

TITLE 11

Crimes and Criminal Procedure

PART IV

Prisons and Prisoners

CHAPTER 65. DEPARTMENT OF CORRECTION

Subchapter X. Sentencing Accountability Commission

§ 6580. Established; composition; purpose.

(a) The Delaware Sentencing Accountability Commission (hereinafter referred to as the "Commission") is hereby established. The Commission shall consist of 11 members, the body of which shall be comprised as follows:

(1) Four members of the judiciary appointed by the Chief Justice, 2 of whom shall be initially appointed for a 2-year term and 2 of whom shall be appointed to a 4-year term; provided, that each succeeding term for all 4 of such members shall be 4 years;

(2) The Attorney General or the Attorney General's designee;

(3) The Public Defender or the Public Defender's designee;

(4) The Commissioner of Corrections or the Commissioner of Corrections' designee;

(5) Four other members-at-large, each of whom shall, by training or experience, possess a knowledge of Delaware sentencing practices, 2 to be appointed by the Governor, 1 by the President Pro Tempore of the Senate and 1 by the Speaker of the House. One of the members-at-large shall be appointed by the Governor for a 2-year term; the remaining members-at-large shall be appointed for 4-year terms; provided that each succeeding term following the initial term of all 4 members-at-large shall be 4 years.

The Chief Justice shall designate 1 of the members of the judiciary serving on the Commission to serve as Chairperson of the Commission.

(b) It shall be the overall purpose of this body to establish a system which emphasizes accountability of the offender to the criminal justice system and accountability of the criminal justice system to the public.

For purposes of this subchapter, the grouping of punishments consistent with the guidelines developed by the Commission shall be known as "accountability levels."

(c) The Commission shall develop sentencing guidelines consistent with the overall goals of ensuring certainty and consistency of punishment commensurate with the seriousness of the offense and with due regard for resource availability and cost. In

developing these guidelines, the Commission shall also consider the following additional goals in the priority in which they appear:

- (1) Incapacitation of the violence-prone offender;
- (2) Restoration of the victim as nearly as possible to the victim's preoffense status; and
- (3) Rehabilitation of the offender. (64 Del. Laws, c. 402, § 1.)

§ 6581. Sentencing guidelines.

(a) A computer-driven model of proposed sentencing criteria shall be created by March 1, 1985, which will be able to project the effect of alternative policy decisions on the Department of Correction resources. Sentencing guidelines will be drafted with nonbinding pilot testing by July 1, 1985.

The Commission shall submit to the Supreme Court on or before March 1, 1986, sentencing guidelines developed in accordance with § 6580(c) of this title for adoption by Court rule. Such guidelines shall have no force or effect unless so adopted, and shall not in any event authorize or be construed as authorizing the exercise of any power or duty exceeding or conflicting with those heretofore or hereafter granted by act of the General Assembly or pursuant to inherent authority granted under the Delaware Constitution.

(b) The Commission, on or before July 1, 1987, shall recommend to the Governor and the General Assembly legislation necessary for the implementation of the sentencing guidelines.

(c) Consistent with the goals of this subchapter, the sentencing guidelines recommended by the Commission shall:

(1) Formulate a series of sanctions ranging from nonincarcerative to incarcerative. These sanctions may include, but not be limited to, fines, costs, restitution, unsupervised and/or supervised probation, community service, work release and community-based residential and nonresidential programs, work camps and electronic monitoring. These sanctions shall be placed in one or more accountability levels;

(2) Establish detailed objective criteria to be utilized in determining which offenders shall be assigned to each of the various accountability levels, such criteria to combine factors relating to the nature of the offense, the background and criminal history of the offender and the availability of resources;

(3) Define under what conditions of aggravation or mitigation and in what manner a sentencing judge may impose a sentence outside of the sentencing guidelines and recommend such mitigating and/or aggravating circumstances; and

(4) Define under what circumstances, by what process, and by whom offenders may be moved from 1 accountability level to another, subject to any law regulating such movement.

(d) The Commission shall estimate to what extent public and private resources are appropriate and available to meet the specifications and supervision standards necessitated by the population of offenders to be assigned to each level.

(e) The Commission shall define the roles of the various criminal justice agencies in the implementation of the proposed guidelines.

(f) The Commission shall recommend, as appropriate, mechanisms to insure that offenders are assessed a reasonable fee for their supervision and/or treatment.

(g) The Commission shall also recommend a procedure or a tribunal for appellate review by either the defendant or the State when sentences are imposed outside of the guidelines.

(h) The Commission shall have the authority to collect from any state or local governmental entity information, data, reports, statistics or such other material which is necessary to carry out the Commission's functions.

(i) The executive department shall provide staff services for the Commission which shall, for administrative purposes, be placed within that office.

(j) The Commission shall carry out such other duties consistent with its mandate as the General Assembly or the executive department shall from time to time direct. (64 Del. Laws, c. 402, § 1; 65 Del. Laws, c. 206, § 1.)

§ 6582. Treatment Access Committee established.

(a) There is established a permanent committee of the Sentencing Accountability Commission which shall be known as the Treatment Access Committee.

(b) The Treatment Access Committee shall be comprised of 7 voting members which shall include:

(1) The Chairperson of SENTAC, ex officio, who shall serve as Chairperson of the Committee;

(2) The Secretary of Health and Social Services, ex officio;

(3) The Secretary of the Department of Youth Services, ex officio;

(4) The Commissioner of Corrections, ex officio;

(5) The Chairperson of the Board of Parole, ex officio;

(6) Two additional members, 1 of whom shall represent the President of the Senate and 1 of whom shall represent the Speaker of the House; and

(7) Such other nonvoting members as will assist the Committee in performing its functions as are appointed by the Chairperson of SENTAC.

(c) The Treatment Access Committee shall supervise the establishment of a Treatment Access Center for substance abusing offenders. The Treatment Access Center shall be designed in a manner to coordinate the provision of substance abuse evaluation and treatment by public and private providers to criminal defendants and youths adjudicated delinquent or pending such adjudication. The Committee shall have the power through its Chairperson to make and enter into any and all contracts, agreements or stipulations; and to seek, accept and receive funds, grants or donations necessary to fulfill the purposes of this section.

(d) The Treatment Access Committee shall supervise the expenditure of funds from the Substance Abuse Rehabilitation, Treatment, Education and Prevention Fund. It shall make grants to the Treatment Access Center, and to other state and local public entities or agencies for substance abuse treatment, rehabilitation, education or prevention activities, subject to the provisions of 16 Del. C. § 4803A(b).

(e) The Treatment Access Committee shall report annually to SENTAC and the General Assembly on its activities and the status of substance abuse problems in Delaware. (68 Del. Laws, c. 443, § 7; 70 Del. Laws, c. 186, § 1.)

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