

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 3019 Session of  
1996

INTRODUCED BY O'BRIEN, L. I. COHEN, FARGO, MELIO, DeLUCA,  
DEMPSEY, DiGIROLAMO, HALUSKA, STERN AND EGOLF,  
NOVEMBER 21, 1996

REFERRED TO COMMITTEE ON TRANSPORTATION, NOVEMBER 21, 1996

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated  
2 Statutes, further providing for driving under the influence.

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

5 Section 1. Section 3731(e) of Title 75 of the Pennsylvania  
6 Consolidated Statutes is amended by adding paragraphs to read:

7 § 3731. Driving under influence of alcohol or controlled  
8 substance.

9 \* \* \*

10 (e) Penalty.--

11 \* \* \*

12 (1.1) The court, as part of its sentence of any person  
13 convicted of a misdemeanor of the first degree under this  
14 section, shall impose a mandatory maximum term of  
15 imprisonment of not less than four years. Nothing in this  
16 subsection shall be construed to authorize a sentence which  
17 exceeds the maximum term prescribed by law for misdemeanors

1     of the first degree.

2             (1.2) Notwithstanding the length of any maximum term of  
3     imprisonment, the sentencing judge may in his discretion  
4     subject any person convicted of a violation of this section  
5     to the supervision of the county parole system.

6             \* \* \*

7     Section 2. Title 75 is amended by adding a section to read:

8     § 3731.2. Parole conditions for certain offenses.

9         (a) General rule.--A person convicted of a third or  
10     subsequent offense for a violation of section 3731 (relating to  
11     driving under influence of alcohol or controlled substance)  
12     shall be eligible for parole in accordance with the terms and  
13     conditions prescribed in this section following the expiration  
14     of that person's mandatory minimum term of imprisonment.

15         (b) Refrain from alcohol, etc.--The offender shall refrain  
16     from the use of alcohol or illegal controlled substances and  
17     shall refrain from the abuse of prescription drugs, over-the-  
18     counter drugs or any other substances as a condition of parole.

19         (c) Assessment.--The offender shall be assessed for alcohol  
20     and drug abuse and addiction prior to being released on parole.  
21     The assessment shall be conducted by one of the following: the  
22     Department of Health or its designee; the county agency with  
23     responsibility for county drug and alcohol treatment programs or  
24     its designee; or the clinical personnel of a facility licensed  
25     by the Department of Health for the conduct of drug and alcohol  
26     treatment programs. This assessment shall consider issues of  
27     public safety and shall include recommendations for length of  
28     stay, levels of care and follow-up care and monitoring. All  
29     persons assessed to be in need of alcohol and/or drug treatment  
30     must participate in and cooperate with a licensed drug and

alcohol treatment program in accordance with the assessment as a condition of parole.

(d) Treatment programs.--Nothing in this section shall prevent a treatment program from refusing to accept a criminal justice referral if the program administrator deems the offender to be inappropriate for admission to the program. Additionally, a treatment program shall retain the right to immediately discharge into the custody of the assigned parole officer any offender who fails to comply with program rules and treatment expectations or who refuses to constructively engage in the treatment process.

(e) Progress reports.--If a parolee has been ordered to participate in a treatment program pursuant to this section, the designated treatment program shall report periodically to the assigned parole officer on the parolee's progress in the treatment program. The designated treatment program shall promptly notify the parole officer if the parolee:

(1) fails to comply with program rules and treatment expectations;

(2) refuses to constructively engage in the treatment process; or

(3) without authorization terminates his or her participation in the treatment program.

Upon such notification, the parole officer shall promptly report the parolee's actions to the appropriate parole authority, which shall immediately schedule a revocation hearing at which the appropriate parole authority shall give due consideration to the recommendation of the parole officer and the treatment program.

(f) Enforcement.--Notwithstanding any other provision of law, any offender ordered to participate in a treatment program

1 pursuant to this section who fails to comply with program rules  
2 and treatment expectations, who refuses to constructively engage  
3 in the treatment process or who without authorization terminates  
4 his or her participation in the treatment program shall have his  
5 or her parole, prerelease, work release or any other release  
6 status revoked and shall be ineligible for parole, prerelease,  
7 work release or any other release from the correctional facility  
8 prior to the expiration of his or her maximum term, unless or  
9 until such person is permitted to be readmitted to a treatment  
10 program under subsection (c). Nothing in this section shall be  
11 construed to grant a legal right to parole to a person  
12 previously ineligible for parole under this subsection, on the  
13 grounds that such person is currently prepared to participate  
14 in, comply with and constructively engage in the treatment  
15 process. Under such circumstances, parole or reparole of the  
16 person shall be at the appropriate parole authority's  
17 discretion.

18 (g) Follow-up.--After an offender has completed the  
19 treatment program, the parole officer shall take reasonable  
20 steps to ensure that such offender does not use alcohol or  
21 illegal controlled substances or abuse prescription drugs, over-  
22 the-counter drugs or any other substances. Such steps may  
23 include, but are not limited to, requiring verification of  
24 regular participation in 12-step meetings, chemical testing and  
25 periodic reassessment of the person by the treatment program.

26 (h) Fees.--The appropriate parole authority shall impose  
27 upon a person subject to this section reasonable fees to cover  
28 the cost of any of the following:

29 (1) Any chemical testing of the person required or  
30 ordered under this section.

1       (2) Any assessment of the person required or ordered  
2       under this section.

3       (3) Any drug or alcohol treatment provided in accordance  
4       with such an assessment.

5       If the appropriate parole authority finds the offender to be  
6       indigent, it shall require the offender to pay as much of the  
7       fee as is consistent with his or her ability to pay.

8       (i) Additional funding.--In order to support and augment the  
9       diagnostic assessment and treatment services provided pursuant  
10      to this section, the Department of Health, the Department of  
11      Transportation and the Pennsylvania Commission on Crime and  
12      Delinquency shall seek all available Federal funding, including,  
13      but not limited to, funds available through the United States  
14      Department of Justice, the National Institute of Justice, the  
15      National Highway Traffic Safety Administration and the  
16      Department of Health and Human Services.

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