

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1038** Session of
1989

INTRODUCED BY PIEVSKY, PICCOLA, DeWEESE, CALTAGIRONE, O'DONNELL, DONATUCCI, COY, JAROLIN, CAWLEY, RYBAK, J. H. CLARK, MILLER, WOGAN, VEON, TRICH, FARGO, KOSINSKI, O'BRIEN, BLAUM, JOHNSON, CHADWICK, MAIALE, HOWLETT, NOYE, MORRIS, KUKOVICH, FAIRCHILD, GODSHALL, LINTON, OLASZ, J. L. WRIGHT, HALUSKA, MICHLOVIC, ROBINSON, GLADECK, PRESSMANN, MOEHLMANN, HAYDEN, YANDRISEVITS, KENNEY, MERRY, DEMPSEY, TRELLO, TIGUE, THOMAS, S. H. SMITH, MELIO, LASHINGER, DeLUCA, RIEGER, E. Z. TAYLOR, WOZNIAK, FOX, WESTON, EVANS, KASUNIC, STABACK, McVERRY, COLAIZZO, RITTER, REBER, PISTELLA, DIETTERICK, BELARDI, G. SNYDER, BISHOP AND GANNON, APRIL 5, 1989

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 21, 1989

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for collection
3 of money in criminal actions.

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

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a section to read:

8 § 9728. Collection of restitution, reparation, fees, costs,
9 fines and penalties.

10 (A) GENERAL RULE.--All restitution, reparation, fees, costs, <—
11 fines and penalties shall be collectible in any manner provided
12 by law. However, such restitution, reparation, fees, costs,
13 fines and penalties are part of a criminal action or proceeding

1 and shall not be deemed debts. A sentence or pretrial
2 disposition order for restitution, reparation, fees, costs,
3 finances or penalties shall, together with interest and any
4 additional costs that may accrue, be a judgment upon the person
5 or the property of the person sentenced or subject to the
6 pretrial disposition order.

7 (B) PROCEDURE.--The county probation department or other <—
8 appropriate governmental agency shall, upon sentencing, transmit
9 to the prothonotary of the respective county certified copies of
10 all judgments for restitution, reparation, fees, costs, fines
11 and penalties, and it shall be the duty of each prothonotary to
12 enter and docket the same of record in his office and to index
13 the same as judgments are indexed, without requiring the payment
14 of costs as a condition precedent to the entry thereof. The
15 total amount for which the person is liable pursuant to this
16 section may be entered as a judgment upon the person or the
17 property of the person sentenced, regardless of whether the
18 amount has been ordered to be paid in installments.

19 (C) PERIOD OF TIME.--Notwithstanding 18 Pa.C.S. § 1106(c)(2) <—
20 (relating to restitution for injuries to person or property),
21 the period of time during which such judgments shall have full
22 effect may exceed the maximum term of imprisonment to which the
23 offender could have been sentenced for the crimes of which he
24 was convicted.

25 (D) PRIORITY.--Notwithstanding any other statutory <—
26 provisions in this or any other title, any lien obtained under
27 this section shall maintain its priority indefinitely and no
28 writ of revival need be filed.

29 (E) PRESERVATION OF ASSETS SUBJECT TO RESTITUTION.--UPON <—
30 APPLICATION OF THE COMMONWEALTH, THE COURT MAY ENTER A

1 RESTRAINING ORDER OR INJUNCTION, REQUIRE THE EXECUTION OF A
2 SATISFACTORY PERFORMANCE BOND OR TAKE ANY OTHER ACTION TO
3 PRESERVE THE AVAILABILITY OF PROPERTY WHICH MAY BE NECESSARY TO
4 SATISFY AN ANTICIPATED RESTITUTION ORDER UNDER THIS SECTION:

5 (1) UPON THE FILING OF A CRIMINAL COMPLAINT,
6 INFORMATION, OR INDICTMENT CHARGING A CRIMINAL VIOLATION FOR
7 WHICH RESTITUTION MAY BE ORDERED AND ALLEGING THAT THE
8 PROPERTY WITH RESPECT TO WHICH THE ORDER IS SOUGHT APPEARS TO
9 BE NECESSARY TO SATISFY SUCH RESTITUTION ORDER AND JUDGMENT;
10 AND

11 (2) IF, AFTER NOTICE TO PERSONS APPEARING TO HAVE AN
12 INTEREST IN THE PROPERTY AND AN OPPORTUNITY FOR A HEARING,
13 THE COURT DETERMINES THAT:

14 (I) THERE IS A SUBSTANTIAL PROBABILITY THAT:

15 (A) THE COMMONWEALTH WILL PREVAIL ON THE
16 UNDERLYING CRIMINAL CHARGES;

17 (B) RESTITUTION WILL BE ORDERED EXCEEDING
18 \$10,000 IN VALUE;

19 (C) THE PROPERTY APPEARS TO BE NECESSARY TO
20 SATISFY SUCH RESTITUTION ORDER; AND

21 (D) FAILURE TO ENTER THE ORDER WILL RESULT IN
22 THE PROPERTY BEING DESTROYED, REMOVED FROM THE
23 JURISDICTION OF THE COURT OR OTHERWISE MADE
24 UNAVAILABLE FOR PAYMENT OF THE ANTICIPATED
25 RESTITUTION ORDER; AND

26 (II) THE NEED TO PRESERVE THE AVAILABILITY OF THE
27 PROPERTY THROUGH THE ENTRY OF THE REQUESTED ORDER
28 OUTWEIGHS THE HARDSHIP ON ANY PARTY AGAINST WHOM THE
29 ORDER IS TO BE ENTERED.

30 (F) TEMPORARY RESTRAINING ORDER.--A TEMPORARY RESTRAINING

1 ORDER UNDER SUBSECTION (E) MAY BE ENTERED UPON APPLICATION OF
2 THE COMMONWEALTH WITHOUT NOTICE OR OPPORTUNITY FOR A HEARING,
3 WHETHER OR NOT A COMPLAINT, INFORMATION OR INDICTMENT HAS BEEN
4 FILED WITH RESPECT TO THE PROPERTY, IF THE COMMONWEALTH
5 DEMONSTRATES THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
6 PROPERTY WITH RESPECT TO WHICH THE ORDER IS SOUGHT APPEARS TO BE
7 NECESSARY TO SATISFY AN ANTICIPATED RESTITUTION ORDER UNDER THIS
8 SECTION AND THAT PROVISION OF NOTICE WILL JEOPARDIZE THE
9 AVAILABILITY OF THE PROPERTY TO SATISFY SUCH RESTITUTION ORDER
10 AND JUDGMENT. SUCH A TEMPORARY ORDER SHALL EXPIRE NOT MORE THAN
11 TEN DAYS AFTER THE DATE ON WHICH IT IS ENTERED, UNLESS EXTENDED
12 FOR GOOD CAUSE SHOWN OR UNLESS THE PARTY AGAINST WHOM IT IS
13 ENTERED CONSENTS TO AN EXTENSION FOR A LONGER PERIOD. A HEARING
14 REQUESTED CONCERNING AN ORDER ENTERED UNDER THIS SUBSECTION
15 SHALL BE HELD AT THE EARLIEST POSSIBLE TIME AND PRIOR TO THE
16 EXPIRATION OF THE TEMPORARY ORDER.

17 (G) COSTS, ETC.--Any sheriff's costs, filing fees and costs
18 of the county probation department or other appropriate
19 governmental agency shall be borne by the defendant and shall be
20 collected by the county probation department or other
21 appropriate governmental agency along with the total amount of
22 the judgment and remitted to the appropriate agencies at the
23 time of or prior to satisfaction of judgment. However, this
24 section shall not affect contempt proceedings mandated by 18
25 Pa.C.S. § 1106(f).

26 Section 2. This act shall take effect in 60 days.