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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2749 Session of  
1994

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INTRODUCED BY MILLER, FARGO, GORDNER, ARGALL, PETTIT, LAUB,  
SATHER, DeLUCA, TIGUE, FARMER, MELIO, BIRMELIN, YEWCIC,  
SAYLOR, LYNCH, WAUGH, PHILLIPS, DRUCE, BROWN, STERN, LEH,  
KASUNIC, HUTCHINSON, EGOLF, McGEEHAN, NAILOR, FAIRCHILD,  
SERAFINI, WOZNIAK, RUBLEY AND MERRY, MAY 16, 1994

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REFERRED TO COMMITTEE ON JUDICIARY, MAY 16, 1994

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing for the  
3 sentencing proceeding; and providing for restitution for  
4 incarceration.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 9752(a) of Title 42 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 9752. Sentencing proceeding generally.

10 (a) General rule.--As soon as practicable after the  
11 determination of guilt and the examination of any presentence  
12 report, a proceeding shall be held at which the court shall:

13 (1) Entertain submissions by the parties on the facts  
14 relevant to the sentence, including any facts with respect to  
15 negotiated pleas, as to the nature of the sentence.

16 (2) Afford to the defendant the right to make a  
17 statement.

1           (3) Hear argument by the defense on the applicability of  
2     the various sentencing alternatives to the facts of the case,  
3     and may hear argument by the prosecution.

4           (4) Entertain submissions by the parties as to the  
5     present and future financial assets and income of the  
6     defendant, excluding the primary residence in which immediate  
7     family members will continue to reside, any assets and income  
8     needed for the support of dependents and any assets and  
9     income forfeited or to be forfeited under section 6801  
10    (relating to loss of property rights to Commonwealth). The  
11    court may order the defendant to pay an amount up to the  
12    maximum available from the defendant's assets and income, but  
13    not to exceed the reasonable costs of incarceration.

14    \* \* \*

15    Section 2. Title 42 is amended by adding a section to read:  
16    § 9764. Restitution for incarceration.

17    When the court has ordered the defendant to pay any costs of  
18    incarceration under section 9752(a)(4) (relating to sentencing  
19    proceeding generally), the amount assessed shall be payable to  
20    the Department of Corrections in the case of a defendant  
21    sentenced to a State correctional institution and to the county  
22    in the case of a defendant sentenced to a county prison. The  
23    Department of Corrections and the county are authorized to  
24    maintain trust accounts for defendants committed to their  
25    custody. The account may be assessed by the Department of  
26    Corrections or the county for a violation of any institutional  
27    rule which increases the cost of incarceration. If the defendant  
28    receives an early release from confinement, the defendant shall  
29    be paid a pro rata reimbursement for time not served.

30    Section 3. This act shall take effect in 60 days.