
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 18

Special Session No. 1 of
1995

INTRODUCED BY MCGEEHAN, PICCOLA, M. COHEN, REBER, LYNCH,
MAITLAND, BOYES, BROWN, M. N. WRIGHT, SEMMEL, PETTIT, BAKER,
ARGALL, PHILLIPS, FARMER, MILLER, LEH, DEMPSEY, HESS, STISH,
KING, PITTS, HUTCHINSON, FEESE, DIGIROLAMO, HABAY, B. SMITH,
BARLEY, S. H. SMITH, SCHRODER, RUBLEY, SATHER, HERSHEY,
NAILOR, CIVERA, FAIRCHILD, MARSICO, SAYLOR, D. W. SNYDER,
BIRMELIN, MERRY, STERN, GRUPPO, HARHART, MAJOR, ADOLPH,
CLARK, E. Z. TAYLOR, DENT, REINARD, NYCE, BUNT, TRUE,
FLEAGLE, PERZEL, ZUG, KELLER, BUTKOVITZ, LEDERER, WOZNIAK,
GLADECK, FLICK, FARGO, RYAN, ROBINSON, DeLUCA, GIGLIOTTI,
COY, GEORGE, PLATTS, TRELLO, SURRA, GAMBLE, BATTISTO,
GORDNER, TANGRETTI, CURRY, SAINATO, COLAIZZO, BLAUM, BUXTON,
TRAVAGLIO, WAUGH, WASHINGTON, PISTELLA, GRUITZA, GODSHALL,
FAJT, STRITTMATTER, PETRARCA, BOSCOLA, BROWNE, O'BRIEN AND
JAMES, JANUARY 24, 1995

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MARCH 15, 1995

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing for restitution for injuries to
4 person or property, ~~for disposition of profits received from~~ <—
5 ~~commission of crime,~~ for disposition of delinquent child, FOR <—
6 DISPOSITION OF PROFITS RECEIVED FROM COMMISSION OF CRIME, for
7 sentencing generally and for collection of restitution,
8 reparation, fees, costs, fines and penalties; and making a
9 repeal.

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

12 Section 1. Section 1106(c) AND THE DEFINITION OF "VICTIM" IN <—
13 SUBSECTION (H) of Title 18 of the Pennsylvania Consolidated
14 Statutes ~~is~~ ARE amended to read: <—

1 § 1106. Restitution for injuries to person or property.

2 * * *

3 [(c) Authority of sentencing court.--In determining whether
4 to order restitution as a part of the sentence or as a condition
5 of probation or parole, the court:

6 (1) Shall consider the extent of injury suffered by the
7 victim and such other matters as it deems appropriate.

8 (2) May order restitution in a lump sum, by monthly
9 installments or according to such other schedule as it deems
10 just, provided that the period of time during which the
11 offender is ordered to make restitution shall not exceed the
12 maximum term of imprisonment to which the offender could have
13 been sentenced for the crime of which he was convicted.

14 (3) May at any time alter or amend any order of
15 restitution made pursuant to this section providing, however,
16 that the court state its reasons and conclusions as a matter
17 of record for any change or amendment to any previous order.]

18 ~~(c) Mandatory restitution. The court shall order full~~ <—
19 ~~restitution, regardless~~ (C) MANDATORY RESTITUTION.-- <—

20 (1) THE COURT SHALL ORDER FULL RESTITUTION:

21 (I) REGARDLESS of the current financial resources of
22 the defendant, so as to provide the victim with the
23 fullest compensation for the loss. The court shall not
24 reduce a restitution award by any amount that the victim
25 has received from the Crime Victim's Compensation Board
26 OR OTHER GOVERNMENTAL AGENCY, but shall order the <—
27 defendant to pay any restitution ordered for loss
28 previously compensated by the board to the Crime Victim's
29 Compensation Fund OR OTHER DESIGNATED ACCOUNT WHEN THE <—
30 CLAIM INVOLVES A GOVERNMENT AGENCY IN ADDITION TO OR IN

1 PLACE OF THE BOARD. THE COURT SHALL NOT REDUCE A <—
2 RESTITUTION AWARD BY ANY AMOUNT THAT THE VICTIM HAS
3 RECEIVED FROM AN INSURANCE COMPANY, BUT SHALL ORDER THE
4 DEFENDANT TO PAY ANY RESTITUTION ORDERED FOR LOSS
5 PREVIOUSLY COMPENSATED BY AN INSURANCE COMPANY TO THE
6 INSURANCE COMPANY. If restitution to more than one person <—
7 is set INSURANCE COMPANY. <—

8 (II) IF RESTITUTION TO MORE THAN ONE PERSON IS SET
9 at the same time, the court shall set priorities of
10 payment. In determining the amount and method of <—
11 restitution, the court:

12 (1) Shall consider the extent of injury suffered by the
13 victim and such other matters as it deems appropriate.

14 (2) May order restitution in a lump sum, by monthly
15 installments or according to such other schedule as it deems
16 just, provided that the period of time during which the
17 offender is ordered to make restitution shall not exceed the
18 maximum term of imprisonment to which the offender could have
19 been sentenced for the crime of which he was convicted.

20 (3) May at any time alter or amend any order of
21 restitution made pursuant to this section providing, however,
22 that the court state its reasons and conclusions as a matter
23 of record for any change or amendment to any previous order.

24 (4) Shall not order incarceration of a defendant for
25 failure to pay restitution if the failure results from the
26 offender's inability to pay. HOWEVER, WHEN ESTABLISHING <—
27 PRIORITIES, THE COURT SHALL ORDER PAYMENT IN THE FOLLOWING
28 ORDER:

29 (A) THE VICTIM.

30 (B) THE CRIME VICTIM'S COMPENSATION BOARD.

1 (C) ANY OTHER GOVERNMENT AGENCY WHICH HAS
2 PROVIDED REIMBURSEMENT TO THE VICTIM AS A RESULT OF
3 THE DEFENDANT'S CRIMINAL CONDUCT.

4 (D) ANY INSURANCE COMPANY WHICH HAS PROVIDED
5 REIMBURSEMENT TO THE VICTIM AS A RESULT OF THE
6 DEFENDANT'S CRIMINAL CONDUCT.

7 (2) IN DETERMINING THE AMOUNT AND METHOD OF RESTITUTION,
8 THE COURT:

9 (I) SHALL CONSIDER THE EXTENT OF INJURY SUFFERED BY
10 THE VICTIM AND SUCH OTHER MATTERS AS IT DEEMS
11 APPROPRIATE.

12 (II) MAY ORDER RESTITUTION IN A LUMP SUM, BY MONTHLY
13 INSTALLMENTS OR ACCORDING TO SUCH OTHER SCHEDULE AS IT
14 DEEMS JUST, PROVIDED THAT THE PERIOD OF TIME DURING WHICH
15 THE OFFENDER IS ORDERED TO MAKE RESTITUTION SHALL NOT
16 EXCEED THE MAXIMUM TERM OF IMPRISONMENT TO WHICH THE
17 OFFENDER COULD HAVE BEEN SENTENCED FOR THE CRIME OF WHICH
18 HE WAS CONVICTED.

19 (III) MAY AT ANY TIME ALTER OR AMEND ANY ORDER OF
20 RESTITUTION MADE PURSUANT TO THIS SECTION PROVIDING,
21 HOWEVER, THAT THE COURT STATE ITS REASONS AND CONCLUSIONS
22 AS A MATTER OF RECORD FOR ANY CHANGE OR AMENDMENT TO ANY
23 PREVIOUS ORDER.

24 (IV) SHALL NOT ORDER INCARCERATION OF A DEFENDANT
25 FOR FAILURE TO PAY RESTITUTION IF THE FAILURE RESULTS
26 FROM THE OFFENDER'S INABILITY TO PAY.

27 (V) SHALL CONSIDER ANY OTHER PREEXISTING ORDERS
28 IMPOSED ON THE DEFENDANT, INCLUDING, BUT NOT LIMITED TO,
29 ORDERS IMPOSED UNDER THIS TITLE OR ANY OTHER TITLE.

30 * * *

1 (H) DEFINITIONS.--AS USED IN THIS SECTION THE FOLLOWING
2 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
3 SUBSECTION:

4 * * *

5 "VICTIM." [ANY PERSON, EXCEPT AN OFFENDER, WHO SUFFERED
6 INJURIES TO HIS PERSON OR PROPERTY AS A DIRECT RESULT OF THE
7 CRIME.] AS DEFINED IN SECTION 479.1 OF THE ACT OF APRIL 9, 1929
8 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929. THE
9 TERM INCLUDES THE CRIME VICTIM'S COMPENSATION FUND IF
10 COMPENSATION HAS BEEN PAID BY THE CRIME VICTIM'S COMPENSATION
11 FUND TO THE VICTIM AND ANY INSURANCE COMPANY THAT HAS
12 COMPENSATED THE VICTIM FOR LOSS UNDER AN INSURANCE CONTRACT.

13 ~~Section 2. Title 18 is amended by adding a section to read:~~
14 ~~§ 1109. Profits received as a result of commission of crime.~~

15 ~~(a) General rule. If a person has been convicted of a~~
16 ~~crime, every person who knowingly contracts for, pays or agrees~~
17 ~~to pay any profit from a crime to that person shall give written~~
18 ~~notice to the board of the payment or obligation to pay as soon~~
19 ~~as practicable after discovering that the payment or intended~~
20 ~~payment is a profit from a crime. The board, upon receipt of~~
21 ~~notice of a contract, an agreement to pay or payment of profits~~
22 ~~from a crime shall notify all known eligible persons at their~~
23 ~~last known address of the existence of the profits.~~

24 ~~(b) Right of action. Notwithstanding any inconsistent~~
25 ~~provision of law or rules of civil procedure with respect to the~~
26 ~~timely bringing of an action, any eligible person shall have the~~
27 ~~right to bring a civil action in a court of competent~~
28 ~~jurisdiction to recover money damages from a person convicted of~~
29 ~~a crime, or the legal representative of that convicted person,~~
30 ~~within three years of the discovery of any profits from a crime.~~

~~Any damages awarded in this action shall be recoverable only up to the value of the profits from the crime. If an action is filed under this subsection after the expiration of all other applicable statutes of limitation, any other eligible person must file any action for damages as a result of the crime within three years of the actual discovery of profits from the crime or of actual notice received from or notice published by the board of the discovery, whichever is later. IF ANY PROFITS FROM A CRIME REMAIN AFTER THE PAYMENT OF CLAIMS MADE UNDER THIS SECTION, THE BOARD SHALL DEPOSIT THE REMAINING MONEYS IN THE CRIME VICTIM'S COMPENSATION FUND.~~

~~(c) Notice. Upon filing an action under subsection (b), the eligible person shall give notice to the board of the filing by delivering a copy of the complaint to the board. The eligible person may also give notice to the board prior to filing the action so as to allow the board to apply for any appropriate remedies which are otherwise authorized to be invoked prior to the commencement of an action.~~

~~(d) Responsibilities of board. Upon receipt of a copy of a complaint, the board shall immediately take action as necessary to:~~

~~(1) Notify all other known eligible persons of the alleged existence of profits from a crime by certified mail, return receipt requested, where the eligible persons' names and addresses are known by the board.~~

~~(2) Publish, at least once a year for three years from the date it is initially notified by an eligible person under subsection (c), a legal notice in newspapers of general circulation in the county wherein the crime was committed and in counties contiguous to that county advising any eligible~~

~~persons of the existence of profits from a crime. The board may in its discretion provide for additional notice as it deems necessary.~~

~~(3) Avoid the wasting of the assets identified in the complaint as the newly discovered profits from a crime in any manner consistent with subsection (c).~~

~~(c) Other remedies. The board, acting on behalf of all eligible persons, shall have the right to apply for any and all remedies that are also otherwise available to an eligible person bringing an action under subsection (b). The remedies of attachment, injunction, receivership and notice of pendency available under law to an eligible person bringing an action under subsection (b) shall also be available to the board in all actions under this subsection. On a motion for a remedy, the moving party shall state whether any other remedy has previously been sought in the same action against the same defendant. The court may require the moving party to elect between those remedies to which it would otherwise be entitled.~~

~~(f) Evasive action null and void. Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this Commonwealth.~~

~~(G) PENALTIES.~~

~~(1) ANY PERSON WHO WILLFULLY FAILS TO DO ANY OF THE FOLLOWING IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN \$10,000 FOR EACH OFFENSE AND NOT MORE THAN AN AMOUNT EQUAL TO THREE TIMES THE CONTRACT AMOUNT:~~

~~(I) SUBMIT TO THE BOARD A COPY OF THE CONTRACT DESCRIBED IN SUBSECTION (A); OR~~

~~(II) PAY OVER TO THE BOARD ANY MONEYS OR OTHER
CONSIDERATION AS REQUIRED BY THIS SECTION.~~

~~(2) IF TWO OR MORE PERSONS ARE SUBJECT TO THE PENALTIES
PROVIDED IN THIS SECTION, THE PERSONS SHALL BE JOINTLY AND
SEVERALLY LIABLE FOR THE PAYMENT OF THE PENALTY IMPOSED.~~

~~(3) AFTER NOTICE AND OPPORTUNITY TO BE HEARD IS
PROVIDED, THE BOARD MAY BY ORDER ASSESS THE PENALTIES
DESCRIBED IN THIS SECTION.~~

~~(4) IF THE PENALTIES ARE NOT PAID WITHIN 30 DAYS FROM
THE DATE OF THE ORDER, ANY PENALTY ASSESSED UNDER THIS
SECTION SHALL BEAR INTEREST AT THE RATE OF 1% PER MONTH,
COMPOUNDED MONTHLY.~~

~~(5) AN ACTION TO RECOVER A CIVIL PENALTY ASSESSED UNDER
THIS SECTION MAY BE BROUGHT BY THE BOARD IN A COURT OF
COMPETENT JURISDICTION WITHIN SIX YEARS AFTER THE CAUSE OF
ACTION ACCRUES.~~

~~(6) ANY MONEYS RECOVERED UNDER THIS SUBSECTION SHALL BE
PAID INTO THE CRIME VICTIM'S COMPENSATION FUND.~~

~~(g) (H) Definitions. As used in this section, the following
words and phrases shall have the meanings given to them in this
subsection:~~

~~"Board." The Crime Victim's Compensation Board as defined in
section 477 of the act of April 9, 1929 (P.L.177, No.175), known
as The Administrative Code of 1929.~~

~~"Convicted." Includes conviction by entry of a plea of
guilty or nolo contendere, conviction after trial and a finding
of not guilty due to insanity or of guilty but mentally ill.~~

~~"Eligible person." Includes any of the following persons:~~

~~(1) A victim of the particular crime in question.~~

~~(2) An intervenor in such crime.~~

~~(3) A surviving spouse, parent or child of a deceased victim of, or intervenor in, such crime.~~

~~(4) Any other person dependent for his principal support upon a deceased victim of, or intervenor in, such crime.~~

~~No person who is criminally responsible for the crime in question or was an accomplice of the person who is criminally responsible shall be an eligible person.~~

~~"Profit from a crime." Includes any of the following:~~

~~(1) Any property obtained through or income generated from the commission of a crime of which the defendant was convicted.~~

~~(2) Any property obtained by or income generated from the sale, conversion or exchange of proceeds of a crime of which the defendant was convicted, including any gain realized by such sale, conversion or exchange.~~

~~(3) Any property which the defendant obtained or income generated as a result of having committed the crime of which the defendant was convicted, including any assets obtained through the use of unique knowledge obtained during the commission of, or in preparation for the commission of, the crime, as well as any property obtained by or income generated from the sale, conversion or exchange of such property and any gain realized by such sale, conversion or exchange.~~

~~Section 3. Sections 6352, 9721(c) and 9728 of Title 42 are amended to read:~~

~~SECTION 2. SECTION 6352 OF TITLE 42 IS AMENDED TO READ:~~

~~§ 6352. Disposition of delinquent child.~~

~~(a) General rule.--If the child is found to be a delinquent child the court may make any of the following orders of~~

1 disposition best suited to his treatment, supervision,
2 rehabilitation, and welfare:

3 (1) Any order authorized by section 6351 (relating to
4 disposition of dependent child).

5 (2) Placing the child on probation under supervision of
6 the probation officer of the court or the court of another
7 state as provided in section 6363 (relating to ordering
8 foreign supervision), under conditions and limitations the
9 court prescribes.

10 (3) Committing the child to an institution, youth
11 development center, camp, or other facility for delinquent
12 children operated under the direction or supervision of the
13 court or other public authority and approved by the
14 Department of Public Welfare.

15 (4) If the child is 12 years of age or older, committing
16 the child to an institution operated by the Department of
17 Public Welfare.

18 (5) Ordering payment by the child of reasonable amounts
19 of money as fines[,] or costs [or restitution] as deemed
20 appropriate as part of the plan of rehabilitation considering
21 the nature of the acts committed and the earning capacity of
22 the child. ~~IF AN ORDER IS MADE UNDER THIS PARAGRAPH, THE~~ <—
23 ~~COURT SHALL RETAIN JURISDICTION UNTIL THERE HAS BEEN FULL~~
24 ~~COMPLIANCE WITH THE ORDER. HOWEVER, IF THE DELINQUENT CHILD~~
25 ~~ATTAINS 18 YEARS OF AGE PRIOR TO COMPLETE SATISFACTION OF THE~~
26 ~~RESTITUTION ORDER, THE ORDER SHALL BE TRANSFERRED, WHERE~~
27 ~~APPROPRIATE, TO THE DIVISION OR A JUDGE OF THE COURT ASSIGNED~~
28 ~~TO CONDUCT CRIMINAL PROCEEDINGS.~~

29 [(6) An order of the terms of probation may include an
30 appropriate fine considering the nature of the act committed

1 or restitution not in excess of actual damages caused by the
2 child which shall be paid from the earnings of the child
3 received through participation in a constructive program of
4 service or education acceptable to the victim and the court
5 whereby, during the course of such service, the child shall
6 be paid not less than the minimum wage of this Commonwealth.
7 In ordering such service, the court shall take into
8 consideration the age, physical and mental capacity of the
9 child and the service shall be designed to impress upon the
10 child a sense of responsibility for the injuries caused to
11 the person or property of another. The order of the court
12 shall be limited in duration consistent with the limitations
13 in section 6353 (relating to limitation on and change in
14 place of commitment) and in the act of May 13, 1915 (P.L.286,
15 No.177), known as the "Child Labor Law." The court order
16 shall specify the nature of the work, the number of hours to
17 be spent performing the assigned tasks, and shall further
18 specify that as part of a plan of treatment and
19 rehabilitation that up to 75% of the earnings of the child be
20 used for restitution in order to provide positive
21 reinforcement for the work performed.]

22 (6) A child shall not be committed or transferred to a
23 penal institution or other facility used primarily for the
24 execution of sentences of adults convicted of a crime.

25 In selecting from the alternatives set forth in this section,
26 the court shall follow the general principle that the
27 disposition imposed should provide the means through which the
28 provisions of this chapter are executed and enforced consistent
29 with section 6301(b) (relating to purposes) and when confinement
30 is necessary, the court shall impose the minimum amount of

1 confinement that is consistent with the protection of the public
2 and the rehabilitation needs of the child.

3 [(b) Limitation on place of commitment.--A child shall not
4 be committed or transferred to a penal institution or other
5 facility used primarily for the execution of sentences of adults
6 convicted of a crime.]

7 (b) Mandatory restitution.--If the child is found to be a
8 delinquent child, in addition to any orders issued under
9 subsection (a), the court shall order the child or the child's
10 parent or parents or the child and the child's parent or parents
11 to compensate the victim of the child's conduct for the damage
12 or injury that the victim sustained. FOR AN ORDER MADE UNDER <—
13 THIS SUBSECTION, THE COURT SHALL RETAIN JURISDICTION UNTIL THERE
14 HAS BEEN FULL COMPLIANCE WITH THE ORDER OR UNTIL THE DELINQUENT
15 CHILD ATTAINS 21 YEARS OF AGE.

16 ~~(c) Parental liability. In addition to any restitution~~ <—
17 ~~ordered to be paid by the child, the court shall order any~~

18 (C) PARENTAL LIABILITY.-- <—

19 (1) IN ADDITION TO ANY RESTITUTION ORDERED TO BE PAID BY
20 THE CHILD, THE COURT SHALL ORDER ANY remaining restitution to
21 be paid by the parent or parents. Where the court finds that
22 the parent or parents have the capacity to compensate the
23 victim in an amount exceeding the limits set forth in 23
24 Pa.C.S. § 5505 (relating to monetary limits of liability),
25 the court may, in the interest of justice, order restitution
26 in an amount exceeding the limits, in accordance with the
27 capacity of the parent's or parents' ability to pay and the
28 relation which the parent's or parents' conduct or omission
29 bears to the commission of the delinquent act.

30 (2) THE COURT SHALL AFFORD ALL OF THE FOLLOWING TO ANY <—

1 PARENT AGAINST WHOM AN ORDER OF RESTITUTION MAY BE MADE UNDER
2 THIS SUBSECTION:

3 (I) NOTICE THAT THE PARENT MAY POTENTIALLY BE LIABLE
4 TO PAY RESTITUTION AS PROVIDED FOR UNDER THIS SECTION;

5 (II) AN OPPORTUNITY FOR A HEARING BEFORE THE COURT;

6 (III) AN OPPORTUNITY TO BE HEARD AT THE HEARING
7 REQUIRED BY SUBPARAGRAPH (II); AND

8 (IV) THE RIGHT TO BE REPRESENTED BY COUNSEL AT THE
9 HEARING REQUIRED BY SUBPARAGRAPH (II), BUT NOT AT COURT
10 EXPENSE.

11 (3) NOTHING IN THIS SECTION SHALL PREVENT A COURT FROM
12 IMPLEMENTING AN ORDER OF DISPOSITION UNDER SUBSECTION (A)
13 EVEN THOUGH ISSUES OF RESTITUTION MAY NOT FULLY BE RESOLVED.

14 (d) Collection of restitution.--Any order of restitution
15 entered under this section shall be collectible in accordance
16 with the provisions set forth under section 9728 (relating to
17 collection of restitution, reparation, fees, costs, fines and
18 penalties). ANY RESTITUTION ORDER WHICH REMAINS UNPAID AT THE <—
19 TIME THE CHILD ATTAINS 21 YEARS OF AGE SHALL CONTINUE TO BE
20 COLLECTIBLE UNDER SECTION 9728.

21 (e) Program of service, education or employment.--The court
22 may order that fines, costs or restitution shall be paid from
23 the earnings of the child received through participation in a
24 constructive program of service, education or employment that is
25 acceptable to the victim and court whereby, during the course of
26 the service, the child shall be paid not less than the minimum
27 wage of this Commonwealth. In making such an order, the court
28 shall take into consideration the age and physical, mental and
29 earning capacity of the child, and the program shall be designed
30 to impress upon the child a sense of responsibility for the

1 injuries caused to the person or property of another. The order
2 of the court shall be limited in duration consistent with the
3 limitations under section 6353 (relating to limitation on and
4 change in place of commitment) and in the act of May 13, 1915
5 (P.L.286, No.177), known as the Child Labor Law. The court order
6 shall specify the nature of the work and the number of hours to
7 be spent performing the assigned tasks and shall further specify
8 that, as part of a plan of treatment and rehabilitation, up to
9 75% of the earnings of the child be used for restitution, in
10 order to provide positive reinforcement for the work performed.

11 (F) DEFINITION.--AS USED IN THIS SECTION, THE TERM "VICTIM" <—
12 SHALL BE AS DEFINED IN SECTION 479.1 OF THE ACT OF APRIL 9, 1929
13 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

14 SECTION 3. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ: <—
15 § 8312. PROFITS RECEIVED AS A RESULT OF COMMISSION OF CRIME.

16 (A) GENERAL RULE.--IF A PERSON HAS BEEN CONVICTED OF A
17 CRIME, EVERY PERSON WHO KNOWINGLY CONTRACTS FOR, PAYS OR AGREES
18 TO PAY ANY PROFIT FROM A CRIME TO THAT PERSON SHALL GIVE WRITTEN
19 NOTICE TO THE BOARD OF THE PAYMENT OR OBLIGATION TO PAY AS SOON
20 AS PRACTICABLE AFTER DISCOVERING THAT THE PAYMENT OR INTENDED
21 PAYMENT IS A PROFIT FROM A CRIME. THE BOARD, UPON RECEIPT OF
22 NOTICE OF A CONTRACT, AN AGREEMENT TO PAY OR PAYMENT OF PROFITS
23 FROM A CRIME SHALL NOTIFY ALL KNOWN ELIGIBLE PERSONS AT THEIR
24 LAST KNOWN ADDRESS OF THE EXISTENCE OF THE PROFITS.

25 (B) RIGHT OF ACTION.--NOTWITHSTANDING ANY INCONSISTENT
26 PROVISION OF LAW OR RULES OF CIVIL PROCEDURE WITH RESPECT TO THE
27 TIMELY BRINGING OF AN ACTION, ANY ELIGIBLE PERSON SHALL HAVE THE
28 RIGHT TO BRING A CIVIL ACTION IN A COURT OF COMPETENT
29 JURISDICTION TO RECOVER MONEY DAMAGES FROM A PERSON CONVICTED OF
30 A CRIME, OR THE LEGAL REPRESENTATIVE OF THAT CONVICTED PERSON,

1 WITHIN THREE YEARS OF THE DISCOVERY OF ANY PROFITS FROM A CRIME.
2 ANY DAMAGES AWARDED IN THIS ACTION SHALL BE RECOVERABLE ONLY UP
3 TO THE VALUE OF THE PROFITS FROM THE CRIME. IF AN ACTION IS
4 FILED UNDER THIS SUBSECTION AFTER THE EXPIRATION OF ALL OTHER
5 APPLICABLE STATUTES OF LIMITATION, ANY OTHER ELIGIBLE PERSON
6 MUST FILE ANY ACTION FOR DAMAGES AS A RESULT OF THE CRIME WITHIN
7 THREE YEARS OF THE ACTUAL DISCOVERY OF PROFITS FROM THE CRIME OR
8 OF ACTUAL NOTICE RECEIVED FROM OR NOTICE PUBLISHED BY THE BOARD
9 OF THE DISCOVERY, WHICHEVER IS LATER. IF ANY PROFITS FROM A
10 CRIME REMAIN AFTER THE PAYMENT OF CLAIMS MADE UNDER THIS
11 SECTION, THE BOARD SHALL HAVE THE RIGHT TO BRING A CIVIL ACTION
12 WITHIN TWO YEARS IN A COURT OF COMPETENT JURISDICTION TO RECOVER
13 ANY PAYMENTS MADE BY THE BOARD PURSUANT TO ARTICLE IV OF THE ACT
14 OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE
15 CODE OF 1929, AND ANY EXPENSES INCURRED BY THE BOARD PURSUANT TO
16 ARTICLE IV OF THE ADMINISTRATIVE CODE OF 1929, OR THIS SECTION
17 WITH REGARD TO SUCH CRIME OR THE PERSON CONVICTED OF SUCH CRIME.

18 (C) NOTICE.--UPON FILING AN ACTION UNDER SUBSECTION (B), THE
19 ELIGIBLE PERSON SHALL GIVE NOTICE TO THE BOARD OF THE FILING BY
20 DELIVERING A COPY OF THE COMPLAINT TO THE BOARD. THE ELIGIBLE
21 PERSON MAY ALSO GIVE NOTICE TO THE BOARD PRIOR TO FILING THE
22 ACTION SO AS TO ALLOW THE BOARD TO APPLY FOR ANY APPROPRIATE
23 REMEDIES WHICH ARE OTHERWISE AUTHORIZED TO BE INVOKED PRIOR TO
24 THE COMMENCEMENT OF AN ACTION.

25 (D) RESPONSIBILITIES OF BOARD.--UPON RECEIPT OF A COPY OF A
26 COMPLAINT, THE BOARD SHALL IMMEDIATELY TAKE ACTION AS NECESSARY
27 TO:

28 (1) NOTIFY ALL OTHER KNOWN ELIGIBLE PERSONS OF THE
29 ALLEGED EXISTENCE OF PROFITS FROM A CRIME BY CERTIFIED MAIL,
30 RETURN RECEIPT REQUESTED, WHERE THE ELIGIBLE PERSONS' NAMES

1 AND ADDRESSES ARE KNOWN BY THE BOARD.

2 (2) PUBLISH, AT LEAST ONCE A YEAR FOR THREE YEARS FROM
3 THE DATE IT IS INITIALLY NOTIFIED BY AN ELIGIBLE PERSON UNDER
4 SUBSECTION (C), A LEGAL NOTICE IN NEWSPAPERS OF GENERAL
5 CIRCULATION IN THE COUNTY WHEREIN THE CRIME WAS COMMITTED AND
6 IN COUNTIES CONTIGUOUS TO THAT COUNTY ADVISING ANY ELIGIBLE
7 PERSONS OF THE EXISTENCE OF PROFITS FROM A CRIME. THE BOARD
8 MAY IN ITS DISCRETION PROVIDE FOR ADDITIONAL NOTICE AS IT
9 DEEMS NECESSARY.

10 (3) AVOID THE WASTING OF THE ASSETS IDENTIFIED IN THE
11 COMPLAINT AS THE NEWLY DISCOVERED PROFITS FROM A CRIME IN ANY
12 MANNER CONSISTENT WITH SUBSECTION (E).

13 (E) OTHER REMEDIES.--THE BOARD, ACTING ON BEHALF OF ALL
14 ELIGIBLE PERSONS, SHALL HAVE THE RIGHT TO APPLY FOR ANY AND ALL
15 REMEDIES THAT ARE ALSO OTHERWISE AVAILABLE TO AN ELIGIBLE PERSON
16 BRINGING AN ACTION UNDER SUBSECTION (B). THE REMEDIES OF
17 ATTACHMENT, INJUNCTION, RECEIVERSHIP AND NOTICE OF PENDENCY
18 AVAILABLE UNDER LAW TO AN ELIGIBLE PERSON BRINGING AN ACTION
19 UNDER SUBSECTION (B) SHALL ALSO BE AVAILABLE TO THE BOARD IN ALL
20 ACTIONS UNDER THIS SUBSECTION. ON A MOTION FOR A REMEDY, THE
21 MOVING PARTY SHALL STATE WHETHER ANY OTHER REMEDY HAS PREVIOUSLY
22 BEEN SOUGHT IN THE SAME ACTION AGAINST THE SAME DEFENDANT. THE
23 COURT MAY REQUIRE THE MOVING PARTY TO ELECT BETWEEN THOSE
24 REMEDIES TO WHICH IT WOULD OTHERWISE BE ENTITLED.

25 (F) EVASIVE ACTION NULL AND VOID.--ANY ACTION TAKEN BY ANY
26 PERSON CONVICTED OF A CRIME, WHETHER BY WAY OF EXECUTION OF A
27 POWER OF ATTORNEY, CREATION OF CORPORATE ENTITIES OR OTHERWISE,
28 TO DEFEAT THE PURPOSE OF THIS SECTION SHALL BE NULL AND VOID AS
29 AGAINST THE PUBLIC POLICY OF THIS COMMONWEALTH.

30 (G) PENALTIES.--

1 (1) ANY PERSON WHO WILLFULLY FAILS TO DO ANY OF THE
2 FOLLOWING IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN
3 \$10,000 FOR EACH OFFENSE AND NOT MORE THAN AN AMOUNT EQUAL TO
4 THREE TIMES THE CONTRACT AMOUNT:

5 (I) SUBMIT TO THE BOARD A COPY OF THE CONTRACT
6 DESCRIBED IN SUBSECTION (A); OR

7 (II) PAY OVER TO THE BOARD ANY MONEYS OR OTHER
8 CONSIDERATION AS REQUIRED BY THIS SECTION.

9 (2) IF TWO OR MORE PERSONS ARE SUBJECT TO THE PENALTIES
10 PROVIDED IN THIS SECTION, THE PERSONS SHALL BE JOINTLY AND
11 SEVERALLY LIABLE FOR THE PAYMENT OF THE PENALTY IMPOSED.

12 (3) AFTER NOTICE AND OPPORTUNITY TO BE HEARD IS
13 PROVIDED, THE BOARD MAY BY ORDER ASSESS THE PENALTIES
14 DESCRIBED IN THIS SECTION.

15 (4) IF THE PENALTIES ARE NOT PAID WITHIN 30 DAYS FROM
16 THE DATE OF THE ORDER, ANY PENALTY ASSESSED UNDER THIS
17 SECTION SHALL BEAR INTEREST AT THE RATE OF 1% PER MONTH,
18 COMPOUNDED MONTHLY.

19 (5) AN ACTION TO RECOVER A CIVIL PENALTY ASSESSED UNDER
20 THIS SECTION MAY BE BROUGHT BY THE BOARD IN A COURT OF
21 COMPETENT JURISDICTION WITHIN SIX YEARS AFTER THE CAUSE OF
22 ACTION ACCRUES.

23 (6) ANY MONEYS RECOVERED UNDER THIS SUBSECTION SHALL BE
24 PAID INTO THE CRIME VICTIM'S COMPENSATION FUND.

25 (H) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
27 SUBSECTION:

28 "BOARD." THE CRIME VICTIM'S COMPENSATION BOARD AS DEFINED IN
29 SECTION 477 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN
30 AS THE ADMINISTRATIVE CODE OF 1929.

1 "CONVICTED." INCLUDES CONVICTION BY ENTRY OF A PLEA OF
2 GUILTY OR NOLO CONTENDERE, CONVICTION AFTER TRIAL AND A FINDING
3 OF NOT GUILTY DUE TO INSANITY OR OF GUILTY BUT MENTALLY ILL.

4 "ELIGIBLE PERSON." INCLUDES ANY OF THE FOLLOWING PERSONS:

5 (1) A VICTIM OF THE PARTICULAR CRIME IN QUESTION, AS
6 "VICTIM" IS DEFINED IN SECTION 479.1 OF THE ACT OF APRIL 9,
7 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF
8 1929.

9 (2) AN INTERVENOR IN SUCH CRIME.

10 (3) A SURVIVING SPOUSE, PARENT OR CHILD OF A DECEASED
11 VICTIM OF, OR INTERVENOR IN, SUCH CRIME.

12 (4) ANY OTHER PERSON DEPENDENT FOR HIS PRINCIPAL SUPPORT
13 UPON A DECEASED VICTIM OF, OR INTERVENOR IN, SUCH CRIME.

14 NO PERSON WHO IS CRIMINALLY RESPONSIBLE FOR THE CRIME IN
15 QUESTION OR WAS AN ACCOMPLICE OF THE PERSON WHO IS CRIMINALLY
16 RESPONSIBLE SHALL BE AN ELIGIBLE PERSON.

17 "PROFIT FROM A CRIME." INCLUDES ANY OF THE FOLLOWING:

18 (1) ANY PROPERTY OBTAINED THROUGH OR INCOME GENERATED
19 FROM THE COMMISSION OF A CRIME OF WHICH THE DEFENDANT WAS
20 CONVICTED.

21 (2) ANY PROPERTY OBTAINED BY OR INCOME GENERATED FROM
22 THE SALE, CONVERSION OR EXCHANGE OF PROCEEDS OF A CRIME OF
23 WHICH THE DEFENDANT WAS CONVICTED, INCLUDING ANY GAIN
24 REALIZED BY SUCH SALE, CONVERSION OR EXCHANGE.

25 (3) ANY PROPERTY WHICH THE DEFENDANT OBTAINED OR INCOME
26 GENERATED AS A RESULT OF HAVING COMMITTED THE CRIME OF WHICH
27 THE DEFENDANT WAS CONVICTED, INCLUDING ANY ASSETS OBTAINED
28 THROUGH THE USE OF UNIQUE KNOWLEDGE OBTAINED DURING THE
29 COMMISSION OF, OR IN PREPARATION FOR THE COMMISSION OF, THE
30 CRIME, AS WELL AS ANY PROPERTY OBTAINED BY OR INCOME

1 GENERATED FROM THE SALE, CONVERSION OR EXCHANGE OF SUCH
2 PROPERTY AND ANY GAIN REALIZED BY SUCH SALE, CONVERSION OR
3 EXCHANGE.

4 SECTION 4. SECTIONS 9721(C) AND 9728 OF TITLE 42 ARE AMENDED
5 TO READ:

6 § 9721. Sentencing generally.

7 * * *

8 (c) [Restitution] Mandatory restitution.--In addition to the
9 alternatives set forth in subsection (a) of this section the
10 court [may] shall order the defendant to compensate the victim
11 of his criminal conduct for the damage or injury that he
12 sustained. FOR PURPOSES OF THIS SUBSECTION, THE TERM "VICTIM" <—
13 SHALL BE AS DEFINED IN SECTION 479.1 OF THE ACT OF APRIL 9, 1929
14 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

15 * * *

16 § 9728. Collection of restitution, reparation, fees, costs,
17 fines and penalties.

18 (a) General rule.--All restitution, reparation, fees, costs,
19 fines and penalties shall be collectible in any manner provided
20 by law. However, such restitution, reparation, fees, costs,
21 fines and penalties are part of a criminal action or proceeding
22 and shall not be deemed debts. A sentence [or], pretrial
23 disposition order or order entered under section 6352 (relating
24 to disposition of delinquent child) for restitution, reparation,
25 fees, costs, fines or penalties shall, together with interest
26 and any additional costs that may accrue, be a judgment in favor
27 of the probation department upon the person or the property of
28 the person sentenced or subject to the [pretrial disposition]
29 order.

30 (b) Procedure.--The county probation department or other

1 appropriate governmental agency shall, upon sentencing [or],
2 pretrial disposition or other order, transmit to the
3 prothonotary of the respective county certified copies of all
4 judgments for restitution, reparation, fees, costs, fines and
5 penalties, and it shall be the duty of each prothonotary to
6 enter and docket the same of record in his office and to index
7 the same as judgments are indexed, without requiring the payment
8 of costs as a condition precedent to the entry thereof. The
9 total amount for which the person is liable pursuant to this
10 section may be entered as a judgment upon the person or the
11 property of the person sentenced or ordered, regardless of
12 whether the amount has been ordered to be paid in installments.

13 (c) Period of time.--Notwithstanding section 6353 (relating
14 to limitation on and change in place of commitment) or 18
15 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to
16 person or property), the period of time during which such
17 judgments shall have full effect may exceed the maximum term of
18 imprisonment to which the offender could have been sentenced for
19 the crimes of which he was convicted or the maximum term of
20 confinement to which the offender was committed.

21 (d) Priority.--Notwithstanding any other statutory
22 provisions in this or any other title, any lien obtained under
23 this section shall maintain its priority indefinitely and no
24 writ of revival need be filed.

25 (e) Preservation of assets subject to restitution.--Upon
26 application of the Commonwealth, the court may enter a
27 restraining order or injunction, require the execution of a
28 satisfactory performance bond or take any other action to
29 preserve the availability of property which may be necessary to
30 satisfy an anticipated restitution order under this section:

1 (1) upon the filing of a criminal complaint, information
2 or indictment charging a criminal violation or a petition
3 alleging delinquency for which restitution may be ordered and
4 alleging that the property with respect to which the order is
5 sought appears to be necessary to satisfy such restitution
6 order and judgment; and

7 (2) if, after notice to persons appearing to have an
8 interest in the property and an opportunity for a hearing,
9 the court determines that:

10 (i) there is a substantial probability that:

11 (A) the Commonwealth will prevail on the
12 underlying criminal charges or allegation of
13 delinquency;

14 (B) restitution will be ordered exceeding
15 \$10,000 in value;

16 (C) the property appears to be necessary to
17 satisfy such restitution order; and

18 (D) failure to enter the order will result in
19 the property being destroyed, removed from the
20 jurisdiction of the court or otherwise made
21 unavailable for payment of the anticipated
22 restitution order; and

23 (ii) the need to preserve the availability of the
24 property through the entry of the requested order
25 outweighs the hardship on any party against whom the
26 order is to be entered.

27 (f) Temporary restraining order.--A temporary restraining
28 order under subsection (e) may be entered upon application of
29 the Commonwealth without notice or opportunity for a hearing,
30 whether or not a complaint, information [or], indictment or

1 petition alleging delinquency has been filed with respect to the
2 property, if the Commonwealth demonstrates that there is
3 probable cause to believe that the property with respect to
4 which the order is sought appears to be necessary to satisfy an
5 anticipated restitution order under this section and that
6 provision of notice will jeopardize the availability of the
7 property to satisfy such restitution order and judgment. Such a
8 temporary order shall expire not more than ten days after the
9 date on which it is entered, unless extended for good cause
10 shown or unless the party against whom it is entered consents to
11 an extension for a longer period. A hearing requested concerning
12 an order entered under this subsection shall be held at the
13 earliest possible time and prior to the expiration of the
14 temporary order.

15 (g) Costs, etc.--Any sheriff's costs, filing fees and costs
16 of the county probation department or other appropriate
17 governmental agency shall be borne by the defendant and shall be
18 collected by the county probation department or other
19 appropriate governmental agency along with the total amount of
20 the judgment and remitted to the appropriate agencies at the
21 time of or prior to satisfaction of judgment.

22 (h) Effect on contempt proceedings.--This section shall not
23 affect contempt proceedings mandated by 18 Pa.C.S. § 1106(f).

24 Section 4 5. Section 477.18 of the act of April 9, 1929 <—
25 (P.L.177, No.175), known as The Administrative Code of 1929, is
26 repealed.

27 ~~Section 5. This act shall take effect in 60 days.~~ <—

28 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

29 (1) THE ADDITION OF 42 PA.C.S. § 8312 SHALL TAKE EFFECT
30 IMMEDIATELY.

1 (2) SECTION 5 AND THIS SECTION SHALL TAKE EFFECT
2 IMMEDIATELY.

3 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
4 DAYS.