

HOUSE BILL 809 (SHOCK  
INCARCERATION COMBINED WITH  
INTERMEDIATE PUNISHMENT)

PUBLIC HEARING BEFORE HOUSE  
JUDICIARY COMMITTEE

MAY 20, 1999

TESTIMONY OF TED McKNIGHT ON  
BEHALF OF PENNSYLVANIA DISTRICT  
ATTORNEYS ASSOCIATION

Ted

Good afternoon, Chairmen Gannon and Blaum, and members of the House Judiciary Committee. On behalf of the Pennsylvania District Attorneys Association, I thank you very much for the opportunity to testify today on the important issue of Intermediate Punishment.

I would like to address the importance of drug and alcohol treatment as part of Restrictive Intermediate Punishment.

**1. RIP Drug and Alcohol Treatment.**

**Discussion.** The Pennsylvania District Attorneys Association (PDAA) has been strongly supportive of providing clinically appropriate drug and alcohol treatment for RIP offenders, and indeed for all individuals in need of such treatment. This commitment manifested itself five years ago, when the PDAA agreed to concessions in the Sentencing Guidelines providing for RIP sentencing options where county jail sentences previously had been the only Guidelines option. Our agreement not to oppose these changes was conditioned upon the requirement that any offenders being sentenced to RIP be properly assessed and required to participate in clinically appropriate drug and alcohol treatment.

Why are Pennsylvania prosecutors - and indeed prosecutors around the nation - so committed to expanding the use of clinically appropriate drug and alcohol treatment? Consider the following facts:

- Sixty to eighty percent of all criminal justice offenders have serious substance abuse problems. Our failure to aggressively address criminals' addictions means more crime, more victims, and more prison overcrowding.
- One study after another confirms that clinically appropriate drug and alcohol treatment results in more than a two-thirds drop in criminal recidivism.
- Treatment saves taxpayers money. Again, study after study shows that money spent on good drug and alcohol treatment is an outstanding investment. The most extensive study done to date, the CALDATA Study, shows that every dollar spent on treatment yields a seven dollar return within twelve months, primarily in reduced criminal justice costs.

For this reason, the PDAA strongly supports this year's \$11 million line item for RIP treatment.<sup>1</sup> Additionally, PCCD and specifically

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<sup>1</sup> The Pennsylvania Sentencing Commission and the Pennsylvania Commission on Crime and Delinquency determined that \$26 million was needed to fully fund RIP treatment around the state. PCCD is wisely opting to use the \$11 million to fully fund RIP treatment in

PCCD staffer Jim Strader deserve congratulations for the highly competent manner in which they have administered the RIP treatment grants around the Commonwealth.

**Recommendations.** The PDAA would offer the following recommendations with respect to this issue:

1. Gradually increase funding of this project until it is fully funded. As stated above, funds invested in this criminal justice/treatment project will result in less crime and significant savings to the state criminal justice system. Although it has been determined that it's statewide cost is \$26 million, it is currently funded at \$10 million. This means that only 12 of the 26 counties applying for RIP treatment grants were funded. PCCD was forced to turn down \$6,000,000 in grant requests. The PDAA recommends that the funding for this project be increased incrementally, by approximately \$5 million per year, until it is fully funded.
2. The level and duration of treatment should be clinically determined. The success of treatment depends on the level and duration of treatment being determined clinically by qualified experts using appropriate clinical criteria (the Pennsylvania Placement Criteria). For addicts sufficiently deteriorated to have ended up in the criminal justice system, most will need long-term residential treatment.

Some counties nonetheless have set up RIP treatment programs that uniformly provide the same level of outpatient treatment for all offenders. Clinically, this dramatically reduces the chances of success. More importantly, inadequate treatment poses a public safety risk that is unacceptable. PCCD should be encouraged in its efforts to require that all RIP Treatment grant recipients are providing sufficient levels of treatment.

3. Other treatment funding streams should be increased, or at least maintained. As a result of welfare reform, many addicted individuals who used to be eligible for state Medicaid funding for non-hospital residential and other levels of drug and alcohol treatment, became ineligible. The state purportedly compensated for these cuts by creating a new funding stream: Behavior Health Special Initiative (BHSI) funding. However, this funding continues to fall far short of the need created by welfare reform. Moreover, this year's budget imposed further cuts in BHSI funding, meaning less treatment for, and more crime committed by, untreated addicts and alcoholics.

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pilot projects in selected counties.

As crime experts around the country have stated so many times, drug and alcohol addiction is the engine that drives crime in our nation. One of the very best anti-crime initiatives this General Assembly can launch is expansion of resources for drug and alcohol treatment, across the board.

## **2. Flat, brief jail sentences combined with RIP.**

**Discussion.** In rural counties, many judges otherwise disposed to sentence addicted offenders to RIP treatment are often unwilling to do so because they believe at least some brief period of incarceration before entering RIP treatment.

Although we are often accused of trying to reduce the flexibility of trial judges, in this instance the PDAA is asking the General Assembly to increase the judge's range of options. If a judge feels that a defendant is a good candidate for RIP treatment, but that the defendant would benefit more from this sentence if he or she first received a brief dose of jail to get his or her attention, then we should provide judges the flexibility to do that. I believe that RIP treatment will be used more often if judges can have that discretion.

I am not aware of any group or individual opposing this bill.

## **3. Proposed amendment language.**

When I was asked to testify at this hearing, I took the opportunity to review House Bill 809. Quite frankly, I found it somewhat confusing. I asked Gary Tennis - who readily took the blame for the confusing language - to see if he could make it clearer. I believe the handwritten changes on the attached House Bill 809 make the bill clearer, while making no change to the substance and intent of the bill.

## **4. Conclusion.**

I would respectfully request that the House Judiciary Committee approve this legislation, with the proposed amendments, and that the General Assembly expeditiously enact this important bill. Thank you for your attention.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 809

Session of 1999

INTRODUCED BY GIGLIOTTI, S. H. SMITH, READSHAW, STABACK, TRELLO, TIGUE, LAUGHLIN, SHANER, STERN, HARHAI, DeLUCA, McCALL, MANDERINO, SAYLOR, MELIO AND WOJNAROSKI, MARCH 10, 1999

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 10, 1999

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 sentence of partial confinement and for sentence of total
4 confinement.

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

7 Section 1. Section 9755 of Title 42 of the Pennsylvania
8 Consolidated Statutes is amended by adding a subsection to read:

9 § 9755. Sentence of partial confinement.

10 \* \* \* Sentence of partial confinement combined with
11 sentence of intermediate punishment.
12 (h) ~~Prohibition of parole with an intermediate punishment~~

12 ~~sentence.~~ --The court may impose a sentence of ~~intermediate punishment~~ <sup>partial confinement</sup>

13 without ~~the right to~~ parole under this subsection only when:

14 ~~the period of partial confinement is followed immediately by a~~
14 (1) ~~A sentence~~ <sup>imposed pursuant to section 9763</sup>

15 (relating to sentence of intermediate punishment) in which

16 case the sentence <sup>of partial confinement</sup> shall specify the number of days of partial

17 confinement to be served; and

18 (2) the maximum sentence of partial confinement imposed

1 on one or more indictments to run consecutively or  
2 concurrently total 90 days or less.

3 Section 2. Section 9756(c) of Title 42 is amended and the  
4 section is amended by adding a subsection to read:

5 § 9756. Sentence of total confinement.

6 \* \* \*

7 (c) Prohibition of parole for summary offenses.--(Except in  
8 the case of murder of the first degree, the) The court may  
9 impose a sentence to imprisonment without the right to parole  
10 under this subsection only when:

11 (1) a summary offense is charged;

12 (2) sentence is imposed for nonpayment of fines or  
13 costs, or both, in which case the sentence shall specify the  
14 number of days to be served; and

15 (3) the maximum term or terms of imprisonment imposed on  
16 one or more indictments to run consecutively or concurrently  
17 total less than 30 days.

18 \* \* \*

19 (c.1) ~~Prohibition of parole with~~ <sup>Combined</sup> sentence of total confinement with sentence of  
intermediate punishment

20 sentences.--The court may impose a sentence of imprisonment  
21 without ~~the right to~~ parole under this subsection only when:  
the period of total confinement is followed immediately by a

22 (1) sentence is imposed pursuant to section 9763  
23 (relating to sentence of intermediate punishment) in which  
24 case the sentence <sup>of total confinement</sup> shall specify the number of days of total  
25 confinement also to be served; and

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

29 Section 3. This act shall take effect in 90 days.