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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1712 Session of  
2023

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INTRODUCED BY C. WILLIAMS, PICKETT, HANBIDGE, M. JONES, MARCELL,  
GUENST, GILLEN, STEELE, STRUZZI AND OTTEN, SEPTEMBER 25, 2023

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 25, 2023

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AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 75  
2 (Vehicles) of the Pennsylvania Consolidated Statutes, in  
3 sentencing, further providing for sentence of total  
4 confinement; in general provisions, further providing for  
5 definitions; in licensing of drivers, further providing for  
6 the offense of driving while operating privilege is suspended  
7 or revoked and for ignition interlock limited license; and,  
8 in driving after imbibing alcohol or utilizing drugs, further  
9 providing for ignition interlock, for prior offenses, for  
10 Accelerated Rehabilitative Disposition, for drug and alcohol  
11 assessments and for mandatory sentencing and providing for  
12 substance monitoring program.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. Section 9756 of Title 42 of the Pennsylvania  
16 Consolidated Statutes is amended by adding a subsection to read:

17 § 9756. Sentence of total confinement.

18 \* \* \*

19 (c.2) Determinate sentence.--A court may impose a  
20 determinate sentence under 75 Pa.C.S. (relating to vehicles)  
21 where the violation is graded as a summary offense and the  
22 maximum sentence of total confinement is 90 days or less.

23 \* \* \*

1 Section 2. Section 102 of Title 75 is amended by adding  
2 definitions to read:

3 § 102. Definitions.

4 Subject to additional definitions contained in subsequent  
5 provisions of this title which are applicable to specific  
6 provisions of this title, the following words and phrases when  
7 used in this title shall have, unless the context clearly  
8 indicates otherwise, the meanings given to them in this section:

9 \* \* \*

10 "Continuous alcohol monitoring device." A monitoring device  
11 or instrument that:

12 (1) is attached to an individual;

13 (2) is designed to automatically and frequently test the  
14 presence of alcohol in the individual regardless of the  
15 method by which the device or instrument is attached to the  
16 individual;

17 (3) detects the presence of alcohol; and

18 (4) detects an attempt to tamper with, obstruct or  
19 remove the device or instrument.

20 \* \* \*

21 "Remote breath testing device." An unsupervised mobile  
22 breath testing device that:

23 (1) is not affixed to a motor vehicle;

24 (2) has the ability to confirm the identity and location  
25 of an individual; and

26 (3) detects the presence of alcohol.

27 \* \* \*

28 "Substance monitoring program." The court-ordered use of or  
29 participation in any one or both of the following as a condition  
30 of bail, probation or parole consistent with section 3818

1 (relating to substance monitoring program):

2 (1) A continuous alcohol monitoring device, remote  
3 breath testing device or any other alcohol monitoring  
4 technology or device, as determined by the court.

5 (2) Random drug testing or any other controlled  
6 substance monitoring technology or device, as determined by  
7 the court.

8 \* \* \*

9 Section 3. Sections 1543(b)(1)(i) and (ii) and (1.1)(i) and  
10 1556(b)(1) and (2) of Title 75 are amended to read:

11 § 1543. Driving while operating privilege is suspended or  
12 revoked.

13 \* \* \*

14 (b) Certain offenses.--

15 (1) The following shall apply:

16 (i) A person who drives a motor vehicle on a highway  
17 or trafficway of this Commonwealth at a time when the  
18 person's operating privilege is suspended or revoked as a  
19 condition of acceptance of Accelerated Rehabilitative  
20 Disposition for a violation of section 3802 (relating to  
21 driving under influence of alcohol or controlled  
22 substance) or the former section 3731, because of a  
23 violation of section 1547(b)(1) (relating to suspension  
24 for refusal) or 3802 or former section 3731 or is  
25 suspended under section 1581 (relating to Driver's  
26 License Compact) for an offense substantially similar to  
27 a violation of section 3802 or former section 3731 shall,  
28 upon a first conviction, be guilty of a summary offense  
29 and shall be sentenced to pay a fine of \$500 and to  
30 undergo imprisonment for a period of [not less than] 60

1 days [nor more than 90 days].

2 (ii) A second violation of this paragraph shall  
3 constitute a summary offense and, upon conviction of this  
4 paragraph, a person shall be sentenced to pay a fine of  
5 \$1,000 and to undergo imprisonment for [not less than] 90  
6 days.

7 \* \* \*

8 (1.1) (i) A person who has an amount of alcohol by  
9 weight in his blood that is equal to or greater than .02%  
10 at the time of testing or who at the time of testing has  
11 in his blood any amount of a Schedule I or nonprescribed  
12 Schedule II or III controlled substance, as defined in  
13 the act of April 14, 1972 (P.L.233, No.64), known as The  
14 Controlled Substance, Drug, Device and Cosmetic Act, or  
15 its metabolite or [who refuses testing of blood or  
16 breath] who refuses testing of breath under section 1547  
17 (relating to chemical testing to determine amount of  
18 alcohol or controlled substance) or chemical testing of  
19 blood pursuant to a valid search warrant, court order or  
20 any other basis permissible by the Constitution of the  
21 United States and the Constitution of Pennsylvania, and  
22 who drives a motor vehicle on any highway or trafficway  
23 of this Commonwealth at a time when the person's  
24 operating privilege is suspended or revoked as a  
25 condition of acceptance of Accelerated Rehabilitative  
26 Disposition for a violation of section 3802 or former  
27 section 3731 or because of a violation of section 1547(b)  
28 (1) or 3802 or former section 3731 or is suspended under  
29 section 1581 for an offense substantially similar to a  
30 violation of section 3802 or former section 3731 shall,

1           upon a first conviction, be guilty of a summary offense  
2           and shall be sentenced to pay a fine of \$1,000 and to  
3           undergo imprisonment for a period of [not less than] 90  
4           days.

5                   \* \* \*

6 § 1556. Ignition interlock limited license.

7                   \* \* \*

8           (b) Petition.--

9                   (1) An applicant for an ignition interlock limited  
10           license shall file a petition with the department, by  
11           certified mail, on a form prescribed by the department. [, and  
12           shall include proof that an approved ignition interlock  
13           system, as defined in section 3801, has been installed in one  
14           or more motor vehicles that the applicant seeks permission to  
15           operate.] The petition shall include proof of financial  
16           responsibility covering each vehicle the applicant requests  
17           to be permitted to operate. Upon approval of the petition,  
18           the ignition interlock system shall be installed in any motor  
19           vehicle to be operated by the applicant, and proof of  
20           installation shall be provided by the ignition interlock  
21           device vendor.

22                   (2) [The petition shall also include proof of financial  
23           responsibility covering each vehicle the applicant requests  
24           to be permitted to operate.] The department shall promulgate  
25           regulations to require additional information as well as  
26           additional evidence to verify the information contained in  
27           the petition.

28                   \* \* \*

29           Section 4. Section 3805 of Title 75 is amended by adding a  
30           subsection to read:

1 § 3805. Ignition interlock.

2 \* \* \*

3 (h.3) Notice to department.--If a violation under subsection  
4 (h.2) (1), (2) or (3) occurs in the two consecutive months prior  
5 to the date entered on the certificate, the vendor shall notify  
6 the department as to the violation on a form designated by the  
7 department, and the department shall notify the person of the  
8 violation and that ignition interlock device usage shall  
9 continue until no violations have occurred within a 60-day  
10 period.

11 \* \* \*

12 Section 5. Sections 3806(b) (1), 3807(b) (4) and 3814(4) of  
13 Title 75 are amended to read:

14 § 3806. Prior offenses.

15 \* \* \*

16 (b) Timing.--

17 (1) For purposes of sections 1553(d.2) (relating to  
18 occupational limited license), 1556 (relating to ignition  
19 interlock limited license), 3803 (relating to grading), 3804  
20 (relating to penalties) [and], 3805 (relating to ignition  
21 interlock), 3815 (relating to mandatory sentencing) and 3818  
22 (relating to substance monitoring program), the prior offense  
23 must have occurred:

24 (i) within 10 years prior to the date of the offense  
25 for which the defendant is being sentenced; or

26 (ii) on or after the date of the offense for which  
27 the defendant is being sentenced.

28 \* \* \*

29 § 3807. Accelerated Rehabilitative Disposition.

30 \* \* \*

1 (b) Evaluation and treatment.--

2 \* \* \*

3 (4) The assessment under paragraph (2) shall consider  
4 issues of public safety and shall include recommendations for  
5 all of the following:

6 (i) Length of stay.

7 (ii) Levels of care.

8 (iii) Follow-up care and monitoring.

9 (iv) The use of medication-assisted treatment in  
10 conjunction with behavioral therapies if the treatment is  
11 clinically appropriate.

12 \* \* \*

13 § 3814. Drug and alcohol assessments.

14 If a defendant is convicted or pleads guilty or no contest to  
15 a violation of section 3802 (relating to driving under influence  
16 of alcohol or controlled substance), the following apply prior  
17 to sentencing:

18 \* \* \*

19 (4) The assessment under paragraph (2) shall consider  
20 issues of public safety and shall include recommendations for  
21 all of the following:

22 (i) Length of stay.

23 (ii) Levels of care.

24 (iii) Follow-up care and monitoring.

25 (iv) The use of medication-assisted treatment in  
26 conjunction with behavioral therapies if the treatment is  
27 clinically appropriate.

28 Section 6. Section 3815(b)(2) of Title 75 is amended and the  
29 section is amended by adding a subsection to read:

30 § 3815. Mandatory sentencing.

1 \* \* \*

2 (b) Parole.--

3 \* \* \*

4 (2) The following shall be conditions of parole:

5 (i) If the offender is not determined under the  
6 procedures set forth in section 3814 to be addicted to  
7 alcohol or another substance, the offender must refrain  
8 from:

9 (A) the use of illegal controlled substances;

10 and

11 (B) the abuse of prescription drugs, over-the-  
12 counter drugs or any other substances.

13 (ii) If the offender is determined under the  
14 procedures set forth in section 3814 to be addicted to  
15 alcohol or another substance, the offender must do all of  
16 the following:

17 (A) Refrain from:

18 (I) the use of alcohol or illegal controlled  
19 substances; and

20 (II) the abuse of prescription drugs, over-  
21 the-counter drugs or any other substances.

22 (B) Participate in and cooperate with drug and  
23 alcohol addiction treatment under subsection (c).

24 (iii) In addition to any other condition or  
25 restriction imposed, an individual who violates section  
26 3802 and who has one or more prior offenses may be  
27 ordered by the court to participate in a substance  
28 monitoring program under section 3818 (relating to  
29 substance monitoring program).

30 (b.1) Probation.--In addition to any other condition or

1 restriction imposed, an individual who violates section 3802 and  
2 who has one or more prior offenses may be ordered by the court  
3 to participate in a substance monitoring program as a condition  
4 of probation under section 3818.

5 \* \* \*

6 Section 7. Title 75 is amended by adding a section to read:  
7 § 3818. Substance monitoring program.

8 (a) Evaluation required.--

9 (1) In all of the following circumstances, in addition  
10 to any other condition or restriction imposed, an individual  
11 shall be evaluated by a court to determine whether, at the  
12 court's discretion, the individual may be ordered to  
13 participate in a substance monitoring program:

14 (i) While adjudication of a violation of section  
15 3802 (relating to driving under influence of alcohol or  
16 controlled substance) is pending for an individual who  
17 has one or more prior offenses.

18 (ii) While adjudication of two or more violations of  
19 section 3802 are concurrently pending for an individual.

20 (iii) As a condition of probation or parole where  
21 the individual violates section 3802 and has one or more  
22 prior offenses.

23 (2) The court may use the assessment from section 3814  
24 (relating to drug and alcohol assessments) to satisfy the  
25 requirement under paragraph (1).

26 (b) Monitoring devices and technologies.--

27 (1) A substance monitoring program shall include a  
28 requirement that the individual use or participate in one or  
29 both of the following, as determined by the court:

30 (i) A continuous alcohol monitoring device, remote

1 breath testing device or any other similar alcohol  
2 monitoring technology or device, other than an ignition  
3 interlock system, as determined by the court.

4 (ii) Random drug testing or any other controlled  
5 substance monitoring technology or device, as determined  
6 by the court.

7 (2) When determining the devices or technologies to be  
8 used under paragraph (1), the court shall consider:

9 (i) the individual's prior offenses;

10 (ii) the individual's most recent violation of  
11 section 3802;

12 (iii) any pending adjudication of the individual for  
13 a violation of section 3802;

14 (iv) in consultation with the county, the monitoring  
15 devices and technologies available to or utilized by the  
16 county;

17 (v) the individual's ability to pay the costs of  
18 participation in the substance monitoring program,  
19 including costs associated with any required device or  
20 technology; and

21 (vi) any other factor deemed appropriate by the  
22 court.

23 (c) Determination and costs to be paid.--If the court orders  
24 an individual to participate in a substance monitoring program,  
25 the individual shall pay for costs associated with the  
26 individual's participation in the substance monitoring program,  
27 including costs associated with any required device or  
28 technology. An individual ordered to participate in a substance  
29 monitoring program may not be prevented from being released on  
30 bail, probation or parole solely because of the individual's

1 inability to pay the costs of the substance monitoring program.

2 (d) Prohibitions.--An individual ordered to participate in a  
3 substance monitoring program is prohibited from all of the  
4 following for the duration of the substance monitoring program:

5 (1) Imbibing alcohol or using controlled substances, or  
6 both, as determined by the court.

7 (2) Tampering with any device or technology associated  
8 with the substance monitoring program.

9 (3) Failing to comply with any other requirement ordered  
10 by the court as part of the substance monitoring program.

11 (e) Construction.--Nothing in this section shall be  
12 construed to prohibit a court from ordering:

13 (1) An individual pending adjudication for a single  
14 violation of section 3802 with no prior offenses to  
15 participate in a substance monitoring program as a condition  
16 of bail.

17 (2) An individual convicted of a violation of section  
18 3802 who has no prior offenses to participate in a substance  
19 monitoring program as a condition of probation or parole.

20 Section 8. This act shall take effect as follows:

21 (1) The following provisions shall take effect  
22 immediately:

23 (i) The addition of 42 Pa.C.S. § 9756(c.2).

24 (ii) The amendment of 75 Pa.C.S. § 1543(b)(1)(i) and  
25 (ii) and (1.1)(i).

26 (iii) This section.

27 (2) The following provisions shall take effect in 60  
28 days:

29 (i) The amendment of 75 Pa.C.S. § 3807(b)(4).

30 (ii) The amendment of 75 Pa.C.S. § 3814(4).

1           (3) The following provisions shall take effect in 11  
2 months:  
3           (i) The amendment of 75 Pa.C.S. § 1556(b)(1) and  
4           (2).  
5           (ii) The addition of 75 Pa.C.S. § 3805(h.3).  
6           (4) The remainder of this act shall take effect in 120  
7 days.