WORK RELEASE

- **I.** New work release requirements/procedures. Under 42 Pa.C.S.A. §9813 (eff. 11/24/08) judges make prisoners "eligible" for work release but county jails must also approve release; jails also have new detention/recommitment powers.
- **II.** The following provisions are applicable to various criminal justice stakeholders:

i. Prosecutors:

- 1. have the right to notice and an opportunity to be heard on a petition for work release;
- **2.** [note: not required to, but should consider including a statement in all victim notification letters involving county prisoners to the effect that:
 - a. the defendant may be eligible for "work release;"
 - **b.** "work release" petitions cover a wide variety of issues; and
 - **c.** registered crime victims have the right to notice and an opportunity to be heard on a work release petition].

ii. Victims:

- 1. must be notified at the time of sentencing that the offender may be eligible for work release; and
- **2.** registered victims have the right to notice and an opportunity to be heard on a work release application.

iii. Judges:

- 1. must ensure that prosecutor and registered crime victim have written notice of the work release petition and the opportunity to be heard; and
- 2. have the discretion to-
 - **a.** make county prisoners "eligible" for work release;
 - **b.** set conditions for work release; and
 - **c.** revoke an eligibility order upon notice to the prisoner.

iv. County Jail:

- 1. has the power to preclude an offender from leaving the jail, or detain or recommit him because he:
 - **a.** poses a risk to community safety;
 - **b.** poses a risk to the orderly management of the jail;
 - c. violated conditions set by the jail; or
 - **d.** violated conditions set by the judge; and
- 2. must notify the judge of such action.
- **3.** [note: although not required to do so, should consider establishing program requirements and removal procedures].

v. Prisoners:

- 1. may petition for work release;
- 2. must abide by conditions set by the jail or judge; and
- 3. are entitled to notice before a judge revokes an "eligibility" order (but this does not preclude the prison from refusing to allow him to leave, detaining him, or recommitting him).

WORK RELEASE

New Law: 42 Pa.C.S.A. §9813. Work release or other court order and purposes.

- (a) Generally.--Notwithstanding any provision of law, if any offender has been sentenced to undergo imprisonment in a county jail for a term of less than five years, the court, at the time of sentence or at any time thereafter upon application made in accordance with this section, may enter an order making the offender eligible to leave the jail during necessary and reasonable hours for the purpose of working at his employment, conducting his own business or other self-employed occupation, including housekeeping and attending to the needs of family, seeking employment, attending an educational institution, securing medical treatment or for other lawful purposes as the court shall consider necessary and appropriate.
- (b) Procedure.--At the time of imposition of a county jail sentence, a crime victim receiving notice of the sentence imposed shall be informed that the offender may be eligible for an order under this section. An application for an order under this section shall be served on the attorney for the Commonwealth. Prior to granting any order under this section, the court shall ensure that the attorney for the Commonwealth and a registered crime victim have received notice of the application and had a reasonable opportunity to be heard on the application.
- (c) Revocation or modification of previously entered order.--The county jail officials may detain and recommit the offender or preclude the offender from leaving the county jail if the offender violates the conditions set by the jail officials or the court, or if allowing the offender to leave the county jail poses a risk to community safety or the orderly and safe management of the jail. The jail officials shall notify the court of such action. In addition, the order of court may be revoked or modified at any time with notice to the prisoner.

Old Law: 61 P.S. § 2141. Court order; purposes

Whenever any person has been sentenced to undergo imprisonment in a county jail or workhouse, hereafter referred to as a jail, for a term of less than five years the court, at the time of sentence or at any time thereafter upon application made therefor, may by order direct the sheriff, prison keeper, jail keeper, warden or other administrative head of a jail to permit the prisoner to leave the jail during necessary and reasonable hours for the purpose of working at his employment, conducting his own business or other self-employed occupation, including housekeeping and attending to the needs of family, seeking employment, attendance at an educational institution, securing medical treatment or such other lawful purposes as the court shall consider necessary and appropriate. The order of court may be rescinded or modified at any time with or without notice to the prisoner.