

STATE INTERMEDIATE PUNISHMENT

State Intermediate Punishment was enacted by the legislature in November 2004 (Act 2004-112). State Intermediate Punishment primarily targets drug dependant offenders who would otherwise be serving a minimum sentence of confinement of 30 months or more in a state facility. The individualized treatment plan and supervision are part of a flat two-year sentence that begins in a state institution and continues to the community. The entire two-year sentence is supervised by the Pennsylvania Department of Corrections.

Eligibility

- ✓ The court designates the offender as a person convicted of a drug-related offense.
- ✓ The offender must undergo an assessment performed by the DOC which has concluded that the defendant is in need of drug and alcohol addiction treatment.
- ✓ The offender does not demonstrate a history of present or past violent behavior.
- ✓ The offender would be in the custody of the DOC if not otherwise sentenced to State IP (the offender would be facing a minimum term of confinement of 30 months or greater).
- ✓ Individuals who are subject to the deadly weapon enhancement under the sentencing guidelines are not eligible for State IP.
- ✓ Individuals who have been convicted of a personal injury crime (under the Crime Victims Act) or an attempt or conspiracy to commit such a crime are ineligible for State IP.
- ✓ Individuals who have been convicted of the following offenses are also ineligible for State IP:
 - 18 Pa.C.S. § 4302 (incest)
 - 18 Pa.C.S. § 5901 (open lewdness)
 - 18 Pa.C.S. § 6312 (abuse of children)
 - 18 Pa.C.S. § 6318 (unlawful contact with minor)
 - 18 Pa.C.S. § 6320 (sexual exploitation of children)
 - Chapter 76, Subchapter C (internet child pornography)

Procedure for sentencing offenders to State Intermediate Punishment

- ✓ Referral for evaluation: Prior to imposing a sentence, the court may, upon motion of the Commonwealth and agreement of the defendant, commit a defendant to the custody of the DOC for thorough drug and alcohol and risk assessments to determine whether the offender is appropriate for the state IP program.
- ✓ The DOC conducts the assessment which is administered by a person skilled in the treatment of drug and alcohol addiction and trained to conduct assessments.
- ✓ The DOC will provide a report of its assessment to the court, the defendant, the prosecutor and the Sentencing Commission within 60 days of the court's commitment of the defendant to the custody of the DOC.

- ✓ If the DOC determines that the offender is suitable and the prosecutor does not object, the judge may sentence an offender to 24 months of State IP.
- ✓ The court is not prohibited from sentencing an offender to a consecutive period of probation. The total sentence may not exceed the maximum term for which the offender could otherwise be sentenced.
- ✓ The DOC shall make videoconferencing facilities available to allow the court to conduct proceedings when the offender has been committed to the custody of the DOC.
- ✓ The duration of a State IP sentence is 24 months and is comprised of the following:
 - A minimum of seven months in a state correctional institution of which not less than four months must be spent in an institutional therapeutic community (the time during which the defendants are being evaluated by the department is included in this period);
 - A minimum of two months in a community-based therapeutic community;
 - A minimum of six months in treatment through an outpatient treatment facility (an offender may spend part of the six-month aftercare phase in a community corrections center, a group home or an approved transitional residence such as their home; the DOC would continue to supervise the offender during this time period);
 - Finally, a period of supervised reintegration into the community for the balance of the sentence.
- ✓ The court may not modify or alter the terms of the DOC's proposed individualized treatment plan without the agreement of the DOC and the prosecutor.
- ✓ The DOC has the discretion to transfer offenders between the different stages of the program as necessary and the DOC and program administrators have the right to refuse a participant if the offender is deemed to be inappropriate for a particular program.

Revocation of State Intermediate Punishment Sentence

- ✓ Individuals who fail during the program or do not complete it during the specified sentence would be subject to revocation.
- ✓ The DOC must notify the court, the defendant, and the attorney for the Commonwealth.
- ✓ The offender is housed in a SCI or county jail pending action by the court.
- ✓ Upon revocation, all sentencing alternatives available to the court are the same as the alternatives at the time of initial sentencing.
- ✓ Upon revocation, the District Attorney may file notice, at any time prior to resentencing, of the Commonwealth's intention to proceed under an applicable provision of the law requiring a mandatory minimum sentence.

Effective Date

- ✓ Act 2004-112 is effective for sentences imposed on or after May 18, 2005.

204 Pa.Code §303.12. Guideline sentence recommendations: sentencing programs.

(c) State Intermediate Punishment.

(1) Eligibility.

(i) The following statute governs operation of and eligibility for State Intermediate Punishment:

42 Pa.C.S. Chapter 99

(ii) Any person convicted of a drug-related offense for which the sentence recommendation includes total confinement in a state facility may be considered for state intermediate punishment.

- (2) The court may, upon motion of the Commonwealth and agreement of the defendant, commit a defendant to the custody of the Department of Corrections for the purpose of evaluating whether the defendant would benefit from a drug offender treatment program and whether treatment in a drug offender treatment program is appropriate.
- (3) Upon receipt of a recommendation for placement in a drug offender treatment program and an individualized treatment plan from the Department of Corrections, and agreement of the attorney for the Commonwealth and the defendant, the court may sentence an eligible offender to a period of 24 months of state intermediate punishment.
- (4) The court may impose a consecutive period of probation. The total duration of a sentence of state intermediate punishment and consecutive probation may not exceed the maximum term for which the eligible offender could otherwise be sentenced.