes the place of a complaint as the initiating document in the civil action. The vehicle owner is the appellant in the action and the agency or its designee is the appellee. To the extent other procedural rules are applicable to these appeals, the parties may also be deemed the defendant and plaintiff, respectively. The vehicle owner is responsible for remitting the filing fee with the notice of appeal unless they concurrently file a petition to proceed *in forma pauperis* pursuant to Rule 206(E) (for a party without financial resources to pay the costs of litigation). Notably, the Act does not address the payment of court costs and fees for appeal to the magisterial district court from the determination of the hearing officer. Filing fees and court costs are established by statute. *See, e.g.*, 42 Pa.C.S. §§ 1725.1(a)(1), 3733, and 3733.1. Currently, filing fees and courts costs in these actions are approximately \$96.00, not including service.

Finally, new Rule 350 provides that if the vehicle owner is successful on appeal, then they are entitled to recover

taxable costs. While it may be unusual for a state agency or its designee to be a party in a civil matter in magisterial district court, the Legislature has designated the AWZSES appeals as civil rather than criminal actions. There are no provisions in the Act exempting the parties from filing fee requirements pursuant to 42 Pa.C.S. § 1725.1(a) or from the awarding of costs to a successful appellant pursuant to 42 Pa.C.S. § 1726. See also Pa.R.Civ.P.M.D.J. 206(B). Procedures for a prevailing litigant to enforce a judgment are set forth at Rules 401 et seq.

With respect to procedures for filing an appeal or writ of certiorari in these matters, the Comment to Rule 350 directs the reader to Rules 1001 et seq. An appeal from a

judgment rendered by a magisterial district court should be made to the court of common pleas for the judicial district. See Pa.R.Civ.P.M.D.J. 1001 et seq. As provided by statute, “[e]xcept as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have exclusive jurisdiction of appeals from final orders of the minor judiciary established within the judicial district.” See 42 Pa.C.S. § 932.

These amendments become effective October 1, 2022.

[Pa.B. Doc. No. 22-599. Filed for public inspection April 22, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 1st day of April, 2022, Dauphin County Local Rule of Criminal Procedure 523 is promulgated as follows:

Rule 523. Documentation of Reasons for Bail.

(1) Whenever issuing authority commits a defendant without bail or sets bail with monetary condition pursuant to Pa.R.Crim.P. Rule 524(C)(5), issuing authority must contemporaneously provide written reasons for the bail amount or the denial of bail. This requirement applies whenever issuing authority sets bail in a monetary amount even if the defendant posts it immediately. This requirement does not apply if bail is set at ROR or an unsecured amount.

(2) Issuing authority must use the form in Appendix “A” to this rule to record the reasons described in subparagraph (1).

(3) Issuing authority may use the form in Appendix “A” to this rule to record reasons for setting bail conditions or for setting unsecured or ROR bail.

(4) Whenever the form in Appendix “A” to this rule is used, issuing authority must file the statement of written reasons with the case, provide a copy to the defendant, and immediately transmit a copy to the Dauphin County Prison, if the defendant does not post bail at the time bail is set.

(5) If issuing authority does not issue and file a statement of written reasons for setting secured bail or denying bail in the manner required by this rule, the parties and a reviewing court may infer that there were no proper reasons for the prior bail action.

(6) In making the above bail assessments, issuing authority must consider the release criteria in Pa.R.Crim.P. Rule 523.

Appendix A

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF DAUPHIN

Mag. Dist. No: MDJ-12-
MDJ Name:
Address:
Telephone:

BAIL REASONS

COMMONWEALTH

v.

Docket No:
Case Filed:

Charges(s):

Bail Amount (if bail is denied, write “DENIED”) _____

Reasons for denial of bail or setting of monetary bail: _____

Date

Magisterial District Judge

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

717-780-6640

www.pacourts.us/language-rights

FREE INTERPRETER

The previously listed rule shall be published in the *Pennsylvania Bulletin* and will become effective thirty days from the date of publication.

By the Court

JOHN F. CHERRY,
President Judge

[Pa.B. Doc. No. 22-600. Filed for public inspection April 22, 2022, 9:00 a.m.]
