

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1555 Session of 2019

INTRODUCED BY DELOZIER, HARRIS, JONES, GAINNEY, TOOHL, A. DAVIS, MULLINS, KINSEY AND ZABEL, MAY 30, 2019

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 9, 2019

AN ACT

1 ~~Amending Title 42 (Judiciary and Judicial Procedure) of the~~ <--
2 ~~Pennsylvania Consolidated Statutes, in sentencing, further~~
3 ~~providing for sentencing generally, for order of probation~~
4 ~~and for modification or revocation of order of probation and~~
5 ~~providing for resentencing of individuals incarcerated due to~~
6 ~~revocation of probation. AMENDING TITLES 42 (JUDICIARY AND~~ <--
7 JUDICIAL PROCEDURE) AND 61 (PRISONS AND PAROLE) OF THE
8 PENNSYLVANIA CONSOLIDATED STATES, IN SENTENCING, FURTHER
9 PROVIDING FOR ORDER OF PROBATION AND FOR MODIFICATION OR
10 REVOCATION OF ORDER OF PROBATION; IN OTHER CRIMINAL
11 PROVISIONS, FURTHER PROVIDING FOR DEFINITIONS AND FOR
12 SUPERVISORY RELATIONSHIP TO OFFENDERS; AND, IN PENNSYLVANIA
13 BOARD OF PROBATION AND PAROLE, FURTHER PROVIDING FOR
14 SUPERVISORY RELATIONSHIP TO OFFENDERS.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 ~~Section 1. Section 9721(a.1) of Title 42 of the Pennsylvania~~ <--
18 ~~Consolidated Statutes is amended by adding a paragraph to read:~~
19 ~~§ 9721. Sentencing generally.~~

20 * * *

21 ~~(a.1) Exception.~~

22 * * *

23 ~~(4) A court may not impose a sentence of probation~~

1 ~~consecutive to another sentence of probation.~~

2 * * *

3 ~~Section 2. Section 9754(a) and (c) (6) and (9) of Title 42-~~
4 ~~are amended and the section is amended by adding subsections to~~
5 ~~read:~~

6 ~~§ 9754. Order of probation.~~

7 ~~(a) General rule. In imposing an order of probation the~~
8 ~~court shall specify at the time of sentencing the length of any~~
9 ~~term during which the defendant is to be supervised[, which term~~
10 ~~may not exceed the maximum term for which the defendant could be~~
11 ~~confined, and the authority that shall conduct the supervision.]~~
12 ~~and that the term of probation may be continued, extended or~~
13 ~~terminated.~~

14 ~~(a.1) Misdemeanors and felonies. The total probation period~~
15 ~~may not exceed the following:~~

16 ~~(1) For a felony, five years.~~

17 ~~(2) For a misdemeanor, two years.~~

18 ~~(a.2) Nonpayment of fines or costs. The court may not~~
19 ~~extend the period of supervision solely due to nonpayment of~~
20 ~~fines or costs unless the court makes a finding on the record~~
21 ~~that the defendant is financially able to pay and has willfully~~
22 ~~refused to do so.~~

23 * * *

24 ~~(c) Specific conditions. The court may as a condition of~~
25 ~~its order require the defendant:~~

26 * * *

27 ~~[(6) To refrain from frequenting unlawful or~~
28 ~~disreputable places or consorting with disreputable persons.]~~

29 * * *

30 ~~(9) To [remain within the jurisdiction of the court and~~

1 ~~to] notify the court or the probation officer of any change~~
2 ~~in his address or his employment.~~

3 * * *

4 Section 3. ~~Section 9771 of Title 42 is amended to read:~~

5 ~~§ 9771. Modification or revocation of order of probation.~~

6 ~~(a) General rule. The court may at any time terminate~~
7 ~~continued supervision or lessen or increase the conditions upon~~
8 ~~which an order of probation has been imposed.~~

9 ~~(a.1) Preliminary technical violation hearing.~~

10 ~~(1) Upon receipt of an allegation made by the~~
11 ~~supervising probation officer of a technical violation, the~~
12 ~~court will determine whether there is probable cause to~~
13 ~~believe that the defendant has committed a technical~~
14 ~~violation of the defendant's probation. If it is determined~~
15 ~~that probable cause exists, then the court will hold a~~
16 ~~preliminary technical hearing to determine if the defendant~~
17 ~~should be detained pending the revocation hearing described~~
18 ~~in subsection (c).~~

19 ~~(2) The defendant shall receive notice of the~~
20 ~~preliminary hearing through service in the manner described~~
21 ~~in this paragraph and be given the opportunity to appear on~~
22 ~~his own recognizance. Original process may be served by~~
23 ~~delivering notice to:~~

24 ~~(i) an adult family member with whom the defendant~~
25 ~~resides or, if no adult family member is present, an~~
26 ~~adult person in charge of the residence;~~

27 ~~(ii) the clerk or manager of a hotel, inn, apartment~~
28 ~~house, boarding house or other place of lodging at which~~
29 ~~the defendant resides; or~~

30 ~~(iii) the agent or person in charge of a usual place~~

~~of business or employment of the defendant.~~

~~(a.2) Failure to appear.~~

~~(1) Failure to appear at a preliminary technical violation hearing may result in the issuance of a bench warrant.~~

~~(2) If a defendant is arrested for failing to appear at the preliminary technical violation hearing under paragraph (1), the defendant shall be taken to the local criminal court where a bench warrant hearing shall be conducted after the individual is lodged in the jail of the county of issuance on the bench warrant.~~

~~(3) The defendant shall not be detained under paragraph (2) without a bench warrant hearing longer than 72 hours or the close of the next business day if the 72 hours expires on a nonbusiness day. The court will determine whether the defendant shall be detained pending the technical violation revocation hearing under subsection (e).~~

~~(a.3) Hearing procedure.~~

~~(1) At the preliminary technical violation hearing, the defendant shall:~~

~~(i) Receive notice of the alleged technical violation of probation.~~

~~(ii) Have the right to present evidence on the defendant's behalf.~~

~~(iii) Be provided counsel.~~

~~(iv) Be provided a written hearing disposition report.~~

~~(2) The court shall determine if the defendant shall be detained pending the technical violation revocation hearing under subsection (e). The defendant may be detained only upon~~

~~a clear and convincing finding that the defendant presents a substantial risk of willfully failing to appear at an adjudicatory hearing or poses a significant and immediate threat to the public, and that no condition or combination of conditions will reasonably assure the defendant's appearance at the technical violation revocation hearing.~~

~~(b) Revocation. The court may revoke an order of probation upon proof of the violation of specified conditions of the probation. Upon revocation [the sentencing alternatives available to the court shall be the same as were available at the time of initial sentencing, due consideration being given to the time spent serving the order of probation.]:~~

~~(1) If the defendant has been convicted of a new felony, the sentencing alternatives available to the court shall be the same as were available at the time of the defendant's initial sentencing, and due consideration shall be given to the time spent serving the order of probation.~~

~~(2) If the defendant has been convicted of a new misdemeanor, the sentencing alternatives available to the court shall be the same as were available at the time of the defendant's initial sentencing, but the defendant's sentence may include a term of imprisonment of up to 90 days.~~

~~(c) Limitation on sentence of total confinement. The court shall not impose a sentence of total confinement upon revocation unless it finds that:~~

~~(1) the defendant has been convicted of [another] a new crime; or~~

~~(2) the conduct of the defendant indicates that it is likely that [he] the defendant will commit another crime [if he is not imprisoned; or~~

1 ~~(3) such a sentence is essential to vindicate the~~
2 ~~authority of the court.] and no other condition of~~
3 ~~supervision or treatment would decrease this likelihood, in~~
4 ~~which case the court may sentence the defendant to the~~
5 ~~following terms of imprisonment:~~

6 ~~(i) Up to seven days of imprisonment upon the third~~
7 ~~technical violation of specific conditions.~~

8 ~~(ii) Up to 15 days of imprisonment upon the fourth~~
9 ~~technical violation of specific conditions.~~

10 ~~(iii) Up to 30 days of imprisonment for every~~
11 ~~technical violation of specific conditions thereafter.~~

12 ~~(c.1) Further limitation on sentence of total confinement.~~

13 ~~Notwithstanding subsection (c), an individual on probation shall~~
14 ~~not be sentenced to a term of imprisonment for a probation~~
15 ~~violation if the violation is:~~

16 ~~(1) By an individual who has been issued an~~
17 ~~identification card under the act of April 17, 2016 (P.L.84,~~
18 ~~No.16), known as the Medical Marijuana Act, who tests~~
19 ~~positive for marijuana.~~

20 ~~(2) For associating with another person with a criminal~~
21 ~~record or for traveling out of the jurisdiction without~~
22 ~~permission, unless it can be shown by clear and convincing~~
23 ~~evidence that the travel was to permanently avoid~~
24 ~~supervision.~~

25 ~~(d) Hearing required. There shall be no revocation or~~
26 ~~increase of conditions of sentence under this section except~~
27 ~~after a technical violation revocation hearing [at which the~~
28 ~~court shall consider the record of the sentencing proceeding~~
29 ~~together with evidence of the conduct of the defendant while on~~
30 ~~probation.] and the following shall apply:~~

1 ~~(1) The hearing shall be scheduled upon the~~
2 ~~determination of probable cause at a preliminary technical~~
3 ~~violation hearing under subsection (a.1).~~

4 ~~(2) The court shall hold a technical violation~~
5 ~~revocation hearing to determine whether the facts warrant~~
6 ~~revocation of the defendant's probation and whether probation~~
7 ~~is still an effective vehicle to accomplish the~~
8 ~~rehabilitation and a sufficient deterrent against future~~
9 ~~criminal conduct.~~

10 ~~(3) Probation may be eliminated or the term decreased~~
11 ~~without a hearing.~~

12 ~~(e) Technical violation revocation hearing procedure.~~

13 ~~(1) Upon a determination of probable cause at a~~
14 ~~preliminary technical violation revocation hearing under~~
15 ~~subsection (a.1), a written request for a technical violation~~
16 ~~revocation hearing shall be filed with the clerk of courts.~~
17 ~~The request may be filed by the appropriate probation~~
18 ~~department.~~

19 ~~(2) The technical violation revocation hearing shall be~~
20 ~~held before the defendant's sentencing judge or a judge~~
21 ~~generally assigned to hear violations of probation.~~

22 ~~(3) The court shall schedule a technical violation~~
23 ~~revocation hearing within a reasonable amount of time after~~
24 ~~receiving the written request for a hearing required under~~
25 ~~paragraph (1).~~

26 ~~(4) The defendant shall be provided legal counsel and~~
27 ~~the opportunity to be heard in person and present witnesses~~
28 ~~and documentary evidence.~~

29 ~~(5) The defendant shall be provided the right to~~
30 ~~confront and cross examine witnesses.~~

1 ~~(f) Sentencing procedures. The following apply:~~

2 ~~(1) At the time of sentencing, the court shall afford~~
3 ~~the defendant the opportunity to make a statement on the~~
4 ~~defendant's behalf and shall afford counsel for the~~
5 ~~Commonwealth and the defendant the opportunity to present~~
6 ~~information and argument relative to sentencing.~~

7 ~~(2) The court shall state on the record the reasons for~~
8 ~~the sentence imposed.~~

9 ~~(3) The court shall advise the defendant on the record:~~

10 ~~(i) of the right to file a motion to modify sentence~~
11 ~~and to appeal, of the time within which the defendant~~
12 ~~must exercise those rights and of the right to assistance~~
13 ~~of counsel in the preparation of the motion and appeal;~~
14 ~~and~~

15 ~~(ii) of the rights, if the defendant is indigent, to~~
16 ~~proceed in forma pauperis and to proceed with assigned~~
17 ~~counsel.~~

18 ~~(4) The court shall require that a record of the~~
19 ~~sentencing proceeding be made and preserved so that the~~
20 ~~record can be transcribed as needed. The record shall~~
21 ~~include:~~

22 ~~(i) The record of any stipulation made at a~~
23 ~~presentence conference.~~

24 ~~(ii) A verbatim account of the entire sentencing~~
25 ~~proceeding.~~

26 ~~(g) Motion to modify sentence. A motion to modify a~~
27 ~~sentence imposed after a revocation shall be filed within 10~~
28 ~~days of the date of imposition. The filing of a motion to modify~~
29 ~~sentence will not toll the 30 day appeal period.~~

30 ~~(h) Earned credit time.~~

1 ~~(1) For each calendar month in which the defendant has~~
2 ~~complied with the terms of probation and has not violated any~~
3 ~~conditions of probation, the defendant's term of probation~~
4 ~~shall be reduced by 14 days.~~

5 ~~(2) No earned discharge credit may be awarded for a~~
6 ~~calendar month in which a violation occurred, the defendant~~
7 ~~has absconded or the defendant is incarcerated.~~

8 ~~(3) No earned discharge credit may be awarded for a~~
9 ~~partial month or the last full month of supervised probation.~~

10 ~~(4) This section shall not apply to a defendant whose~~
11 ~~probation is for a crime requiring registration under section~~
12 ~~9799.15 (relating to period of registration).~~

13 ~~(5) The reduction of the terms of a defendant's~~
14 ~~probation shall be applied to the termination date within 30~~
15 ~~days of the end of the month in which the credits were~~
16 ~~earned. Earned time credits shall be applied to each~~
17 ~~defendant under county probation supervision on or after the~~
18 ~~effective date of this subsection.~~

19 ~~(6) This subsection shall apply retroactively to the~~
20 ~~start date of a defendant's sentence of probation for a~~
21 ~~defendant who is on probation on the effective date of this~~
22 ~~subsection.~~

23 ~~(i) Educational earned credit time.~~

24 ~~(1) A defendant on county probation shall have the~~
25 ~~defendant's total community supervision sentence reduced by~~
26 ~~90 days if during the period under community supervision, the~~
27 ~~defendant:~~

28 ~~(i) earns a high school diploma or high school~~
29 ~~equivalency certificate; or~~

30 ~~(ii) successfully completes a certified vocational,~~

1 ~~certified technical or certified career education or~~
2 ~~training program.~~

3 ~~(2) A defendant's supervision officer shall notify the~~
4 ~~court if the defendant earns one or more time credits under~~
5 ~~this subsection. On receipt of the notice from the~~
6 ~~supervision officer, the court shall conduct the review of~~
7 ~~the defendant's community supervision to determine if the~~
8 ~~defendant is eligible for a reduction or termination of~~
9 ~~community supervision, taking into account any time credits~~
10 ~~to which the defendant is entitled under this section. A~~
11 ~~defendant can use any combination of the educational earned~~
12 ~~credit time toward the completion of the period of community~~
13 ~~supervision in accordance with this subsection.~~

14 ~~(j) Early termination of county probation.~~

15 ~~(1) Notwithstanding earned credit time under subsection~~
16 ~~(h) or (i), upon completion of one half of the original~~
17 ~~probation or two years of probation, whichever is later, the~~
18 ~~court shall review the defendant's record and consider~~
19 ~~whether to reduce the period of probation, terminate the~~
20 ~~period of probation or reduce the conditions of probation,~~
21 ~~unless the defendant is delinquent in paying required~~
22 ~~restitution, is delinquent in paying the required fines and~~
23 ~~costs that the defendant has the ability to pay or has not~~
24 ~~completed court ordered counseling or treatment.~~

25 ~~(2) If the court does not terminate the defendant's~~
26 ~~probation, the court shall review the defendant's record no~~
27 ~~less than once every two years after a review under paragraph~~
28 ~~(1), unless the defendant is subsequently convicted of a~~
29 ~~crime graded as a felony or misdemeanor.~~

30 ~~(3) The court shall give reasonable notice to the~~

~~defendant and the Commonwealth of the review and the
defendant shall have the right to appear.~~

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

~~"Technical violation." A violation of the terms and
conditions of probation, other than by the commission of a new
crime for which the defendant is convicted or found guilty by a
judge or jury or to which the individual pleads guilty or nolo
contendere.~~

~~Section 4. Title 42 is amended by adding a section to read:
§ 9771.2. Resentencing of individuals incarcerated due to
revocation of probation.~~

~~(a) General rule. The sentencing court shall resentence a
defendant as provided under section 9771(d) (relating to
modification or revocation of order of probation) upon petition
of the defendant and proof that the defendant's probation
sentence was revoked and the petitioner was sentenced to
imprisonment in excess of the guidelines provided for under
section 9771(d) as a result of a violation of the specific
conditions of the defendant's probation.~~

~~(b) Petition procedure. A petition under subsection (a)
shall be recognized as an authorized motion and shall be
assigned an identification code by the Administrative Office of
Pennsylvania Courts. The filing of a petition under this section
shall not require a fee.~~

~~(c) Subsequent petitions. A subsequent petition may not be
considered by the sentencing court unless the petition alleges
and the petitioner proves that the facts upon which the claim is
predicated were unknown to the petitioner at the time of the~~

1 ~~original filing and could not have been ascertained by the~~
2 ~~exercise of due diligence. A subsequent petition that is not~~
3 ~~scheduled for a hearing by the court within 30 days after filing~~
4 ~~shall be deemed denied by the court.~~

5 ~~Section 5. This act shall take effect immediately.~~

6 SECTION 1. SECTION 9754(C) OF TITLE 42 OF THE PENNSYLVANIA <--
7 CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS AMENDED BY
8 ADDING A SUBSECTION TO READ:

9 § 9754. ORDER OF PROBATION.

10 * * *

11 (C) SPECIFIC CONDITIONS.--THE COURT MAY AS A CONDITION OF
12 ITS ORDER REQUIRE THE DEFENDANT:

13 (1) TO MEET HIS FAMILY RESPONSIBILITIES, INCLUDING
14 CONSIDERATION OF CHILD CARE RESPONSIBILITIES AND LIMITATIONS.

15 (2) TO DEVOTE HIMSELF TO A SPECIFIC OCCUPATION [OR],
16 EMPLOYMENT OR EDUCATION INITIATIVE.

17 (2.1) TO PARTICIPATE IN A PUBLIC OR NONPROFIT COMMUNITY
18 SERVICE PROGRAM UNLESS THE DEFENDANT WAS CONVICTED OF MURDER,
19 RAPE, AGGRAVATED ASSAULT, ARSON, THEFT BY EXTORTION,
20 TERRORISTIC THREATS, ROBBERY OR KIDNAPPING.

21 (3) TO UNDERGO AVAILABLE MEDICAL OR PSYCHIATRIC
22 TREATMENT AND TO ENTER AND REMAIN IN A SPECIFIED INSTITUTION,
23 WHEN REQUIRED FOR THAT PURPOSE.

24 (4) TO PURSUE A PRESCRIBED SECULAR COURSE OF STUDY OR
25 VOCATIONAL TRAINING.

26 (5) TO ATTEND OR RESIDE IN A FACILITY ESTABLISHED FOR
27 THE INSTRUCTION, RECREATION, OR RESIDENCE OF PERSONS ON
28 PROBATION.

29 [(6) TO REFRAIN FROM FREQUENTING UNLAWFUL OR
30 DISREPUTABLE PLACES OR CONSORTING WITH DISREPUTABLE PERSONS.]

1 (7) TO HAVE IN HIS POSSESSION NO FIREARM OR OTHER
2 DANGEROUS WEAPON UNLESS GRANTED WRITTEN PERMISSION.

3 (8) TO MAKE RESTITUTION OF THE FRUITS OF HIS CRIME OR TO
4 MAKE REPARATIONS, IN AN AMOUNT AND ON A SCHEDULE THAT HE CAN
5 AFFORD TO PAY, FOR THE LOSS OR DAMAGE CAUSED THEREBY.

6 (9) TO REMAIN WITHIN THE JURISDICTION OF THE COURT AND
7 TO NOTIFY THE COURT OR THE PROBATION OFFICER OF ANY CHANGE IN
8 HIS ADDRESS OR HIS EMPLOYMENT.

9 (10) TO REPORT AS DIRECTED TO THE COURT OR THE PROBATION
10 OFFICER AND TO PERMIT THE PROBATION OFFICER TO VISIT HIS
11 HOME.

12 (11) TO PAY SUCH FINE AS HAS BEEN IMPOSED.

13 (12) TO PARTICIPATE IN DRUG OR ALCOHOL TREATMENT
14 PROGRAMS.

15 (13) TO SATISFY ANY OTHER CONDITIONS REASONABLY RELATED
16 TO THE REHABILITATION OF THE DEFENDANT AND NOT UNDULY
17 RESTRICTIVE OF HIS LIBERTY OR INCOMPATIBLE WITH HIS FREEDOM
18 OF CONSCIENCE.

19 (14) TO REMAIN WITHIN THE PREMISES OF HIS RESIDENCE
20 DURING THE HOURS DESIGNATED BY THE COURT.

21 * * *

22 (E) PRESCRIBED MEDICATIONS.--A COURT MAY NOT, AS A CONDITION
23 OF PROBATION, PROHIBIT THE LAWFUL POSSESSION OR USE OF A
24 PRESCRIBED MEDICATION, INCLUDING MEDICAL MARIJUANA, UNLESS:

25 (1) THE DEFENDANT IS BEING SENTENCED FOR AN OFFENSE
26 UNDER CHAPTER 13 OF THE ACT OF APRIL 17, 2016 (P.L.84,
27 NO.16), KNOWN AS THE MEDICAL MARIJUANA ACT, OR THE ACT OF
28 APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE CONTROLLED
29 SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT; OR

30 (2) THE COURT DETERMINES THAT A PROHIBITION AGAINST THE

1 POSSESSION OR USE OF A LAWFULLY PRESCRIBED MEDICATION IS
2 NECESSARY AND APPROPRIATE TO MEET THE SENTENCING STANDARDS
3 ARTICULATED IN SECTION 9721 (RELATING TO SENTENCING
4 GENERALLY).

5 SECTION 2. SECTION 9771(C) OF TITLE 42 IS AMENDED AND THE
6 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

7 § 9771. MODIFICATION OR REVOCATION OF ORDER OF PROBATION.

8 * * *

9 (B.1) NONPAYMENT OF FINES OR COSTS.--NOTWITHSTANDING
10 SUBSECTION (B), THE COURT MAY NOT EXTEND THE PERIOD OF PROBATION
11 SOLELY DUE TO NONPAYMENT OF FINES OR COSTS UNLESS THE COURT
12 FINDS THAT THE DEFENDANT IS FINANCIALLY ABLE TO PAY AND HAS
13 WILLFULLY REFUSED TO DO SO.

14 (C) LIMITATION ON SENTENCE OF TOTAL CONFINEMENT.--[THE COURT
15 SHALL NOT IMPOSE A SENTENCE OF TOTAL CONFINEMENT UPON REVOCATION
16 UNLESS IT FINDS THAT:

17 (1) THE DEFENDANT HAS BEEN CONVICTED OF ANOTHER CRIME;

18 OR

19 (2) THE CONDUCT OF THE DEFENDANT INDICATES THAT IT IS
20 LIKELY THAT HE WILL COMMIT ANOTHER CRIME IF HE IS NOT
21 IMPRISONED; OR

22 (3) SUCH A SENTENCE IS ESSENTIAL TO VINDICATE THE
23 AUTHORITY OF THE COURT.] THE FOLLOWING APPLY:

24 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE COURT MAY
25 NOT IMPOSE A SENTENCE OF TOTAL CONFINEMENT UPON REVOCATION
26 UNLESS THE COURT FINDS THE DEFENDANT HAS BEEN CONVICTED OF
27 ANOTHER CRIME.

28 (2) A COURT MAY IMPOSE A SENTENCE OF TOTAL CONFINEMENT
29 UPON REVOCATION IF THE DEFENDANT COMMITTED A TECHNICAL
30 VIOLATION AND ANY OF THE FOLLOWING APPLY:

1 (I) THE TECHNICAL VIOLATION WAS SEXUAL IN NATURE.

2 (II) THE TECHNICAL VIOLATION INVOLVED ASSAULTIVE
3 BEHAVIOR OR INCLUDED A CREDIBLE THREAT TO CAUSE BODILY
4 INJURY TO ANOTHER.

5 (III) THE TECHNICAL VIOLATION INVOLVED POSSESSION OR
6 CONTROL OF A WEAPON.

7 (IV) THE DEFENDANT ABSCONDED AND CANNOT BE SAFELY
8 DIVERTED FROM INCARCERATION.

9 (V) THERE EXISTS AN IDENTIFIABLE THREAT TO PUBLIC
10 SAFETY, AND THE DEFENDANT CANNOT BE SAFELY DIVERTED FROM
11 INCARCERATION.

12 (VI) THE TECHNICAL VIOLATION INVOLVED AN INTENTIONAL
13 AND UNEXCUSED FAILURE TO ADHERE TO RECOMMENDED
14 PROGRAMMING OR CONDITIONS ON MORE THAN THREE OCCASIONS,
15 AND THE DEFENDANT CANNOT BE SAFELY DIVERTED FROM
16 INCARCERATION.

17 (3) IF A COURT IMPOSES A SENTENCE OF TOTAL CONFINEMENT
18 UPON REVOCATION FOR A CONDITION UNDER PARAGRAPH (2), THE
19 DEFENDANT SHALL BE SENTENCED AS FOLLOWS:

20 (I) FOR A FIRST TECHNICAL VIOLATION, A MAXIMUM
21 PERIOD OF 14 DAYS.

22 (II) FOR A SECOND TECHNICAL VIOLATION, A MAXIMUM
23 PERIOD OF 30 DAYS.

24 (III) FOR A THIRD OR SUBSEQUENT TECHNICAL VIOLATION,
25 THE COURT MAY IMPOSE ANY SENTENCING ALTERNATIVES
26 AVAILABLE AT THE TIME OF INITIAL SENTENCING.

27 (IV) FOR A SENTENCE OF TOTAL CONFINEMENT UPON
28 REVOCATION FOR A CONDITION UNDER PARAGRAPH (2) (I), (II),
29 (III) OR (V), THE COURT MAY ADD UP TO AN ADDITIONAL 30
30 DAYS FOR A FIRST TECHNICAL VIOLATION OR UP TO AN

1 ADDITIONAL 45 DAYS FOR A SECOND TECHNICAL VIOLATION.

2 (V) THE COURT SHALL CONSIDER ALLOWING THE TERM OF
3 INCARCERATION TO BE SERVED ON WEEKENDS OR OTHER NONWORK
4 DAYS FOR EMPLOYED PROBATIONERS WHO HAVE COMMITTED A FIRST
5 OR SECOND TECHNICAL VIOLATION.

6 * * *

7 (E) POSSESSION OR USE OF PRESCRIBED MEDICATIONS.--A COURT
8 MAY NOT CONSIDER A DEFENDANT'S LAWFUL POSSESSION OR USE OF A
9 PRESCRIBED MEDICATION, INCLUDING MEDICAL MARIJUANA, AS A BASIS
10 FOR THE MODIFICATION OR REVOCATION OF AN ORDER OF PROBATION
11 UNLESS A PROHIBITION ON THE POSSESSION OR USE OF THE PRESCRIBED
12 MEDICATION IS A CONDITION OF THE DEFENDANT'S PROBATION.

13 (F) MANDATORY PROBATION REVIEW CONFERENCE.--

14 (1) A DEFENDANT SHALL BE ELIGIBLE FOR AN INITIAL
15 PROBATION REVIEW CONFERENCE AS FOLLOWS:

16 (I) SUBJECT TO SUBPARAGRAPH (II), AFTER THE
17 DEFENDANT HAS COMPLETED THREE YEARS OF PROBATION
18 FOLLOWING A MISDEMEANOR CONVICTION OR FIVE YEARS OF
19 PROBATION FOLLOWING A FELONY CONVICTION.

20 (II) ANY OF THE FOLLOWING:

21 (A) IF THE SENTENCE IMPOSED ARISES OUT OF
22 CONVICTIONS FOR MULTIPLE OFFENSES BUT DOES NOT
23 INCLUDE A CONVICTION OF A FELONY OFFENSE, AFTER THE
24 DEFENDANT HAS COMPLETED THREE YEARS OF PROBATION.

25 (B) IF THE SENTENCE IMPOSED ARISES OUT OF
26 CONVICTIONS FOR MULTIPLE OFFENSES AND INCLUDES AT
27 LEAST ONE FELONY CONVICTION, AFTER THE DEFENDANT HAS
28 COMPLETED FIVE YEARS OF PROBATION.

29 (2) UNLESS WAIVED UNDER SUBSECTION (D), THE COURT SHALL
30 HOLD A PROBATION REVIEW CONFERENCE NO LATER THAN 60 DAYS FROM

1 THE DATE THE DEFENDANT IS ELIGIBLE.

2 (3) A DEFENDANT SHALL BE ELIGIBLE FOR AN INITIAL
3 PROBATION REVIEW CONFERENCE SIX MONTHS PRIOR TO THE DATE THAT
4 THE DEFENDANT WOULD OTHERWISE BE ELIGIBLE UNDER PARAGRAPH (1)
5 IF THE DEFENDANT SUCCESSFULLY SATISFIES ANY OF THE FOLLOWING
6 CONDITIONS WHILE SERVING THE TERM OF PROBATION:

7 (I) EARNS A HIGH SCHOOL DIPLOMA OR CERTIFICATE OF
8 HIGH SCHOOL EQUIVALENCY.

9 (II) EARNS AN ASSOCIATE DEGREE FROM AN ACCREDITED
10 UNIVERSITY, COLLEGE, SEMINARY COLLEGE, COMMUNITY COLLEGE
11 OR TWO-YEAR COLLEGE.

12 (III) EARNS A BACHELOR'S DEGREE FROM AN ACCREDITED
13 UNIVERSITY, COLLEGE OR SEMINARY COLLEGE.

14 (IV) EARNS A MASTER'S OR OTHER GRADUATE DEGREE FROM
15 AN ACCREDITED UNIVERSITY, COLLEGE OR SEMINARY COLLEGE.

16 (V) OBTAINS A VOCATIONAL OR OCCUPATIONAL LICENSE,
17 CERTIFICATE, REGISTRATION OR PERMIT.

18 (VI) COMPLETES A CERTIFIED VOCATIONAL, CERTIFIED
19 TECHNICAL OR CERTIFIED CAREER EDUCATION OR TRAINING
20 PROGRAM.

21 (VII) ANY OTHER CONDITION APPROVED BY THE COURT AT
22 THE TIME OF SENTENCING THAT SUBSTANTIALLY ASSISTS THE
23 DEFENDANT IN LEADING A LAW-ABIDING LIFE OR FURTHERS THE
24 REHABILITATIVE NEEDS OF THE DEFENDANT.

25 (4) A DEFENDANT SERVING PROBATION FOLLOWING A FELONY
26 CONVICTION SHALL BE ELIGIBLE FOR AN INITIAL PROBATION REVIEW
27 CONFERENCE UP TO A TOTAL OF 12 MONTHS PRIOR TO THE DATE THAT
28 THE DEFENDANT WOULD OTHERWISE BE ELIGIBLE UNDER PARAGRAPHS
29 (1) IF THE DEFENDANT SATISFIES TWO OR MORE OF THE CONDITIONS
30 UNDER PARAGRAPH (3).

1 (5) TO QUALIFY A DEFENDANT FOR AN ACCELERATED INITIAL
2 PROBATION REVIEW CONFERENCE UNDER PARAGRAPH (3) OR (4), ANY
3 CONDITION UNDER PARAGRAPH (3) (V), (VI) OR (VII) MUST BE
4 APPROVED BY THE PENNSYLVANIA COMMISSION ON CRIME AND
5 DELINQUENCY OR ANY ADVISORY COMMITTEE OF THAT COMMISSION
6 DESIGNATED TO PROVIDE APPROVAL.

7 (6) A DEFENDANT SENTENCED TO A PERIOD OF PROBATION
8 CONSECUTIVE TO A PERIOD OF INCARCERATION IN A STATE
9 CORRECTIONAL INSTITUTION SHALL BE ELIGIBLE FOR AN INITIAL
10 PROBATION REVIEW CONFERENCE 12 MONTHS PRIOR TO THE DATE THAT
11 A DEFENDANT WOULD OTHERWISE BE ELIGIBLE FOR A PROBATION
12 REVIEW CONFERENCE UNDER PARAGRAPH (1) IF THE DEFENDANT
13 COMPLETED THE FINAL 12 MONTHS OF STATE PAROLE SUPERVISION
14 WITHOUT VIOLATING THE TERMS AND CONDITIONS OF THE DEFENDANT'S
15 PAROLE. THIS PARAGRAPH SHALL NOT APPLY TO A DEFENDANT WHO
16 SERVES FEWER THAN 12 MONTHS ON STATE PAROLE SUPERVISION.

17 (7) NOTWITHSTANDING PARAGRAPHS (1) AND (10), NO
18 DEFENDANT SHALL BE ELIGIBLE FOR A PROBATION REVIEW CONFERENCE
19 IF THE DEFENDANT:

20 (I) COMMITTED A TECHNICAL VIOLATION WITHIN THE 18
21 MONTHS IMMEDIATELY PRECEDING THE DEFENDANT'S PROBATION
22 REVIEW CONFERENCE; OR

23 (II) WAS CONVICTED OF A MISDEMEANOR OR FELONY
24 OFFENSE COMMITTED WHILE EITHER INCARCERATED OR SERVING
25 PROBATION.

26 (8) FOLLOWING THE PROBATION REVIEW CONFERENCE, THE COURT
27 SHALL TERMINATE PROBATION UNLESS THE COURT FINDS ANY OF THE
28 FOLLOWING:

29 (I) THE CONDUCT OF THE DEFENDANT ON PROBATION IS
30 SUCH THAT THERE EXISTS AN IDENTIFIABLE THREAT TO PUBLIC

1 SAFETY, INCLUDING CONSIDERATION OF WHETHER THE DEFENDANT
2 IS THE SUBJECT OF AN ACTIVE PROTECTION FROM ABUSE ORDER
3 UNDER 23 PA.C.S. CH. 61 (RELATING TO PROTECTION FROM
4 ABUSE) OR AN ACTIVE PROTECTION FROM INTIMIDATION ORDER
5 UNDER 18 PA.C.S. CH. 49 SUBCH. B (RELATING TO VICTIM AND
6 WITNESS INTIMIDATION).

7 (II) THE DEFENDANT HAS NOT SUCCESSFULLY COMPLETED
8 ALL TREATMENT OR OTHER PROGRAMS REQUIRED AS A CONDITION
9 OF PROBATION, OR THE COURT OTHERWISE FINDS THAT
10 TERMINATION WOULD SUBSTANTIALLY JEOPARDIZE THE
11 REHABILITATIVE NEEDS OF THE DEFENDANT.

12 (III) THE DEFENDANT HAS FAILED TO PAY THE TOTAL
13 RESTITUTION OWED BY THE DEFENDANT.

14 (9) IF THE COURT DOES NOT TERMINATE PROBATION AT A
15 PROBATION REVIEW CONFERENCE SOLELY BECAUSE OF THE DEFENDANT'S
16 FAILURE TO PAY RESTITUTION IN FULL, THE COURT SHALL ORDER
17 THAT THE DEFENDANT BE PLACED ON ADMINISTRATIVE PROBATION IF
18 THE DEFENDANT HAS PAID AT LEAST 50% OF THE RESTITUTION OWED.
19 AN ELIGIBLE DEFENDANT PLACED ON ADMINISTRATIVE PROBATION
20 SHALL DO ALL OF THE FOLLOWING AND NOT BE SUBJECT TO ANY OTHER
21 CONDITIONS OF PROBATION:

22 (I) MAKE SUPERVISION CONTACT AT LEAST ONE TIME PER
23 YEAR.

24 (II) PROVIDE UPDATED CONTACT INFORMATION UPON A
25 CHANGE IN RESIDENCE OR EMPLOYMENT.

26 (III) PAY THE REMAINING RESTITUTION OWED, AS ORDERED
27 BY THE COURT.

28 (10) IF THE COURT DOES NOT TERMINATE PROBATION AT A
29 PROBATION REVIEW CONFERENCE, THE DEFENDANT SHALL BE ELIGIBLE
30 FOR A SUBSEQUENT PROBATION REVIEW CONFERENCE NO LATER THAN 12

1 MONTHS AFTER THE DATE OF THE MOST RECENT PROBATION REVIEW
2 CONFERENCE.

3 (11) THIS SUBSECTION SHALL NOT APPLY IF ANY OF THE
4 FOLLOWING HAS OCCURRED:

5 (I) THE DEFENDANT WAS CONVICTED OF AN OFFENSE LISTED
6 UNDER SUBCHAPTER H (RELATING TO REGISTRATION OF SEXUAL
7 OFFENDERS) OR I (RELATING TO CONTINUED REGISTRATION OF
8 SEXUAL OFFENDERS) OF CHAPTER 97.

9 (II) THE DEFENDANT WAS CONVICTED OF A CRIME OF
10 VIOLENCE.

11 (III) THE DEFENDANT WAS CONVICTED OF AN OFFENSE
12 UNDER 18 PA.C.S. § 2701 (RELATING TO SIMPLE ASSAULT) OR
13 2709.1 (RELATING TO STALKING) AGAINST A FAMILY OR
14 HOUSEHOLD MEMBER.

15 (12) NOTHING IN THIS SUBSECTION SHALL PROHIBIT THE
16 COURT, IN ITS DISCRETION, FROM ELIMINATING OR DECREASING THE
17 TERM OF PROBATION UNDER SUBSECTION (D).

18 (G) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
19 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
20 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

21 "CRIME OF VIOLENCE." AS DEFINED IN SECTION 9714(G) (RELATING
22 TO SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES).

23 "FAMILY OR HOUSEHOLD MEMBER." AS DEFINED IN 23 PA.C.S. §
24 6102(A) (RELATING TO DEFINITIONS).

25 "TECHNICAL VIOLATION." A VIOLATION OF THE TERMS AND
26 CONDITIONS OF A DEFENDANT'S SENTENCE, OTHER THAN BY THE
27 COMMISSION OF A NEW CRIME OF WHICH THE DEFENDANT IS CONVICTED OR
28 FOUND GUILTY BY A JUDGE OR JURY OR TO WHICH THE DEFENDANT PLEADS
29 GUILTY OR NOLO CONTENDERE IN A COURT OF RECORD.

30 SECTION 3. SECTION 9911 OF TITLE 42 IS AMENDED BY ADDING A

1 DEFINITION TO READ:

2 § 9911. DEFINITIONS.

3 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
4 SHALL HAVE THE MEANINGS GIVEN IN THIS SECTION UNLESS THE CONTEXT
5 CLEARLY INDICATES OTHERWISE:

6 * * *

7 "DRUG TRAFFICKING OFFENSE." A VIOLATION OF SECTION 13(A)
8 (14), (30) OR (37) OF THE ACT OF APRIL 14, 1972 (P.L.233,
9 NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
10 COSMETIC ACT, IF THE CONTROLLED SUBSTANCE OR A MIXTURE
11 CONTAINING THE CONTROLLED SUBSTANCE IS:

12 (1) MARIJUANA, IF THE AMOUNT OF MARIJUANA INVOLVED IS AT
13 LEAST 50 POUNDS OR AT LEAST 51 LIVE PLANTS.

14 (2) A NARCOTIC DRUG CLASSIFIED IN SCHEDULE I OR SCHEDULE
15 II UNDER SECTION 3 OR 4 OF THE CONTROLLED SUBSTANCE, DRUG,
16 DEVICE AND COSMETIC ACT, IF THE AGGREGATE WEIGHT OF THE
17 COMPOUND OR MIXTURE CONTAINING THE SUBSTANCE INVOLVED IS AT
18 LEAST 100 GRAMS.

19 (3) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE
20 COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 100
21 GRAMS:

22 (I) COCA LEAVES.

23 (II) A SALT, COMPOUND, DERIVATIVE OR PREPARATION OF
24 COCA LEAVES.

25 (III) A SALT, COMPOUND, DERIVATIVE OR PREPARATION
26 THAT IS CHEMICALLY EQUIVALENT OR IDENTICAL WITH ANY OF
27 THE SUBSTANCES UNDER SUBPARAGRAPH (I) OR (II).

28 (IV) A MIXTURE CONTAINING ANY OF THE SUBSTANCES
29 UNDER SUBPARAGRAPH (I) OR (II), EXCEPT DECOCAINIZED COCA
30 LEAVES OR EXTRACTS OF COCA LEAVES WHICH DO NOT CONTAIN

1 COCAINE OR ECGONINE.

2 (4) ANY OF THE FOLLOWING, IF THE AGGREGATE WEIGHT OF THE
3 COMPOUND OR MIXTURE OF THE SUBSTANCE INVOLVED IS AT LEAST 100
4 GRAMS:

5 (I) METHAMPHETAMINE.

6 (II) PHENCYCLIDINE.

7 (III) A SALT, ISOMER OR SALT OF AN ISOMER OF
8 METHAMPHETAMINE OR PHENCYCLIDINE.

9 (IV) A MIXTURE CONTAINING:

10 (A) METHAMPHETAMINE OR PHENCYCLIDINE.

11 (B) A SALT OF METHAMPHETAMINE OR PHENCYCLIDINE.

12 (C) AN ISOMER OF METHAMPHETAMINE OR
13 PHENCYCLIDINE.

14 (D) A SALT OF AN ISOMER OF METHAMPHETAMINE OR
15 PHENCYCLIDINE.

16 (5) HEROIN OR A MIXTURE CONTAINING HEROIN, IF THE
17 AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING THE
18 HEROIN IS 50 GRAMS OR GREATER.

19 (6) A MIXTURE CONTAINING 3,4-METHYLENEDIOXYAMPHETAMINE
20 (MDA); 3,4-METHYLENEDIOXYMETHAMPHETAMINE (MDMA); 5-METHOXY-
21 3,4METHYLENEDIOXYAMPHETAMINE (MMDA); 3,4-METHYLENEDIOXY-N-
22 ETHYLAMPHETAMINE; N-HYDROXY-3; OR 4-METHYLENEDIOXYAMPHETAMINE
23 IF THE AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING
24 THE SUBSTANCE INVOLVED IS AT LEAST 1,000 TABLETS, CAPSULES,
25 CAPLETS OR OTHER DOSAGE UNITS, OR 300 GRAMS.

26 (7) FENTANYL OR A MIXTURE CONTAINING FENTANYL, IF THE
27 AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING THE
28 FENTANYL IS 10 GRAMS OR MORE.

29 (8) CARFENTANIL OR A MIXTURE CONTAINING CARFENTANIL, IF
30 THE AGGREGATE WEIGHT OF THE COMPOUND OR MIXTURE CONTAINING

1 THE CARFENTANIL IS ONE GRAM OR MORE.

2 * * *

3 SECTION 4. SECTION 9912(D) OF TITLE 42 IS AMENDED BY ADDING
4 A PARAGRAPH TO READ:

5 § 9912. SUPERVISORY RELATIONSHIP TO OFFENDERS.

6 * * *

7 (D) GROUNDS FOR PERSONAL SEARCH.--

8 * * *

9 (2.1) NOTWITHSTANDING PARAGRAPHS (1) AND (2), THE COURT
10 MAY ORDER THAT, AS A CONDITION OF THE OFFENDER'S PROBATION,
11 AN OFFICER EMPLOYED BY THE COUNTY IN WHICH THE OFFENDER IS
12 SUPERVISED MAY CONDUCT A SEARCH OF THE OFFENDER OR THE
13 OFFENDER'S PROPERTY WITHOUT A WARRANT OR REASONABLE SUSPICION
14 PURSUANT TO SUCH AUTHORIZATION, IF THE OFFENDER IS SERVING
15 PROBATION AS A RESULT OF A CONVICTION FOR ONE OF THE
16 FOLLOWING OFFENSES:

17 (I) AN OFFENSE IF THE OFFENDER POSSESSED A FIREARM
18 OR AN OFFENSIVE WEAPON, AS THOSE TERMS ARE DEFINED IN 18
19 PA.C.S. § 908(C) (RELATING TO PROHIBITED OFFENSIVE
20 WEAPONS), DURING THE COMMISSION OF THE OFFENSE.

21 (II) A DRUG TRAFFICKING OFFENSE.

22 (III) AN OFFENSE LISTED UNDER SUBCHAPTER H (RELATING
23 TO REGISTRATION OF SEXUAL OFFENDERS) OR I (RELATING TO
24 CONTINUED REGISTRATION OF SEXUAL OFFENDERS) OF CHAPTER
25 97.

26 * * *

27 SECTION 5. SECTION 6153(D) OF TITLE 61 IS AMENDED BY ADDING
28 A PARAGRAPH TO READ:

29 § 6153. SUPERVISORY RELATIONSHIP TO OFFENDERS.

30 * * *

1 (D) GROUNDS FOR PERSONAL SEARCH OF OFFENDER.--

2 * * *

3 (2.1) NOTWITHSTANDING PARAGRAPHS (1) AND (2), THE COURT
4 MAY ORDER THAT, AS A CONDITION OF THE OFFENDER'S PROBATION,
5 AN AGENT MAY CONDUCT A SEARCH OF THE OFFENDER OR THE
6 OFFENDER'S PROPERTY WITHOUT A WARRANT OR REASONABLE SUSPICION
7 PURSUANT TO SUCH AUTHORIZATION, IF THE OFFENDER IS SERVING
8 PROBATION AS A RESULT OF A CONVICTION FOR ONE OF THE
9 FOLLOWING OFFENSES:

10 (I) AN OFFENSE IF THE OFFENDER POSSESSED A FIREARM
11 OR AN OFFENSIVE WEAPON, AS THOSE TERMS ARE DEFINED IN 18
12 PA.C.S. § 908(C) (RELATING TO PROHIBITED OFFENSIVE
13 WEAPONS), DURING THE COMMISSION OF THE OFFENSE.

14 (II) A DRUG TRAFFICKING OFFENSE, AS THAT TERM IS
15 DEFINED IN 42 PA.C.S. § 9911 (RELATING TO DEFINITIONS).

16 (III) AN OFFENSE LISTED UNDER 42 PA.C.S. SUBCH. H
17 (RELATING TO REGISTRATION OF SEXUAL OFFENDERS) OR I
18 (RELATING TO CONTINUED REGISTRATION OF SEXUAL OFFENDERS).

19 * * *

20 SECTION 6. THIS ACT SHALL APPLY ONLY TO INDIVIDUALS
21 SENTENCED OR RESENTENCED ON OR AFTER THE EFFECTIVE DATE OF THIS
22 SECTION.

23 SECTION 7. THIS ACT SHALL TAKE EFFECT JANUARY 1, 2020.