

**Early County Parole & Earned Time/Good Time Programs:
New Sentencing Order Requirements**

What is the new law? On September 25, 2008, Act 81 of 2008 was enacted as part of an overall prison reform package. The package contained various “truth-in-sentencing” provisions, including amendments to 42 Pa. C.S.A. § 9756(b) (early county parole).

When are these early parole amendments effective? November 24, 2008. (§ 11).

What does the new law do?

1. It makes clear that prisoners cannot be paroled prior to the expiration of the minimum sentence unless it is authorized by law. 42 Pa. C.S.A. § 9756 (b)(2).
2. At the same time, it statutorily authorizes judges to enter parole orders prior to the expiration of the minimum sentence under certain conditions.

When may a judge grant early parole?

1. The total maximum sentence is less than two years.
 - a. [Note: In determining whether a prisoner is subject to a sentence of less than two years, the “entire continuous term of incarceration to which the person is subject” is considered, including (but not limited to) consecutive sentences, sentences imposed for violations of probation or intermediate punishment, parole commitments/backtimes, or “any other manner of sentence.” 42 Pa. C.S.A. § 9756 (b)(3) and 9762(f).]
2. At sentencing, the judge made the defendant eligible for a “reentry plan.”
 - a. At sentencing, the judge may make the defendant eligible for a reentry plan “at any time” or “at the expiration of a specified portion of the minimum sentence.” 42 Pa. C.S.A. § 9756 (b)(3).
 - b. Reentry plan eligibility is part of the sentence and must be recorded and entered as part of the official record. Id.
3. The prosecutor and has been given at least 10 days written notice and the opportunity to be heard on the early parole petition. Id.

Are earned time/good time programs subject to the early parole provisions? Yes. Various counties have earned time/good time programs. Releases under these programs are pursuant to a judge’s paroling authority. There is no other legal authority for such releases.

What is a “reentry plan”? Under Section 9756(e), this term is broadly defined. While Act 81 encourages releases into effective programs designed to reduce recidivism, it allows a judge to release a prisoner under a plan with “any other conditions deemed relevant by the court.” Id.

Will the 10 day notice provisions delay early paroles and increase the prison population? No. The 10 day notice provision was existing law before the enactment of Act 81. Most prosecutor’s offices will waive the notice provisions for certain types of early parole orders.

Early Parole Amendments in Act 81 of 2008
(formerly House Bill 4)

42 Pa.C.S.A § 9756. Sentence of total confinement.

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(b) Minimum sentence.—

(1) The court shall impose a minimum sentence of confinement which shall not exceed one-half of the maximum sentence imposed.

(2) The minimum sentence imposed under this section may not be reduced through parole prior to the expiration of the minimum sentence unless otherwise authorized by this section or other law.

(3) Except where the maximum sentence imposed is two years or more, and except where a mandatory minimum sentence of imprisonment or total confinement is required by law, the court shall, at the time of sentencing, state whether or not the defendant is eligible to participate in a reentry plan at any time prior to the expiration of the minimum sentence or at the expiration of a specified portion of the minimum sentence. For maximum sentences of less than two years as defined under section 9762(f) (relating to sentencing proceeding; place of confinement), a court may parole a defendant prior to the expiration of the minimum sentence only if the defendant was made eligible to participate in a reentry plan at the time of sentencing. The court shall provide at least ten days' written notice and an opportunity to be heard, pursuant to the act of June 19, 1911 (P.L.1059, No.813), referred to as the County Jail and Workhouse Parole Law, to the prosecuting attorney before granting parole pursuant to this subsection. The reentry plan eligibility shall be considered a part of the sentence and subject to the requirements relating to the entry, recording and reporting of sentences.

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(e) Definitions.--As used in this section, the term "reentry plan" is a release plan that may include drug and alcohol treatment, behavioral health treatment, job training, skills training, education, life skills or any other conditions deemed relevant by the court.