
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1920 Session of
2013

INTRODUCED BY WATERS, BISHOP, THOMAS, GAINNEY, COHEN, V. BROWN,
MAHONEY AND FRANKEL, DECEMBER 16, 2013

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 16, 2013

AN ACT

1 Amending Titles 5 (Athletics and Sports), 18 (Crimes and
2 Offenses), 23 (Domestic Relations), 42 (Judiciary and
3 Judicial Procedure), 61 (Prisons and Parole) and 75
4 (Vehicles) of the Pennsylvania Consolidated Statutes,
5 revising the law on criminalizing and sentencing for
6 controlled substances; making editorial changes; and
7 repealing certain provisions of the Controlled Substance,
8 Drug, Device and Cosmetic Act.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 3304(c)(2) of Title 5 of the Pennsylvania
12 Consolidated Statutes is amended to read:

13 § 3304. Denial of registration.

14 * * *

15 (c) Issuance of registration prohibited.--The commission
16 shall not issue athlete agent registration to or renew the
17 athlete agent registration of a person who has been convicted of
18 any of the following offenses, or any comparable offense in
19 another jurisdiction, within ten years of the date of
20 application:

21 * * *

1 (2) An offense under the following provisions of 18
2 Pa.C.S. (relating to crimes and offenses):
3 Section 902 (relating to criminal solicitation).
4 Section 908 (relating to prohibited offensive
5 weapons).
6 Section 2502 (relating to murder).
7 Section 2709(a) (4), (5), (6) or (7) (relating to
8 harassment).
9 Section 2709.1 (relating to stalking).
10 Section 2901 (relating to kidnapping).
11 Section 3121 (relating to rape).
12 Section 3126 (relating to indecent assault).
13 Section 3923 (relating to theft by extortion).
14 Section 4109 (relating to rigging publicly exhibited
15 contest).
16 Section 4302 (relating to incest).
17 Section 4304 (relating to endangering welfare of
18 children).
19 Section 4305 (relating to dealing in infant
20 children).
21 Section 4701 (relating to bribery in official and
22 political matters).
23 Section 4902 (relating to perjury).
24 Section 5501 (relating to riot).
25 Section 5512 (relating to lotteries, etc.).
26 Section 5513 (relating to gambling devices, gambling,
27 etc.).
28 Section 5514 (relating to pool selling and
29 bookmaking).
30 Chapter 58 (relating to controlled substances).

1 Section 5901 (relating to open lewdness).

2 Section 5902 (relating to prostitution and related
3 offenses).

4 Section 5903 (relating to obscene and other sexual
5 materials and performances).

6 Section 5904 (relating to public exhibition of insane
7 or deformed person).

8 Section 6301 (relating to corruption of minors).

9 Section 6312 (relating to sexual abuse of children).

10 Section 7107 (relating to unlawful actions by athlete
11 agents).

12 * * *

13 Section 2. Section 911(h) (1) (ii) of Title 18 is amended to
14 read:

15 § 911. Corrupt organizations.

16 * * *

17 (h) Definitions.--As used in this section:

18 (1) "Racketeering activity" means all of the following:

19 * * *

20 (ii) An offense indictable under [section 13 of the
21 act of April 14, 1972 (P.L.233, No.64), known as The
22 Controlled Substance, Drug, Device and Cosmetic Act]
23 Chapter 58 (relating to [the sale and dispensing of
24 narcotic drugs] controlled substances).

25 * * *

26 Section 3. Section 1110 of Title 18 is amended by adding a
27 subsection to read:

28 § 1110. Restitution for cleanup of clandestine laboratories.

29 * * *

30 (a.1) In addition to restitution under this section, a

1 person who is convicted of an offense involving the operation of
2 a methamphetamine laboratory or the possession or use of a
3 precursor or reagent substance to manufacture methamphetamine
4 shall be ordered to reimburse the appropriate law enforcement
5 agency, emergency medical services organization, fire company or
6 other organization for the costs of cleaning up the
7 environmental hazards associated with the operation of the
8 laboratory or the possession or use of a precursor or reagent
9 substance to manufacture methamphetamine.

10 * * *

11 Section 4. Sections 2506(a) and 5708(4) of Title 18 are
12 amended to read:

13 § 2506. Drug delivery resulting in death.

14 (a) Offense defined.--A person commits a felony of the first
15 degree if the person intentionally administers, dispenses,
16 delivers, gives, prescribes, sells or distributes any controlled
17 substance or counterfeit controlled substance in violation of
18 [section 13(a)(14) or (30) of the act of April 14, 1972
19 (P.L.233, No.64), known as The Controlled Substance, Drug,
20 Device and Cosmetic Act] Chapter 58 (relating to controlled
21 substances), and another person dies as a result of using the
22 substance.

23 * * *

24 § 5708. Order authorizing interception of wire, electronic or
25 oral communications.

26 The Attorney General, or, during the absence or incapacity of
27 the Attorney General, a deputy attorney general designated in
28 writing by the Attorney General, or the district attorney or,
29 during the absence or incapacity of the district attorney, an
30 assistant district attorney designated in writing by the

1 district attorney of the county wherein the suspected criminal
2 activity has been, is or is about to occur, may make written
3 application to any Superior Court judge for an order authorizing
4 the interception of a wire, electronic or oral communication by
5 the investigative or law enforcement officers or agency having
6 responsibility for an investigation involving suspected criminal
7 activities when such interception may provide evidence of the
8 commission of any of the following offenses, or may provide
9 evidence aiding in the apprehension of the perpetrator or
10 perpetrators of any of the following offenses:

11 * * *

12 (4) Any offense set forth under [section 13(a) of the
13 act of April 14, 1972 (P.L.233, No.64), known as The
14 Controlled Substance, Drug, Device and Cosmetic Act, not
15 including the offense described in clause (31) of section
16 13(a)] Chapter 58 (relating to controlled substances).

17 * * *

18 Section 5. Title 18 is amended by adding a chapter to read:

19 CHAPTER 58

20 CONTROLLED SUBSTANCES

21 Sec.

22 5801. Definitions.

23 5802. Marijuana.

24 5803. Possession.

25 5804. Distribution.

26 5805. Drug trafficking.

27 5806. Manufacturing.

28 5807. Medical exceptions.

29 § 5801. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Controlled substance." A drug, a substance or an immediate
4 precursor included in a schedule in section 4 of the act of
5 April 14, 1972 (P.L.233, No.64), known as The Controlled
6 Substance, Drug, Device and Cosmetic Act. The term includes:

7 (1) a compound, mixture, isomer, salt or derivative,
8 which contains the drug, substance or immediate precursor;
9 and

10 (2) a substance which:

11 (i) is intended for human consumption; and

12 (ii) has a chemical structure substantially similar
13 to that of a controlled substance in Schedule I, II or
14 III in section 4 of The Controlled Substance, Drug,
15 Device and Cosmetic Act.

16 "Counterfeit." As defined in section 2 of the act of April
17 14, 1972 (P.L.233, No.64), known as The Controlled Substance,
18 Drug, Device and Cosmetic Act.

19 "Designer drug." As defined in section 2 of the act of April
20 14, 1972 (P.L.233, No.64), known as The Controlled Substance,
21 Drug, Device and Cosmetic Act.

22 "Drug." As defined in section 2 of the act of April 14, 1972
23 (P.L.233, No.64), known as The Controlled Substance, Drug,
24 Device and Cosmetic Act.

25 "Immediate precursor." As defined in section 2 of the act of
26 April 14, 1972 (P.L.233, No.64), known as The Controlled
27 Substance, Drug, Device and Cosmetic Act.

28 "Paraphernalia." Equipment, products and materials which can
29 be used in introducing into the human body a controlled
30 substance.

1 § 5802. Marijuana.

2 (a) Possession.--An individual may not possess a controlled
3 substance which is marijuana in an amount up to:

4 (1) 227.0 grams; or

5 (2) ten live plants.

6 (b) Paraphernalia.--An individual may not possess
7 paraphernalia related to marijuana.

8 (c) Distribution for consideration.--A person may not
9 distribute marijuana in return for receipt of anything of value
10 to:

11 (1) except as set forth in paragraph (2), another
12 person; or

13 (2) an individual under 18 years of age.

14 (d) Trafficking.--An individual may not possess a controlled
15 substance which is marijuana in an amount in excess of:

16 (1) 227.0 grams; or

17 (2) ten live plants.

18 (e) Gratis distribution.--A person may not distribute
19 marijuana to an individual who is under 18 years of age, without
20 charge or recompense.

21 (f) Grading for possession.--

22 (1) Except as set forth in paragraph (2), an individual
23 who violates subsection (a) commits a summary offense and
24 shall, upon conviction, be sentenced to pay a fine of \$300.

25 (2) An individual who, after being sentenced under
26 paragraph (1), violates subsection (a) commits a summary
27 offense and shall, upon conviction, be sentenced to pay a
28 fine of \$600 or to imprisonment for not more than three
29 months, or both.

30 (g) Grading for paraphernalia.--An individual who violates

1 subsection (b) commits a summary offense and shall, upon
2 conviction, be sentenced to pay a fine of \$100.

3 (h) Grading for distribution.--

4 (1) Except as set forth in paragraph (3):

5 (i) A person that violates subsection (c)(1) commits
6 a misdemeanor of the third degree and shall, upon
7 conviction, be sentenced to pay a fine of \$500 or to
8 imprisonment for not more than three months, or both.

9 (ii) A person that violates subsection (c)(2)
10 commits a misdemeanor of the first degree and shall, upon
11 conviction, be sentenced to pay a fine of \$2,000 or to
12 imprisonment for not more than two years, or both.

13 (2) Except as set forth in paragraph (3), a person that
14 violates subsection (e) commits a summary offense and shall,
15 upon conviction, be sentenced to pay a fine of \$500 or to
16 imprisonment for not more than three months, or both.

17 (3) The following apply to recidivism:

18 (i) A person that, after being sentenced under
19 paragraph (1), violates subsection (c)(1) commits a
20 misdemeanor of the second degree and shall, upon
21 conviction, be sentenced to pay a fine of \$1,000 or to
22 imprisonment for not more than six months, or both.

23 (ii) A person that, after being sentenced under
24 paragraph (1), violates subsection (c)(2) commits a
25 misdemeanor of the second degree and shall, upon
26 conviction, be sentenced to pay a fine of \$4,000 or to
27 imprisonment for not more than four years, or both.

28 (iii) A person that, after being sentenced under
29 paragraph (2), violates subsection (e) commits a summary
30 offense and shall, upon conviction, be sentenced to pay a

1 fine of \$1,000 or to imprisonment for not more than six
2 months, or both.

3 (i) Grading for trafficking.--

4 (1) Except as set forth in paragraph (2), an individual
5 who violates subsection (d) commits a misdemeanor of the
6 third degree and shall, upon conviction, be sentenced to pay
7 a fine of \$1,000 or to imprisonment for not more than six
8 months, or both.

9 (2) An individual who, after being sentenced under
10 paragraph (1), violates subsection (d) commits a misdemeanor
11 of the second degree and shall, upon conviction, be sentenced
12 to pay a fine of \$2,000 or to imprisonment for not more than
13 two years, or both.

14 § 5803. Possession.

15 (a) Offense.--Except as set forth in section 5802 (relating
16 to marijuana) or 5807 (relating to medical exceptions), an
17 individual may not possess:

18 (1) a controlled substance in an amount less than the
19 amount specified in section 5805 (relating to drug
20 trafficking); or

21 (2) paraphernalia related to a controlled substance.

22 (b) Grading.--

23 (1) Except as set forth in paragraph (2), an individual
24 who violates subsection (a) commits a misdemeanor of the
25 third degree and shall, upon conviction, be sentenced to
26 community-based drug treatment and to pay the costs of that
27 treatment.

28 (2) An individual who, after being sentenced under
29 paragraph (1), violates subsection (a)(1) commits a
30 misdemeanor of the second degree and shall, upon conviction,

1 be sentenced to pay a fine of \$1,000 or to imprisonment for
2 not more than three months, or both.

3 (3) An individual who violates subsection (a)(2) commits
4 a summary offense and shall, upon conviction, be sentenced to
5 pay a fine of \$300.

6 § 5804. Distribution.

7 (a) For consideration.--

8 (1) Except as set forth in section 5802 (relating to
9 marijuana) or 5807 (relating to medical exceptions), a person
10 may not distribute a controlled substance in return for
11 receipt of anything of value to:

12 (i) an individual who is at least 18 years of age;

13 or

14 (ii) an individual under 18 years of age.

15 (2) A person may not distribute a counterfeit to another
16 person in return for receipt of anything of value.

17 (b) Gratis.--Except as set forth in section 5802, a person
18 may not do any of the following:

19 (1) Distribute to an individual who is at least 18 years
20 of age, without charge or recompense, a controlled substance
21 in an amount specified under section 5803(a)(1) (relating to
22 possession).

23 (2) Distribute to an individual who is under 18 years of
24 age, without charge or recompense, a controlled substance.

25 (c) Grading.--

26 (1) Except as set forth in paragraph (2):

27 (i) A person that violates subsection (a)(1)(i) or

28 (2) or (b)(1) commits a misdemeanor of the second degree

29 and shall, upon conviction, be sentenced to pay a fine of

30 \$1,000 or to imprisonment for not more than two years, or

1 both.

2 (ii) A person that violates subsection (a)(1)(ii) or
3 (b)(2) commits a misdemeanor of the second degree and
4 shall, upon conviction, be sentenced to pay a fine of
5 \$2,000 or to imprisonment for not more than four years,
6 or both.

7 (2) A person that, after being sentenced under paragraph
8 (1):

9 (i) Violates subsection (a)(1)(i) or (2) or (b)(1)
10 commits a misdemeanor of the first degree and shall, upon
11 conviction, be sentenced to pay a fine of \$2,000 or to
12 imprisonment for not more than four years, or both.

13 (ii) Violates subsection (a)(1)(ii) or (b)(2)
14 commits a felony of the third degree and shall, upon
15 conviction, be sentenced to pay a fine of \$4,000 or to
16 imprisonment for not more than eight years, or both.

17 § 5805. Drug trafficking.

18 (a) Offense for controlled substance.--Except as set forth
19 in section 5807 (relating to medical exceptions):

20 (1) An individual may not possess 2.0 grams or more of a
21 controlled substance which is a narcotic drug or a mixture
22 that contains a controlled substance classified in Schedule I
23 or Schedule II under section 4 of the act of April 14, 1972
24 (P.L.233, No.64), known as The Controlled Substance, Drug,
25 Device and Cosmetic Act, which is a narcotic drug in an
26 amount of at least 2.0 grams.

27 (2) The following apply:

28 (i) Except as set forth in subparagraph (ii), an
29 individual may not possess 5.0 grams or more of a
30 controlled substance which is coca leaves.

1 (ii) Subparagraph (i) does not apply to:

2 (A) decocainized coca leaves; or

3 (B) extracts of coca leaves which do not contain
4 cocaine or ecgonine.

5 (3) An individual may not possess 5.0 grams or more of a
6 controlled substance which is any of the following:

7 (i) Methamphetamine.

8 (ii) Phencyclidine.

9 (4) An individual may not possess 5.0 grams or more of a
10 controlled substance which is amphetamine.

11 (5) An individual may not possess 50 or more dosage
12 units of a controlled substance which is methaqualone.

13 (6) An individual may not possess 1.0 grams or more of a
14 controlled substance which is heroin.

15 (7) An individual may not possess 50 or more dosage
16 units of a controlled substance which is:

17 (i) 3,4-methylenedioxyamphetamine (MDA);

18 (ii) 3,4-methylenedioxymethamphetamine (MDMA);

19 (iii) 5-methoxy-3,4-methylenedioxyamphetamine
20 (MMDA);

21 (iv) 3,4-methylenedioxy-N-ethylamphetamine; or

22 (v) N-hydroxy-3,4-methylenedioxyamphetamine.

23 (8) An individual may not possess a designer drug.

24 (b) Offense for counterfeit.--A person may not possess a
25 counterfeit of a controlled substance under subsection (a) in
26 the applicable amount specified in subsection (a).

27 (c) Grading.--

28 (1) Except as set forth in paragraph (2), an individual
29 who violates subsection (a) commits a misdemeanor of the
30 first degree and shall, upon conviction, be sentenced to pay

1 a fine of \$2,000 or to imprisonment for not more than two
2 years, or both.

3 (2) An individual who, after being sentenced under
4 paragraph (1), violates subsection (a) commits a felony of
5 the third degree and shall, upon conviction, be sentenced to
6 pay a fine of \$5,000 or to imprisonment for not more than
7 three years, or both.

8 § 5806. Manufacturing.

9 (a) Offense.--

10 (1) Except as set forth in paragraph (3), a person may
11 not manufacture a controlled substance.

12 (2) A person may not manufacture a counterfeit.

13 (3) Paragraph (1) does not apply to a person that is
14 registered as a manufacturer under section 6 of the act of
15 April 14, 1972 (P.L.233, No.64), known as The Controlled
16 Substance, Drug, Device and Cosmetic Act.

17 (b) Grading.--

18 (1) A person that violates subsection (a) commits a
19 felony of the third degree and shall, upon conviction, be
20 sentenced to pay a fine of \$5,000 or to imprisonment for not
21 more than five years.

22 (2) A person that, after being sentenced under paragraph
23 (1), violates subsection (a) commits a felony of the second
24 degree and shall, upon conviction, be sentenced to pay a fine
25 of \$10,000 or to imprisonment for not more than seven years,
26 or both.

27 § 5807. Medical exceptions.

28 This chapter does not proscribe any act which is authorized
29 by registration under the act of April 14, 1972 (P.L.233,
30 No.64), known as The Controlled Substance, Drug, Device and

1 Cosmetic Act.

2 Section 6. Sections 6105(a.1)(1), (c)(2) and (d)(3)(ii),
3 6109(e)(1)(iii) and (iv), 6314, 6317(a) introductory paragraph
4 and (c), 6319(a) and (b), 7508, 7508.1(b) and 7508.2 of Title 18
5 are amended to read:

6 § 6105. Persons not to possess, use, manufacture, control, sell
7 or transfer firearms.

8 * * *

9 (a.1) Penalty.--

10 (1) A person convicted of a felony enumerated under
11 Chapter 58 (relating to controlled substances) or subsection
12 (b) or a felony under the act of April 14, 1972 (P.L.233,
13 No.64), known as The Controlled Substance, Drug, Device and
14 Cosmetic Act, or any equivalent Federal statute or equivalent
15 statute of any other state, who violates subsection (a)
16 commits a felony of the second degree.

17 * * *

18 (c) Other persons.--In addition to any person who has been
19 convicted of any offense listed under subsection (b), the
20 following persons shall be subject to the prohibition of
21 subsection (a):

22 * * *

23 (2) A person who has been convicted of an offense under
24 Chapter 58 or the act of April 14, 1972 (P.L.233, No.64),
25 known as The Controlled Substance, Drug, Device and Cosmetic
26 Act, or any equivalent Federal statute or equivalent statute
27 of any other state, that may be punishable by a term of
28 imprisonment exceeding two years.

29 * * *

30 (d) Exemption.--A person who has been convicted of a crime

1 specified in subsection (a) or (b) or a person whose conduct
2 meets the criteria in subsection (c)(1), (2), (5), (7) or (9)
3 may make application to the court of common pleas of the county
4 where the principal residence of the applicant is situated for
5 relief from the disability imposed by this section upon the
6 possession, transfer or control of a firearm. The court shall
7 grant such relief if it determines that any of the following
8 apply:

9 * * *

10 (3) Each of the following conditions is met:

11 * * *

12 (ii) A period of ten years, not including any time
13 spent in incarceration, has elapsed since the most recent
14 conviction of the applicant of a crime enumerated in
15 subsection (b), a felony violation of Chapter 58 or The
16 Controlled Substance, Drug, Device and Cosmetic Act or
17 the offense which resulted in the prohibition under 18
18 U.S.C. § 922(g)(9).

19 * * *

20 § 6109. Licenses.

21 * * *

22 (e) Issuance of license.--

23 (1) A license to carry a firearm shall be for the
24 purpose of carrying a firearm concealed on or about one's
25 person or in a vehicle and shall be issued if, after an
26 investigation not to exceed 45 days, it appears that the
27 applicant is an individual concerning whom no good cause
28 exists to deny the license. A license shall not be issued to
29 any of the following:

30 * * *

1 (iii) An individual convicted of a crime enumerated
2 in Chapter 58 (relating to controlled substances) or
3 section 6105.

4 (iv) An individual who, within the past ten years,
5 has been adjudicated delinquent for a crime enumerated in
6 Chapter 58 or section 6105 or for an offense under The
7 Controlled Substance, Drug, Device and Cosmetic Act.

8 * * *

9 [§ 6314. Sentencing and penalties for trafficking drugs to
10 minors.

11 (a) General rule.--A person over 18 years of age who is
12 convicted in any court of this Commonwealth of a violation of
13 section 13(a)(14) or (30) of the act of April 14, 1972 (P.L.233,
14 No.64), known as The Controlled Substance, Drug, Device and
15 Cosmetic Act, shall, if the delivery or possession with intent
16 to deliver of the controlled substance was to a minor, be
17 sentenced to a minimum sentence of at least one year total
18 confinement, notwithstanding any other provision of this title
19 or other statute to the contrary.

20 (b) Additional penalties.--In addition to the mandatory
21 minimum sentence set forth in subsection (a), the person shall
22 be sentenced to an additional minimum sentence of at least two
23 years total confinement, notwithstanding any other provision of
24 this title or other statute to the contrary, if the person did
25 any of the following:

26 (1) Committed the offense with the intent to promote the
27 habitual use of the controlled substance.

28 (2) Intended to engage the minor in the trafficking,
29 transportation, delivery, manufacturing, sale or conveyance.

30 (3) Committed the offense within 1,000 feet of the real

1 property on which is located a public, private or parochial
2 school or a college or university.

3 (4) Committed the offense on a school bus or within 500
4 feet of a school bus stop.

5 (c) Proof at sentencing.--The provisions of this section
6 shall not be an element of the crime. Notice of the
7 applicability of this section to the defendant shall not be
8 required prior to conviction, but reasonable notice of the
9 Commonwealth's intention to proceed under this section shall be
10 provided after conviction and before sentencing. The
11 applicability of this section shall be determined at sentencing.
12 The court shall consider evidence presented at trial, shall
13 afford the Commonwealth and the defendant an opportunity to
14 present necessary additional evidence, and shall determine, by a
15 preponderance of the evidence, if this section is applicable.

16 (d) Authority of court in sentencing.--There shall be no
17 authority for a court to impose on a defendant to which this
18 section is applicable a lesser sentence than provided for in
19 subsection (a), to place the defendant on probation or to
20 suspend sentence. Nothing in this section shall prevent the
21 sentencing court from imposing a sentence greater than that
22 provided in this section. Sentencing guidelines promulgated by
23 the Pennsylvania Commission on Sentencing shall not supersede
24 the mandatory sentences provided in this section. Disposition
25 under section 17 or 18 of The Controlled Substance, Drug, Device
26 and Cosmetic Act shall not be available to a defendant to which
27 this section applies.

28 (e) Appeal by Commonwealth.--If a sentencing court refuses
29 to apply this section where applicable, the Commonwealth shall
30 have the right to appellate review of the action of the

1 sentencing court. The appellate court shall vacate the sentence
2 and remand the case to the sentencing court for imposition of a
3 sentence in accordance with this section if it finds that the
4 sentence was imposed in violation of this section.

5 (f) Forfeiture.--Assets against which a forfeiture petition
6 has been filed and is pending or against which the Commonwealth
7 has indicated an intention to file a forfeiture petition shall
8 not be subject to a fine under this section.

9 (g) Definition.--As used in this section, the term "minor"
10 means an individual under 18 years of age.]

11 § 6317. Drug-free school zones.

12 (a) General rule.--A person 18 years of age or older who is
13 convicted in any court of this Commonwealth of a violation of
14 section 13(a)(14) [or (30)] of the act of April 14, 1972
15 (P.L.233, No.64), known as The Controlled Substance, Drug,
16 Device and Cosmetic Act, shall, if the delivery or possession
17 with intent to deliver of the controlled substance occurred
18 within 1,000 feet of the real property on which is located a
19 public, private or parochial school or a college or university
20 or within 250 feet of the real property on which is located a
21 recreation center or playground or on a school bus, be sentenced
22 to a minimum sentence of at least two years of total
23 confinement, notwithstanding any other provision of this title,
24 The Controlled Substance, Drug, Device and Cosmetic Act or other
25 statute to the contrary. The maximum term of imprisonment shall
26 be four years for any offense:

27 * * *

28 (c) Authority of court in sentencing.--There shall be no
29 authority for a court to impose on a defendant to which this
30 section is applicable a lesser sentence than provided for in

1 subsection (a), to place the defendant on probation or to
2 suspend sentence. Nothing in this section shall prevent the
3 sentencing court from imposing a sentence greater than that
4 provided in this section. Sentencing guidelines promulgated by
5 the Pennsylvania Commission on Sentencing shall not supersede
6 the mandatory sentences provided in this section. [Disposition
7 under section 17 or 18 of The Controlled Substance, Drug, Device
8 and Cosmetic Act shall not be available to a defendant to which
9 this section applies.]

10 * * *

11 § 6319. Solicitation of minors to traffic drugs.

12 (a) Offense defined.--A person 18 years of age or older
13 commits a felony of the second degree if he solicits a person
14 who is less than 18 years of age to engage in a violation of
15 section 13(a)(14) [or (30)] of the act of April 14, 1972
16 (P.L.233, No.64), known as The Controlled Substance, Drug,
17 Device and Cosmetic Act, or delivers or conspires to deliver a
18 controlled substance to such a person, intending, knowing or
19 having reason to know that the person intends to engage in such
20 a violation with the controlled substance.

21 (b) Drug-free school zone.--A person violating subsection
22 (a) commits a felony of the first degree if he intends, knows or
23 has reason to know that the person under 18 years of age intends
24 to violate section 13(a)(14) [or (30)] of The Controlled
25 Substance, Drug, Device and Cosmetic Act in a drug-free school
26 zone.

27 * * *

28 [§ 7508. Drug trafficking sentencing and penalties.

29 (a) General rule.--Notwithstanding any other provisions of
30 this or any other act to the contrary, the following provisions

1 shall apply:

2 (1) A person who is convicted of violating section 13(a)
3 (14), (30) or (37) of the act of April 14, 1972 (P.L.233,
4 No.64), known as The Controlled Substance, Drug, Device and
5 Cosmetic Act, where the controlled substance is marijuana
6 shall, upon conviction, be sentenced to a mandatory minimum
7 term of imprisonment and a fine as set forth in this
8 subsection:

9 (i) when the amount of marijuana involved is at
10 least two pounds, but less than ten pounds, or at least
11 ten live plants but less than 21 live plants; one year in
12 prison and a fine of \$5,000 or such larger amount as is
13 sufficient to exhaust the assets utilized in and the
14 proceeds from the illegal activity; however, if at the
15 time of sentencing the defendant has been convicted of
16 another drug trafficking offense: two years in prison and
17 a fine of \$10,000 or such larger amount as is sufficient
18 to exhaust the assets utilized in and the proceeds from
19 the illegal activity;

20 (ii) when the amount of marijuana involved is at
21 least ten pounds, but less than 50 pounds, or at least 21
22 live plants but less than 51 live plants; three years in
23 prison and a fine of \$15,000 or such larger amount as is
24 sufficient to exhaust the assets utilized in and the
25 proceeds from the illegal activity; however, if at the
26 time of sentencing the defendant has been convicted of
27 another drug trafficking offense: four years in prison
28 and a fine of \$30,000 or such larger amount as is
29 sufficient to exhaust the assets utilized in and the
30 proceeds from the illegal activity; and

1 (iii) when the amount of marijuana involved is at
2 least 50 pounds, or at least 51 live plants; five years
3 in prison and a fine of \$50,000 or such larger amount as
4 is sufficient to exhaust the assets utilized in and the
5 proceeds from the illegal activity.

6 (2) A person who is convicted of violating section 13(a)
7 (14), (30) or (37) of The Controlled Substance, Drug, Device
8 and Cosmetic Act where the controlled substance or a mixture
9 containing it is classified in Schedule I or Schedule II
10 under section 4 of that act and is a narcotic drug shall,
11 upon conviction, be sentenced to a mandatory minimum term of
12 imprisonment and a fine as set forth in this subsection:

13 (i) when the aggregate weight of the compound or
14 mixture containing the substance involved is at least 2.0
15 grams and less than ten grams; two years in prison and a
16 fine of \$5,000 or such larger amount as is sufficient to
17 exhaust the assets utilized in and the proceeds from the
18 illegal activity; however, if at the time of sentencing
19 the defendant has been convicted of another drug
20 trafficking offense: three years in prison and \$10,000 or
21 such larger amount as is sufficient to exhaust the assets
22 utilized in and the proceeds from the illegal activity;

23 (ii) when the aggregate weight of the compound or
24 mixture containing the substance involved is at least ten
25 grams and less than 100 grams; three years in prison and
26 a fine of \$15,000 or such larger amount as is sufficient
27 to exhaust the assets utilized in and the proceeds from
28 the illegal activity; however, if at the time of
29 sentencing the defendant has been convicted of another
30 drug trafficking offense: five years in prison and

1 \$30,000 or such larger amount as is sufficient to exhaust
2 the assets utilized in and the proceeds from the illegal
3 activity; and

4 (iii) when the aggregate weight of the compound or
5 mixture containing the substance involved is at least 100
6 grams; five years in prison and a fine of \$25,000 or such
7 larger amount as is sufficient to exhaust the assets
8 utilized in and the proceeds from the illegal activity;
9 however, if at the time of sentencing the defendant has
10 been convicted of another drug trafficking offense: seven
11 years in prison and \$50,000 or such larger amount as is
12 sufficient to exhaust the assets utilized in and the
13 proceeds from the illegal activity.

14 (3) A person who is convicted of violating section 13(a)
15 (14), (30) or (37) of The Controlled Substance, Drug, Device
16 and Cosmetic Act where the controlled substance is coca
17 leaves or is any salt, compound, derivative or preparation of
18 coca leaves or is any salt, compound, derivative or
19 preparation which is chemically equivalent or identical with
20 any of these substances or is any mixture containing any of
21 these substances except decocainized coca leaves or extracts
22 of coca leaves which (extracts) do not contain cocaine or
23 ecgonine shall, upon conviction, be sentenced to a mandatory
24 minimum term of imprisonment and a fine as set forth in this
25 subsection:

26 (i) when the aggregate weight of the compound or
27 mixture containing the substance involved is at least 2.0
28 grams and less than ten grams; one year in prison and a
29 fine of \$5,000 or such larger amount as is sufficient to
30 exhaust the assets utilized in and the proceeds from the

1 illegal activity; however, if at the time of sentencing
2 the defendant has been convicted of another drug
3 trafficking offense: three years in prison and \$10,000 or
4 such larger amount as is sufficient to exhaust the assets
5 utilized in and the proceeds from the illegal activity;

6 (ii) when the aggregate weight of the compound or
7 mixture containing the substance involved is at least ten
8 grams and less than 100 grams; three years in prison and
9 a fine of \$15,000 or such larger amount as is sufficient
10 to exhaust the assets utilized in and the proceeds from
11 the illegal activity; however, if at the time of
12 sentencing the defendant has been convicted of another
13 drug trafficking offense: five years in prison and
14 \$30,000 or such larger amount as is sufficient to exhaust
15 the assets utilized in and the proceeds from the illegal
16 activity; and

17 (iii) when the aggregate weight of the compound or
18 mixture of the substance involved is at least 100 grams;
19 four years in prison and a fine of \$25,000 or such larger
20 amount as is sufficient to exhaust the assets utilized in
21 and the proceeds from the illegal activity; however, if
22 at the time of sentencing the defendant has been
23 convicted of another drug trafficking offense: seven
24 years in prison and \$50,000 or such larger amount as is
25 sufficient to exhaust the assets utilized in and the
26 proceeds from the illegal activity.

27 (4) A person who is convicted of violating section 13(a)
28 (14), (30) or (37) of The Controlled Substance, Drug, Device
29 and Cosmetic Act where the controlled substance is
30 methamphetamine or phencyclidine or is a salt, isomer or salt

1 of an isomer of methamphetamine or phencyclidine or is a
2 mixture containing methamphetamine or phencyclidine,
3 containing a salt of methamphetamine or phencyclidine,
4 containing an isomer of methamphetamine or phencyclidine,
5 containing a salt of an isomer of methamphetamine or
6 phencyclidine shall, upon conviction, be sentenced to a
7 mandatory minimum term of imprisonment and a fine as set
8 forth in this subsection:

9 (i) when the aggregate weight of the compound or
10 mixture containing the substance involved is at least
11 five grams and less than ten grams; three years in prison
12 and a fine of \$15,000 or such larger amount as is
13 sufficient to exhaust the assets utilized in and the
14 proceeds from the illegal activity; however, if at the
15 time of sentencing the defendant has been convicted of
16 another drug trafficking offense: five years in prison
17 and \$30,000 or such larger amount as is sufficient to
18 exhaust the assets utilized in and the proceeds from the
19 illegal activity;

20 (ii) when the aggregate weight of the compound or
21 mixture containing the substance involved is at least ten
22 grams and less than 100 grams; four years in prison and a
23 fine of \$25,000 or such larger amount as is sufficient to
24 exhaust the assets utilized in and the proceeds from the
25 illegal activity; however, if at the time of sentencing
26 the defendant has been convicted of another drug
27 trafficking offense: seven years in prison and \$50,000 or
28 such larger amount as is sufficient to exhaust the assets
29 utilized in and the proceeds from the illegal activity;
30 and

1 (iii) when the aggregate weight of the compound or
2 mixture containing the substance involved is at least 100
3 grams; five years in prison and a fine of \$50,000 or such
4 larger amount as is sufficient to exhaust the assets
5 utilized in and the proceeds from the illegal activity;
6 however, if at the time of sentencing the defendant has
7 been convicted of another drug trafficking offense: eight
8 years in prison and \$50,000 or such larger amount as is
9 sufficient to exhaust the assets utilized in and the
10 proceeds from the illegal activity.

11 (5) A person who is convicted of violating section 13(a)
12 (14), (30) or (37) of The Controlled Substance, Drug, Device
13 and Cosmetic Act, and who, in the course of the offense,
14 manufactures, delivers, brings into this Commonwealth or
15 possesses with intent to manufacture or deliver amphetamine
16 or any salt, optical isomer, or salt of an optical isomer, or
17 a mixture containing any such substances shall, when the
18 aggregate weight of the compound or mixture containing the
19 substance involved is at least five grams, be sentenced to
20 two and one-half years in prison and a fine of \$15,000 or
21 such larger amount as is sufficient to exhaust the assets
22 utilized in and the proceeds from the illegal activity;
23 however, if at the time of sentencing the defendant has been
24 convicted of another drug trafficking offense: be sentenced
25 to five years in prison and \$30,000 or such larger amount as
26 is sufficient to exhaust the assets utilized in and the
27 proceeds from the illegal activity.

28 (6) A person who is convicted of violating section 13(a)
29 (14), (30) or (37) of The Controlled Substance, Drug, Device
30 and Cosmetic Act where the controlled substance is

1 methaqualone shall, upon conviction, be sentenced to a
2 mandatory minimum term of imprisonment and a fine as set
3 forth in this subsection:

4 (i) when the aggregate weight of the compound or
5 mixture containing the substance involved is at least 50
6 tablets, capsules, caplets or other dosage units, or 25
7 grams and less than 200 tablets, capsules, caplets or
8 other dosage units, or 100 grams; one year in prison and
9 a fine of \$2,500 or such larger amount as is sufficient
10 to exhaust the assets utilized in and the proceeds from
11 the illegal activity; however, if at the time of
12 sentencing the defendant has been convicted of another
13 drug trafficking offense: three years in prison and
14 \$5,000 or such larger amount as is sufficient to exhaust
15 the assets utilized in and the proceeds from the illegal
16 activity; and

17 (ii) when the aggregate weight of the compound or
18 mixture containing the substance involved is at least 200
19 tablets, capsules, caplets or other dosage units, or more
20 than 100 grams; two and one-half years in prison and a
21 fine of \$15,000 or such larger amount as is sufficient to
22 exhaust the assets utilized in and the proceeds from the
23 illegal activity; however, if at the time of sentencing
24 the defendant has been convicted of another drug
25 trafficking offense: five years in prison and \$30,000 or
26 such larger amount as is sufficient to exhaust the assets
27 utilized in and the proceeds from the illegal activity.

28 (7) A person who is convicted of violating section 13(a)
29 (14), (30) or (37) of The Controlled Substance, Drug, Device
30 and Cosmetic Act where the controlled substance or a mixture

1 containing it is heroin shall, upon conviction, be sentenced
2 as set forth in this paragraph:

3 (i) when the aggregate weight of the compound or
4 mixture containing the heroin involved is at least 1.0
5 gram but less than 5.0 grams the sentence shall be a
6 mandatory minimum term of two years in prison and a fine
7 of \$5,000 or such larger amount as is sufficient to
8 exhaust the assets utilized in and the proceeds from the
9 illegal activity; however, if at the time of sentencing
10 the defendant has been convicted of another drug
11 trafficking offense: a mandatory minimum term of three
12 years in prison and \$10,000 or such larger amount as is
13 sufficient to exhaust the assets utilized in and the
14 proceeds from the illegal activity;

15 (ii) when the aggregate weight of the compound or
16 mixture containing the heroin involved is at least 5.0
17 grams but less than 50 grams: a mandatory minimum term of
18 three years in prison and a fine of \$15,000 or such
19 larger amount as is sufficient to exhaust the assets
20 utilized in and the proceeds from the illegal activity;
21 however, if at the time of sentencing the defendant has
22 been convicted of another drug trafficking offense: a
23 mandatory minimum term of five years in prison and
24 \$30,000 or such larger amount as is sufficient to exhaust
25 the assets utilized in and the proceeds from the illegal
26 activity; and

27 (iii) when the aggregate weight of the compound or
28 mixture containing the heroin involved is 50 grams or
29 greater: a mandatory minimum term of five years in prison
30 and a fine of \$25,000 or such larger amount as is

1 sufficient to exhaust the assets utilized in and the
2 proceeds from the illegal activity; however, if at the
3 time of sentencing the defendant has been convicted of
4 another drug trafficking offense: a mandatory minimum
5 term of seven years in prison and \$50,000 or such larger
6 amount as is sufficient to exhaust the assets utilized in
7 and the proceeds from the illegal activity.

8 (8) A person who is convicted of violating section 13(a)
9 (12), (14) or (30) of The Controlled Substance, Drug, Device
10 and Cosmetic Act where the controlled substance or a mixture
11 containing it is 3,4-methylenedioxyamphetamine (MDA); 3,4-
12 methylenedioxymethamphetamine (MDMA); 5-methoxy-3,4-
13 methylenedioxyamphetamine (MMDA); 3,4-methylenedioxy-N-
14 ethylamphetamine; N-hydroxy-3,4-methylenedioxyamphetamine; or
15 their salts, isomers and salts of isomers, whenever the
16 existence of such salts, isomers and salts of isomers is
17 possible within the specific chemical designation, shall,
18 upon conviction, be sentenced as set forth in this paragraph:

19 (i) When the aggregate weight of the compound or
20 mixture containing the substance involved is at least 50
21 tablets, capsules, caplets or other dosage units, or 15
22 grams and less than 100 tablets, capsules, caplets or
23 other dosage units, or less than 30 grams, the person is
24 guilty of a felony and, upon conviction thereof, shall be
25 sentenced to imprisonment not exceeding five years or to
26 pay a fine not exceeding \$15,000, or both.

27 (ii) When the aggregate weight of the compound or
28 mixture containing the substance involved is at least 100
29 tablets, capsules, caplets or other dosage units, or 30
30 grams and less than 1,000 tablets, capsules, caplets or

1 other dosage units, or less than 300 grams, the person is
2 guilty of a felony and, upon conviction thereof, shall be
3 sentenced to imprisonment not exceeding ten years or to
4 pay a fine not exceeding \$100,000, or both.

5 (iii) When the aggregate weight of the compound or
6 mixture containing the substance involved is at least
7 1,000 tablets, capsules, caplets or other dosage units,
8 or 300 grams, the person is guilty of a felony and, upon
9 conviction thereof, shall be sentenced to imprisonment
10 not exceeding 15 years or to pay a fine not exceeding
11 \$250,000, or both.

12 (a.1) Previous conviction.--For purposes of this section, it
13 shall be deemed that a defendant has been convicted of another
14 drug trafficking offense when the defendant has been convicted
15 of another offense under section 13(a)(14), (30) or (37) of The
16 Controlled Substance, Drug, Device and Cosmetic Act, or of a
17 similar offense under any statute of any state or the United
18 States, whether or not judgment of sentence has been imposed
19 concerning that offense.

20 (b) Proof of sentencing.--Provisions of this section shall
21 not be an element of the crime. Notice of the applicability of
22 this section to the defendant shall not be required prior to
23 conviction, but reasonable notice of the Commonwealth's
24 intention to proceed under this section shall be provided after
25 conviction and before sentencing. The applicability of this
26 section shall be determined at sentencing. The court shall
27 consider evidence presented at trial, shall afford the
28 Commonwealth and the defendant an opportunity to present
29 necessary additional evidence and shall determine, by a
30 preponderance of the evidence, if this section is applicable.

1 (c) Mandatory sentencing.--There shall be no authority in
2 any court to impose on an offender to which this section is
3 applicable a lesser sentence than provided for herein or to
4 place the offender on probation, parole or work release or to
5 suspend sentence. Nothing in this section shall prevent the
6 sentencing court from imposing a sentence greater than provided
7 herein. Sentencing guidelines promulgated by the Pennsylvania
8 Commission on Sentencing shall not supersede the mandatory
9 sentences provided herein. Disposition under section 17 or 18 of
10 The Controlled Substance, Drug, Device and Cosmetic Act shall
11 not be available to a defendant to which this section applies.

12 (d) Appellate review.--If a sentencing court refuses to
13 apply this section where applicable, the Commonwealth shall have
14 the right to appellate review of the action of the sentencing
15 court. The appellate court shall vacate the sentence and remand
16 the case to the sentencing court for imposition of a sentence in
17 accordance with this section if it finds that the sentence was
18 imposed in violation of this section.

19 (e) Forfeiture.--Assets against which a forfeiture petition
20 has been filed and is pending or against which the Commonwealth
21 has indicated an intention to file a forfeiture petition shall
22 not be subject to a fine. Nothing in this section shall prevent
23 a fine from being imposed on assets which have been subject to
24 an unsuccessful forfeiture petition.

25 (f) Growing plants.--When the controlled substance is
26 marijuana in the form of growing plants and the number of plants
27 is nine or less, weighing may be accomplished by law enforcement
28 officials utilizing any certified scale convenient to the place
29 of arrest for the purpose of determining the weight of the
30 growing marijuana plant. The aggregate weight of the plant is to

1 include the whole plant including the root system if possible.
2 The weight is not to include any substance not a part of the
3 growing plant.]

4 § 7508.1. Substance Abuse Education and Demand Reduction Fund.

5 * * *

6 (b) Imposition.--Unless the court finds that undue hardship
7 would result, a mandatory cost of \$100, which shall be in
8 addition to any other costs imposed pursuant to statutory
9 authority, shall automatically be assessed on any individual
10 convicted, adjudicated delinquent or granted Accelerated
11 Rehabilitative Disposition or any individual who pleads guilty
12 or nolo contendere for a violation of Chapter 58 (relating to
13 controlled substances) or the act of April 14, 1972 (P.L.233,
14 No.64), known as The Controlled Substance, Drug, Device and
15 Cosmetic Act, or a violation of 75 Pa.C.S. § 3802 (relating to
16 driving under influence of alcohol or controlled substance).

17 * * *

18 [§ 7508.2. Operation of methamphetamine laboratory.

19 (a) Offense defined.--A person commits the offense of
20 operating a methamphetamine laboratory if the person knowingly
21 causes a chemical reaction involving ephedrine, pseudoephedrine
22 or phenylpropanolamine, or any other precursor or reagent
23 substance under section 13.1 of the act of April 14, 1972
24 (P.L.233, No.64), known as The Controlled Substance, Drug,
25 Device and Cosmetic Act, for the purpose of manufacturing
26 methamphetamine or preparing a precursor or reagent substance
27 for the manufacture of methamphetamine.

28 (b) Grading.--

29 (1) Except as provided in paragraph (2), an offense
30 under this subsection constitutes a felony of the second

1 degree and is also subject to section 1110 (relating to
2 restitution for cleanup of clandestine laboratories).

3 (2) A person who violates subsection (a) commits a
4 felony of the first degree if the chemical reaction occurs
5 within 1,000 feet of the real property on which is located a
6 public, private or parochial school, a college or university
7 or a nursery school or day care center, or within 250 feet of
8 the real property on which is located a recreation center or
9 playground. The person shall also be subject to section 1110.

10 (c) Applicability.--

11 (1) This section does not apply to the manufacturing
12 operation of a licensed pharmaceutical company in the normal
13 course of business.

14 (2) Nothing in this section shall be construed to
15 preclude a prosecution for the same or similar activity under
16 The Controlled Substance, Drug, Device and Cosmetic Act.

17 (d) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection unless the context clearly indicates otherwise:

20 "Manufacture." The term shall have the same meaning given to
21 the term in section 2(b) of the act of April 14, 1972 (P.L.233,
22 No.64), known as The Controlled Substance, Drug, Device and
23 Cosmetic Act.]

24 Section 7. Section 6344(c)(2) of Title 23 is amended to
25 read:

26 § 6344. Information relating to prospective child-care
27 personnel.

28 * * *

29 (c) Grounds for denying employment.--

30 * * *

1 (2) In no case shall an administrator hire an applicant
2 if the applicant's criminal history record information
3 indicates the applicant has been convicted of one or more of
4 the following offenses under Title 18 (relating to crimes and
5 offenses) or an equivalent crime under Federal law or the law
6 of another state:

7 Chapter 25 (relating to criminal homicide).

8 Section 2702 (relating to aggravated assault).

9 Section 2709.1 (relating to stalking).

10 Section 2901 (relating to kidnapping).

11 Section 2902 (relating to unlawful restraint).

12 Section 3121 (relating to rape).

13 Section 3122.1 (relating to statutory sexual assault).

14 Section 3123 (relating to involuntary deviate sexual
15 intercourse).

16 Section 3124.1 (relating to sexual assault).

17 Section 3125 (relating to aggravated indecent assault).

18 Section 3126 (relating to indecent assault).

19 Section 3127 (relating to indecent exposure).

20 Section 4302 (relating to incest).

21 Section 4303 (relating to concealing death of child).

22 Section 4304 (relating to endangering welfare of
23 children).

24 Section 4305 (relating to dealing in infant children).

25 Chapter 58 (relating to controlled substances).

26 A felony offense under section 5902(b) (relating to
27 prostitution and related offenses).

28 Section 5903(c) or (d) (relating to obscene and other
29 sexual materials and performances).

30 Section 6301 (relating to corruption of minors).

1 Section 6312 (relating to sexual abuse of children).

2 The attempt, solicitation or conspiracy to commit any of
3 the offenses set forth in this paragraph.

4 * * *

5 Section 8. Section 1725.3(a) of Title 42 is amended to read:

6 § 1725.3. Criminal laboratory user fee.

7 (a) Imposition.--A person [who is placed on probation
8 without verdict pursuant to section 17 of the act of April 14,
9 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
10 Device and Cosmetic Act, or] who receives Accelerated
11 Rehabilitative Disposition or who pleads guilty to or nolo
12 contendere to or who is convicted of a crime as defined in 18
13 Pa.C.S. § 106 (relating to classes of offenses) or 75 Pa.C.S. §
14 1543(b)(1.1) (relating to driving while operating privilege is
15 suspended or revoked) or 3802 (relating to driving under
16 influence of alcohol or controlled substance) or 3735 (relating
17 to homicide by vehicle while driving under influence) or 3735.1
18 (relating to aggravated assault while driving under the
19 influence) or 3808(a)(2) (relating to illegally operating a
20 motor vehicle not equipped with ignition interlock) or a
21 violation of The Controlled Substance, Drug, Device and Cosmetic
22 Act shall, in addition to any fines, penalties or costs, in
23 every case where laboratory services were required to prosecute
24 the crime or violation, be sentenced to pay a criminal
25 laboratory user fee which shall include, but not be limited to,
26 the cost of sending a laboratory technician to court
27 proceedings.

28 * * *

29 Section 9. Section 1725.5(a)(1) of Title 42 is amended and
30 paragraph (2) is amended by adding a subparagraph to read:

1 § 1725.5. Booking center fee.

2 (a) Imposition.--Following the adoption of a countywide
3 booking center plan, a person may, in addition to any other
4 fines, penalties or costs imposed by law, be required by the
5 court to pay a booking center fund fee of no more than \$300 if
6 the person:

7 [(1) Is placed on probation without verdict pursuant to
8 section 17 of the act of April 14, 1972 (P.L.233, No.64),
9 known as The Controlled Substance, Drug, Device and Cosmetic
10 Act.]

11 (2) Receives Accelerated Rehabilitative Disposition for,
12 pleads guilty to or nolo contendere to or is convicted of a
13 crime under the following:

14 * * *

15 (i.1) 18 Pa.C.S. Ch. 58 (relating to controlled
16 substances).

17 * * *

18 Section 10. Sections 5761, 6801(a)(1), (2), (4), (5), (6)(i)
19 and (ii) and (7), (b)(4), (f) and (h), 9711(d)(13) and (14) and
20 9712.1(a) and (b) of Title 42 are amended to read:

21 § 5761. Bail in drug offenses.

22 (a) Inquiry as to source.--When fixing and accepting bail
23 for a person charged with a violation of 18 Pa.C.S. Ch. 58
24 (relating to controlled substances) or the act of April 14, 1972
25 (P.L.233, No.64), known as The Controlled Substance, Drug,
26 Device and Cosmetic Act, the magisterial district judge or judge
27 shall determine the source of the currency, bonds, realty or
28 other property used for the payment of the bail or the
29 procurement of a surety bond, as the case may be, being posted
30 by or on behalf of the defendant. The magisterial district judge

1 or judge may request such information as needed to identify the
2 direct or indirect sources, derivation or ownership of the
3 currency or other property used for the payment of bail or
4 procurement of a bond.

5 (b) Drug proceeds unacceptable.--If the magisterial district
6 judge or judge determines that the bail or surety bond is being
7 financed from funds derived from violations [of The Controlled
8 Substance, Drug, Device and Cosmetic Act] specified in
9 subsection (a), the security shall not be accepted, and other
10 security shall be required for the defendant to be admitted to
11 bail.

12 § 6801. Controlled substances forfeiture.

13 (a) Forfeitures generally.--The following shall be subject
14 to forfeiture to the Commonwealth and no property right shall
15 exist in them:

16 (1) All drug paraphernalia, controlled substances or
17 other drugs which have been manufactured, distributed,
18 dispensed or acquired in violation of 18 Pa.C.S. Ch. 58
19 (relating to controlled substances) or the act of April 14,
20 1972 (P.L.233, No.64), known as The Controlled Substance,
21 Drug, Device and Cosmetic Act.

22 (2) All raw materials, products and equipment of any
23 kind which are used, or intended for use, in manufacturing,
24 compounding, processing, delivering, importing or exporting
25 any controlled substance or other drug in violation of 18
26 Pa.C.S. Ch. 58 or The Controlled Substance, Drug, Device and
27 Cosmetic Act.

28 * * *

29 (4) All conveyances, including aircraft, vehicles or
30 vessels, which are used or are intended for use to transport,

1 or in any manner to facilitate the transportation, sale,
2 receipt, possession or concealment of, property described in
3 paragraph (1) or (2), except that:

4 (i) no conveyance used by any person as a common
5 carrier in the transaction of business as a common
6 carrier shall be forfeited under the provisions of this
7 section unless it shall appear that the owner or other
8 person in charge of such conveyance was a consenting
9 party or privy to a violation [of The Controlled
10 Substance, Drug, Device and Cosmetic Act] specified in
11 paragraph (1) or (2);

12 (ii) no conveyance shall be forfeited under the
13 provisions of this section by reason of any act or
14 omission established by the owner thereof to have been
15 committed or omitted without his knowledge or consent,
16 which absence of knowledge or consent must be reasonable
17 under the circumstances presented; and

18 (iii) no bona fide security interest retained or
19 acquired under 13 Pa.C.S. (relating to commercial code)
20 by any merchant dealing in new or used aircraft, vehicles
21 or vessels, or retained or acquired by any licensed or
22 regulated finance company, bank or lending institution,
23 or by any other business regularly engaged in the
24 financing of, or lending on the security of, such
25 aircraft, vehicles or vessels, shall be subject to
26 forfeiture or impairment[; and

27 (iv) no conveyance shall be forfeited under this
28 section for violation of section 13(a)(31) of The
29 Controlled Substance, Drug, Device and Cosmetic Act].

30 (5) All books, records and research, including formulas,

1 microfilm, tapes and data, which are used or intended for use
2 in a violation [of The Controlled Substance, Drug, Device and
3 Cosmetic Act] specified in paragraph (1) or (2).

4 (6) (i) All of the following:

5 (A) Money, negotiable instruments, securities or
6 other things of value furnished or intended to be
7 furnished by any person in exchange for a controlled
8 substance in a violation [of The Controlled
9 Substance, Drug, Device and Cosmetic Act, and all
10 proceeds traceable to such an exchange] specified in
11 paragraph (1) or (2).

12 (B) Money, negotiable instruments, securities or
13 other things of value used or intended to be used to
14 facilitate any violation [of The Controlled
15 Substance, Drug, Device and Cosmetic Act] specified
16 in paragraph (1) or (2).

17 (C) Real property used or intended to be used to
18 facilitate any violation [of The Controlled
19 Substance, Drug, Device and Cosmetic Act] specified
20 in paragraph (1) or (2), including structures or
21 other improvements thereon, and including any right,
22 title and interest in the whole or any lot or tract
23 of land and any appurtenances or improvements, which
24 is used, or intended to be used, in any manner or
25 part, to commit, or to facilitate the commission of,
26 [a] the violation [of The Controlled Substance, Drug,
27 Device and Cosmetic Act], and things growing on,
28 affixed to and found in the land.

29 (ii) No property shall be forfeited under this
30 paragraph, to the extent of the interest of an owner, by

1 reason of any act or omission established by the owner to
2 have been committed or omitted without the knowledge or
3 consent of that owner. Such money and negotiable
4 instruments found in close proximity to controlled
5 substances possessed in a violation [of The Controlled
6 Substance, Drug, Device and Cosmetic Act] specified in
7 paragraph (1) or (2) shall be rebuttably presumed to be
8 proceeds derived from the selling of a controlled
9 substance in violation of 18 Pa.C.S. Ch. 58 or The
10 Controlled Substance, Drug, Device and Cosmetic Act.

11 * * *

12 (7) Any firearms, including, but not limited to, rifles,
13 shotguns, pistols, revolvers, machine guns, zip guns or any
14 type of prohibited offensive weapon, as that term is defined
15 in 18 Pa.C.S. (relating to crimes and offenses), which are
16 used or intended for use to facilitate a violation of 18
17 Pa.C.S. Ch. 58 or The Controlled Substance, Drug, Device and
18 Cosmetic Act. Such operable firearms as are found in close
19 proximity to illegally possessed controlled substances shall
20 be rebuttably presumed to be used or intended for use to
21 facilitate [a] the violation [of The Controlled Substance,
22 Drug, Device and Cosmetic Act] specified in this paragraph.
23 All weapons forfeited under this section shall be immediately
24 destroyed by the receiving law enforcement agency.

25 (b) Process and seizure.--Property subject to forfeiture
26 under this chapter may be seized by the law enforcement
27 authority upon process issued by any court of common pleas
28 having jurisdiction over the property. Seizure without process
29 may be made if:

30 * * *

1 (4) there is probable cause to believe that the property
2 has been used or is intended to be used in violation of 18
3 Pa.C.S. Ch. 58 or The Controlled Substance, Drug, Device and
4 Cosmetic Act.

5 * * *

6 (f) Use of cash or proceeds of property.--Cash or proceeds
7 of forfeited property transferred to the custody of the district
8 attorney pursuant to subsection (e) shall be placed in the
9 operating fund of the county in which the district attorney is
10 elected. The appropriate county authority shall immediately
11 release from the operating fund, without restriction, a like
12 amount for the use of the district attorney enforcing [the
13 provisions of] 18 Pa.C.S. Ch. 58 or The Controlled Substance,
14 Drug, Device and Cosmetic Act. The entity having budgetary
15 control shall not anticipate future forfeitures or proceeds
16 therefrom in adoption and approval of the budget for the
17 district attorney.

18 * * *

19 (h) Authorization to utilize property.--The district
20 attorney and the Attorney General shall utilize forfeited
21 property or proceeds thereof for the purpose of enforcing [the
22 provisions of] 18 Pa.C.S. Ch. 58 or The Controlled Substance,
23 Drug, Device and Cosmetic Act. In appropriate cases, the
24 district attorney and the Attorney General may designate
25 proceeds from forfeited property to be utilized by community-
26 based drug and crime-fighting programs and for relocation and
27 protection of witnesses in criminal cases.

28 * * *

29 § 9711. Sentencing procedure for murder of the first degree.

30 * * *

1 (d) Aggravating circumstances.--Aggravating circumstances
2 shall be limited to the following:

3 * * *

4 (13) The defendant committed the killing or was an
5 accomplice in the killing, as defined in 18 Pa.C.S. § 306(c)
6 (relating to liability for conduct of another; complicity),
7 while in the perpetration of a felony under [the provisions
8 of] 18 Pa.C.S. Ch. 58 (relating to controlled substances) or
9 the act of April 14, 1972 (P.L.233, No.64), known as The
10 Controlled Substance, Drug, Device and Cosmetic Act, and
11 punishable under the provisions of 18 Pa.C.S. § 7508
12 (relating to drug trafficking sentencing and penalties).

13 (14) At the time of the killing, the victim was or had
14 been involved, associated or in competition with the
15 defendant in the sale, manufacture, distribution or delivery
16 of any controlled substance or counterfeit controlled
17 substance in violation of 18 Pa.C.S. Ch. 58 or The Controlled
18 Substance, Drug, Device and Cosmetic Act or similar law of
19 any other state, the District of Columbia or the United
20 States, and the defendant committed the killing or was an
21 accomplice to the killing as defined in 18 Pa.C.S. § 306(c),
22 and the killing resulted from or was related to that
23 association, involvement or competition to promote the
24 defendant's activities in selling, manufacturing,
25 distributing or delivering controlled substances or
26 counterfeit controlled substances.

27 * * *

28 § 9712.1. Sentences for certain drug offenses committed with
29 firearms.

30 (a) Mandatory sentence.--Any person who is convicted of a

1 violation of [section 13(a)(30) of the act of April 14, 1972
2 (P.L.233, No.64), known as The Controlled Substance, Drug,
3 Device and Cosmetic Act] 18 Pa.C.S. Ch. 58 (relating to
4 controlled substances), when at the time of the offense the
5 person or the person's accomplice is in physical possession or
6 control of a firearm, whether visible, concealed about the
7 person or the person's accomplice or within the actor's or
8 accomplice's reach or in close proximity to the controlled
9 substance, shall likewise be sentenced to a minimum sentence of
10 at least five years of total confinement.

11 (b) Limitation on aggregate sentences.--Where a defendant is
12 subject to a mandatory minimum sentence under 18 Pa.C.S. §
13 7508(a) (relating to drug trafficking sentencing and penalties)
14 and is also subject to an additional penalty under subsection
15 (a) and where the court elects to aggregate these penalties, the
16 combined minimum sentence may not exceed the statutory maximum
17 sentence of imprisonment allowable under [The Controlled
18 Substance, Drug, Device and Cosmetic Act] 18 Pa.C.S. Ch. 58.

19 * * *

20 Section 11. Section 9721(a) of Title 42 is amended by adding
21 a paragraph to read:

22 § 9721. Sentencing generally.

23 (a) General rule.--In determining the sentence to be imposed
24 the court shall, except as provided in subsection (a.1),
25 consider and select one or more of the following alternatives,
26 and may impose them consecutively or concurrently:

27 * * *

28 (2.1) Motivational boot camp.

29 * * *

30 Section 12. Section 9763(a) of Title 42 is amended to read:

1 § 9763. Sentence of county intermediate punishment.

2 (a) General rule.--

3 (1) In imposing a sentence of county intermediate
4 punishment, the court shall specify at the time of sentencing
5 the length of the term for which the defendant is to be in a
6 county intermediate punishment program established under
7 Chapter 98 (relating to county intermediate punishment) or a
8 combination of county intermediate punishment programs. The
9 term may not exceed the maximum term for which the defendant
10 could be confined and the program to which the defendant is
11 sentenced.

12 (2) The court may order a defendant to serve a portion
13 of the sentence under section 9755 (relating to sentence of
14 partial confinement) or 9756 (relating to sentence of total
15 confinement) and to serve a portion in a county intermediate
16 punishment program or a combination of county intermediate
17 punishment programs.

18 (3) The court may order a defendant to attend
19 motivational boot camp for a sentence imposed for a violation
20 of any of the following provisions of 18 Pa.C.S. (relating to
21 crimes and offenses):

22 Section 5802(d) (relating to marijuana).

23 Section 5803 (relating to possession).

24 Section 5804(b)(1) (relating to distribution).

25 * * *

26 Section 13. Section 9804(a) of Title 42 is amended by adding
27 a paragraph to read:

28 § 9804. County intermediate punishment programs.

29 (a) Description.--County intermediate punishment program
30 options shall include the following:

1 * * *

2 (3) Motivational boot camp.

3 * * *

4 Section 14. Paragraphs (4) and (6) of the definition of
5 "eligible offender" in section 4503 of Title 61 are amended to
6 read:

7 § 4503. Definitions.

8 The following words and phrases when used in this chapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 * * *

12 "Eligible offender." A defendant or inmate convicted of a
13 criminal offense who will be committed to the custody of the
14 department and who meets all of the following eligibility
15 requirements:

16 * * *

17 (4) Has not been found guilty or previously convicted or
18 adjudicated delinquent for violating any of the following
19 provisions or an equivalent offense under the laws of the
20 United States or one of its territories or possessions,
21 another state, the District of Columbia, the Commonwealth of
22 Puerto Rico or a foreign nation:

23 18 Pa.C.S. § 4302(a) (relating to incest).

24 18 Pa.C.S. Ch. 58 (relating to controlled
25 substances).

26 18 Pa.C.S. § 5901 (relating to open lewdness).

27 18 Pa.C.S. Ch. 76 Subch. C (relating to Internet
28 child pornography).

29 Received a criminal sentence pursuant to 42 Pa.C.S. §
30 9712.1 (relating to sentences for certain drug offenses

1 committed with firearms).

2 Any offense for which registration is required under
3 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
4 sexual offenders).

5 * * *

6 (6) Has not been found guilty or previously convicted of
7 violating 18 Pa.C.S. Ch. 58 or section 13(a)(14), (30) or
8 (37) of the act of April 14, 1972 (P.L.233, No.64), known as
9 The Controlled Substance, Drug, Device and Cosmetic Act,
10 where the sentence was imposed pursuant to 18 Pa.C.S. §
11 7508(a)(1)(iii), (2)(iii), (3)(iii), (4)(iii), (7)(iii) or
12 (8)(iii) (relating to drug trafficking sentencing and
13 penalties).

14 * * *

15 Section 15. Section 6323(1) of Title 75 is amended to read:
16 § 6323. Reports by courts.

17 Subject to any inconsistent procedures and standards relating
18 to reports and transmission of funds prescribed pursuant to
19 Title 42 (relating to judiciary and judicial procedure):

20 (1) The clerk of any court of this Commonwealth, within
21 ten days after final judgment of conviction or acquittal or
22 other disposition of charges under [any of the provisions of]
23 18 Pa.C.S. Ch. 58 (relating to controlled substances), this
24 title or [under] section 13 of the act of April 14, 1972
25 (P.L.233, No.64), known as The Controlled Substance, Drug,
26 Device and Cosmetic Act, including an adjudication of
27 delinquency or the granting of a consent decree, shall send
28 to the department a record of the judgment of conviction,
29 acquittal or other disposition.

30 * * *

1 Section 16. Repeals are as follows:

2 (1) The General Assembly declares that the repeals under
3 paragraph (2) are necessary to effectuate the addition of 18
4 Pa.C.S. Ch. 58.

5 (2) The following provisions of the act of April 14,
6 1972 (P.L.233, No.64), known as The Controlled Substance,
7 Drug, Device and Cosmetic Act, are repealed:

8 (i) Section 13(a)(30), (31), (32), (33), (35), (36),
9 (37), (38) and (39).

10 (ii) Section 13.3.

11 (iii) Section 13.4.

12 (iv) Section 13.5.

13 (v) Section 14.

14 (vi) Section 15.

15 (vii) Section 17.

16 (viii) Section 18.

17 (ix) Section 19.

18 (x) Section 41.1.

19 (3) Section 13(b) of The Controlled Substance, Drug,
20 Device and Cosmetic Act is repealed insofar as it is
21 inconsistent with this act.

22 Section 17. This act shall apply to offenses committed on or
23 after the effective date of this section.

24 Section 18. This act shall take effect in 180 days.