

Recidivism Risk Reduction Incentive (RRRI) Summary

- I. **What is RRRI?** Act 81 of 2008 created a new Chapter 53 in Title 44 that allows a limited class of state prisoners to receive an alternative minimum sentence (known as a “RRRI minimum”). By completing DOC programs designed to reduce their recidivism risk, they are eligible for parole sooner.
- II. **Who is eligible for RRRI?** A convicted defendant meeting **all** of the following:
- a. Committed to **custody of DOC**;¹
 - b. No “**history of present or past violent behavior**”;²
 - c. Not **awaiting trial/sentencing** on charges listed here;³
 - d. No **weapons** offenses:
 - i. Deadly weapon (sentence enhancement, guilty or convicted of offense involving a deadly weapon);
 - ii. Offenses listed in Chapter 61 of Title 18; or
 - iii. An equivalent offense of other jurisdiction;⁴
 - e. Not been convicted/found guilty/adjudicated delinquent of any of the following (or an equivalent offense in another jurisdiction):
 - i. **Personal injury crime**⁵—act, attempt, or threat to commit:
 1. **Homicide offenses in Ch. 25** (murder, manslaughter (voluntary/involuntary), causing/aiding suicide, and drug delivery resulting in death);
 2. **Assault and related offenses in Ch. 27** (simple assault, aggravated assault, assault by prisoner, aggravated harassment by prisoner, assault by life prisoner, REAP, terroristic threats, propulsion of missiles into occupied vehicle on a roadway, discharge of firearm into an occupied structure, paintball guns/markers, tear/noxious gas in labor dispute, harassment, stalking, ethnic intimidation, assault of sports official, neglect of care-dependent person, unauthorized administration of intoxicant, threat to use weapon of mass destruction, and terrorism);
 3. **Kidnapping and related offenses in Ch. 29** (kidnapping, false imprisonment, interference with custody of children/committed persons, criminal coercion, disposition of ransom, concealment of whereabouts of child, and luring a child into a motor vehicle or structure);
 4. **Sexual offenses in Ch. 31** (rape, statutory sexual assault, IDSI, sexual assault, institutional sexual assault, aggravated indecent assault, indecent assault, and indecent exposure);
 5. **Arson and related offenses** (18 Pa.C.S. § 3301);
 6. **Robbery** (§3701) and robbery of motor vehicle (§ 3702);

¹ 44 Pa.C.S.A § 5303 definition of “eligible offender” and 44 P.S. §5312.

² 44 Pa.C.S.A § 5303(1).

³ 44 Pa.C.S.A § 5303(5).

⁴ 44 Pa.C.S.A § 5303(2).

⁵ 44 Pa.C.S.A § 5303(3).

- 7. 18 Pa.C.S. Ch. 49 Subch. B (**victim/witness intimidation/retaliation**, retaliation against prosecutor or judicial official);
- 8. 30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence);
- 9. The following **Title 75 offenses**:
 - a. DUI w/ bodily injury (former §3731 and Ch 38);
 - b. homicide by vehicle (§3732);
 - c. homicide by vehicle-DUI (§3735);
 - d. aggravated assault by vehicle-DUI (§3735.1);
 - e. leaving the scene-accidents involving death/injury (§3742 (relating to accidents involving death or personal injury));
- ii. **Specific RRRI excluded offenses**:
 - 1. 18 Pa.C.S.A. § 4302 (incest);⁶
 - 2. 18 Pa.C.S.A. § 5901 (open lewdness);⁷
 - 3. 18 Pa.C.S.A. § 6312 (sexual abuse of children);⁸
 - 4. 18 Pa.C.S.A. § 6318 (unlawful contact with a minor);⁹
 - 5. 18 Pa.C.S.A. § 6320 (sexual exploitation of children);¹⁰
 - 6. 18 Pa.C.S.A. Ch. 76, Subch. C (internet child pornography);¹¹
 - 7. 42 Pa.C.S.A. § 4302 (drug offenses with firearms);¹²
- iii. **Megan's Law offenses** (offenses listed 42 Pa.C.S.A. § 9795.1).¹³ This duplicates other provisions but adds the following Title 18 offenses involving a minor:
 - 1. § 5902(b) (prostitution and related offenses); and
 - 2. § 5903(a)(3)-(6) (obscene/sexual materials & performances);
- iv. **Drug trafficking offenses** (35 P.S. 780-113 (a) (14), (30), & (37)) where defendant sentenced under:
 - 1. 18 Pa.C.S.A. §7508(a)(1)(iii) (50 lbs marij. etc.);
 - 2. (2)(iii)(100 grams Schedule I or II);
 - 3. (3)(iii)(100 grams cocaine);
 - 4. (4)(iii)(100 grams meth);
 - 5. (7)(iii)(50 grams heroin); or
 - 6. (8)(iii)(1000 tablets/300 grams MDA, MDMA, etc.).¹⁴

⁶ 44 Pa.C.S.A § 5303(4)(i).

⁷ 44 Pa.C.S.A § 5303(4)(ii).

⁸ 44 Pa.C.S.A § 5303(4)(iii).

⁹ 44 Pa.C.S.A § 5303(4)(iv).

¹⁰ 44 Pa.C.S.A § 5303(4)(v).

¹¹ 44 Pa.C.S.A § 5303(4)(vi).

¹² 44 Pa.C.S.A § 5303(4)(vii).

¹³ 44 Pa.C.S.A § 5303(4)(viii).

¹⁴ 44 Pa.C.S.A § 5303(6).

III. What are the RRRI procedures?

a. At sentencing (§ 5305)—

i. A judge *shall*:

1. make RRRI eligibility determination;
2. impose RRRI minimum sentence for eligible offenders;
3. impose RRRI minimum for *ineligible* offenders if:
 - a. the DA has waived eligibility requirements;
 - b. the victim received notice and opportunity to be heard on DA intent to waive; and
 - c. the judge does not reject the waiver.
4. make the RRRI minimum sentence equal to:
 - a. 3/4 of minimum sentences of 3 years or less; or
 - b. 5/6 of minimum sentences of more than 3 years;
5. apply aggregation provisions in determining the RRRI; and
6. comply with other sentencing requirements (including victim notification and opportunity to be heard).

[Note: The Sentencing Commission will be deploying a guideline application on SGS Web that incorporates an RRRI eligibility check, aggregation, waivers of ineligibility, and RRRI minimum sentence calculations.]

ii. A judge *may*:

1. reject DA waivers of RRRI eligibility requirements;
2. decline to impose RRRI minimum for offenders with 2 or more prior RRRI sentences; and

iii. DA *may*:

1. waive RRRI eligibility requirements with victim notice, etc. (see iv.).

iv. A crime victim:

1. has the right to notice and opportunity to be heard on a proposed waiver of RRRI eligibility.

b. During the **parole** process:

- i. DOC and PBPP: There are detailed RRRI program procedures that apply to the Department of Corrections and the Pennsylvania Board of Probation and Parole (PBPP).¹⁵
- ii. Judges and prosecutors have the right:
 1. to notice of a proposed parole at the RRRI minimum; and
 2. to object to any determination that the offender remains eligible for RRRI.¹⁶
- iii. Crime victims: Their rights relating to the parole process have not changed, except that additional confidentiality provisions have been added.¹⁷

¹⁵ 44 Pa.C.S.A §§5306-5310 and 61 P.S. §331.21(as amended by Act 83 of 2008) .

¹⁶ 61 P.S. §331.21 (b.2)(5) (as amended by Act 83 of 2008). Under this provision, for example, a judge or the prosecutor could argue that the defendant has not remained an “eligible offender” based on new or previously unknown information about the offender’s history of violence. The new provisions, however, do not forbid other types of objections. If there are other reasons to believe that the offender poses a risk to public safety, or that a reentry plan for the prisoner would not be “adequate”, PBPP retains the discretion to refuse parole. Judges and prosecutors certainly can ask PBPP to decline to release offenders in this category.

¹⁷ 61 P.S. §331.22.1.

CALCULATION OF RRR1 MINIMUM SENTENCE

Standard Minimum Sentence in Months	Equals RRR1 Min in Months (3/4)	Equals RRR1 Min Mos/Days (30 day mo/ no ½ days)
1 mo.	¾ mo.	0m/22d
2 mos.	1 ½ mos.	1m/15d
3 mos.	2 ¼ mos.	2m/7d
4 mos.	3 mos.	3m/0d
5 mos.	3 ¾ mos.	3m/22d
6 mos.	4 ½ mos.	4m/15d
7 mos.	5 ¼ mos.	5m/7d
8 mos.	6 mos.	6m/0d
9 mos.	6 ¾ mos.	6m/22d
10 mos.	7 ½ mos.	7m/15d
11 mos.	8 ¼ mos.	8m/7d
12 mos.	9 mos.	9m/0d
13 mos.	9 ¾ mos.	9m/22d
14 mos.	10 ½ mos.	10m/15d
15 mos.	11 ¼ mos.	11m/7d
16 mos.	12 mos.	12m/0d
17 mos.	12 ¾ mos.	12m/22d
18 mos.	13 ½ mos.	13m/15d
19 mos.	14 ¼ mos.	14m/7d
20 mos.	15 mos.	15m/0d
21 mos.	15 ¾ mos.	15m/22d
22 mos.	16 ½ mos.	16m/15d
23 mos.	17 ¼ mos.	17m/7d
24 mos.	18 mos.	18m/0d
25 mos.	18 ¾ mos.	18m/22d
26 mos.	19 ½ mos.	19m/15d
27 mos.	20 ¼ mos.	20m/7d
28 mos.	21 mos.	21m/0d
29 mos.	21 ¾ mos.	21m/22d
30 mos.	22 ½ mos.	22m/15d
31 mos.	23 ¼ mos.	23m/7d
32 mos.	24 mos.	24m/0d
33 mos.	24 ¾ mos.	24m/22d
34 mos.	25 ½ mos.	25m/15d
35 mos.	26 ¼ mos.	26m/7d
36 mos.	27 mos.	27m/0d

Standard Minimum Sentence in Months	Equals RRR1 Min in Months (5/6)	Equals RRR1 Min Mos/Days (30 day mo/ no ½ days)
37 mos.	30 5/6 mos.	30m/25d
38 mos.	31 2/3 mos.	31m/20d
39 mos.	32 ½ mos.	32m/15d
40 mos.	33 1/3 mos.	33m/10d
41 mos.	34 1/6 mos.	34m/5d
42 mos.	35 mos.	35m/0d
43 mos.	35 5/6 mos.	35m/25d
44 mos.	36 2/3 mos.	36m/20d
45 mos.	37 ½ mos.	37m/15d
46 mos.	38 1/3 mos.	38m/10d
47 mos.	39 1/6 mos.	39m/5d
48 mos.	40 mos.	40m/0d
49 mos.	40 5/6 mos.	40m/25d
50 mos.	41 2/3 mos.	41m/20d
51 mos.	42 ½ mos.	42m/15d
52 mos.	43 1/3 mos.	43m/10d
53 mos.	44 1/6 mos.	44m/5d
54 mos.	45 mos.	45m/0d
55 mos.	45 5/6 mos.	45m/25d
56 mos.	46 2/3 mos.	46m/20d
57 mos.	47 ½ mos.	47m/15d
58 mos.	48 1/3 mos.	48m/10d
59 mos.	49 1/6 mos.	49m/5d
60 mos.	50 mos.	50m/0d
61 mos.	50 5/6 mos.	50m/25d
62 mos.	51 2/3 mos.	51m/20d
63 mos.	52 ½ mos.	52m/15d
64 mos.	53 1/3 mos.	53m/10d
65 mos.	54 1/6 mos.	54m/5d
66 mos.	55 mos.	55m/0d
67 mos.	55 5/6 mos.	55m/25d
68 mos.	56 2/3 mos.	56m/20d
69 mos.	57 ½ mos.	57m/15d
70 mos.	58 1/3 mos.	58m/10d
71 mos.	59 1/6 mos.	59m/5d
72 mos.	60 mos.	60m/0d

RRR1 summary prepared by Sarah V. Hart, Philadelphia District Attorney's Office. RRR1 minimum calculations are estimates (see SGS web for calendar-based calculations). Questions to: Sarah.Hart@phila.gov.