
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 640 Session of
1997

INTRODUCED BY GREENLEAF, JUBELIRER, O'PAKE, LEMMOND, WAGNER,
HELFRICK, MURPHY, SALVATORE, TOMLINSON, ULIANA, WHITE, HART,
KASUNIC AND PUNT, MARCH 7, 1997

SENATE AMENDMENTS TO HOUSE AMENDMENTS, JUNE 8, 1998

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for juvenile
3 matters definitions, for prisoner litigation, for limitation
4 on remedies, for prospective relief, for time limits on
5 settlements and for payment of damages; further providing FOR <—
6 CERTAIN EXPENSES AND FEES RELATING TO THE MINOR JUDICIARY,
7 FOR SERVICE OF PROCESS, for collection of restitution,
8 reparation, fees, costs, fines and penalties and for record
9 requirements; and providing for contents of presentence
10 reports.

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

13 ~~Section 1. Paragraph (1) of the definition of "delinquent~~ <—
14 ~~act" in section 6302 of Title 42 of the Pennsylvania~~
15 ~~Consolidated Statutes is amended to read:~~

16 SECTION 1. SECTIONS 3532 AND 5107 OF TITLE 42 OF THE <—
17 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:
18 § 3532. EXPENSES.

19 THE OFFICE OF THE [PENNSYLVANIA SUPREME] COURT ADMINISTRATOR
20 OF PENNSYLVANIA SHALL PAY THE ANNUAL REGISTRATION FEE OF [\$150]
21 \$200 TO THE SPECIAL COURT JUDGES OF PENNSYLVANIA ASSOCIATION FOR

1 EACH DISTRICT JUSTICE, PHILADELPHIA MUNICIPAL COURT JUDGE AND
2 PHILADELPHIA TRAFFIC COURT JUDGE POSITION AUTHORIZED AS OF
3 JANUARY 31 OF EACH YEAR. PAYMENT SHALL BE MADE ON THE FIRST DAY
4 OF A NEW FISCAL YEAR INCLUDING JULY 1, 1988. IN ADDITION THE
5 OFFICE OF THE [PENNSYLVANIA SUPREME] COURT ADMINISTRATOR OF
6 PENNSYLVANIA SHALL PAY THE ANNUAL COST FOR THE PUBLISHING OF A
7 MONTHLY JOURNAL CONTAINING THE UPDATE AND REVISION OF LAWS AND
8 STATE SUPREME COURT RULE CHANGES. EXCEPT FOR THE FUNDING OF THE
9 PUBLICATION OF THE MONTHLY JOURNAL WHICH SHALL BE A DIRECT COST
10 OF THE OFFICE OF THE [PENNSYLVANIA SUPREME] COURT ADMINISTRATOR
11 OF PENNSYLVANIA, ALL OTHER FUNDING FOR THE OTHER EXPENSES SET
12 FORTH IN THIS SECTION SHALL COME FROM THE ANNUAL APPROPRIATION
13 MADE TO THE DISTRICT JUSTICES.

14 § 5107. SERVICE OF PROCESS [ON SUNDAY].

15 [(A) GENERAL RULE.--NO PROCESS SHALL] PROCESS MAY BE SERVED
16 OR EXECUTED ON [A SUNDAY] ANY DAY OF THE WEEK EXCEPT AT ANY
17 CHURCH, SYNAGOGUE, MEETINGHOUSE OR ANY PLACE OF WORSHIP. [EXCEPT
18 IN THE CASE OF:

19 (1) FELONY OR MISDEMEANOR.

20 (2) BREACH OF THE PEACE.

21 (3) CRIMINAL OR CIVIL CONTEMPT OF COURT IN ORDERS
22 RELATING TO SUPPORT OR CUSTODY MATTERS.

23 (4) WHEN AUTHORIZED OR DIRECTED BY THE COURT UPON A
24 FINDING THAT THE EXIGENCY OF THE CASE IS SUCH AS TO IMPEL THE
25 COURT TO SUSPEND THE RULE AGAINST SERVICE OR EXECUTION OF
26 PROCESS ON A SUNDAY.

27 (5) ANY MATTER WHERE THE SERVICE OR EXECUTION OF PROCESS
28 ON A SUNDAY IS EXPRESSLY AUTHORIZED BY STATUTE.

29 (B) EFFECT OF VIOLATION.--PROCESS SERVED OR EXECUTED IN
30 VIOLATION OF SUBSECTION (A) SHALL BE VOID AND THE PERSON SO

1 SERVING OR EXECUTING SUCH PROCESS SHALL BE LIABLE TO ANY PERSON
2 AGGRIEVED TO THE SAME EXTENT AS IF THE ACTION WAS TAKEN WITHOUT
3 ANY PROCESS AT ALL.]

4 SECTION 2. PARAGRAPH (1) OF THE DEFINITION OF "DELINQUENT
5 ACT" IN SECTION 6302 OF TITLE 42 IS AMENDED TO READ:

6 § 6302. Definitions.

7 The following words and phrases when used in this chapter
8 shall have, unless the context clearly indicates otherwise, the
9 meanings given to them in this section:

10 * * *

11 "Delinquent act."

12 (1) The term means an act designated a crime under the
13 law of this Commonwealth, or of another state if the act
14 occurred in that state, or under Federal law, or under local
15 ordinances or an act which constitutes indirect criminal
16 contempt under 23 Pa.C.S. Ch. 61 (relating to protection from
17 abuse).

18 * * *

19 Section ~~2~~ 3. Title 42 is amended by adding a chapter to
20 read:

<—

21 CHAPTER 66

22 PRISONER LITIGATION

23 Sec.

24 6601. Definitions.

25 6602. Prisoner filing fees.

26 6603. Limitations on remedies.

27 6604. Prospective relief.

28 6605. Types of prospective relief.

29 6606. Termination or modification of prospective relief.

30 6607. Time limits on settlements.

1 6608. Payment of damage award or settlement.

2 § 6601. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Consent decree." Relief entered or approved by the court
7 that is based in whole or in part upon the consent or
8 acquiescence of the parties. The term does not include a private
9 settlement agreement.

10 "Frivolous." Lacking an arguable basis either in law or in
11 fact.

12 "Government party." The Commonwealth or a political
13 subdivision and any person elected or appointed to any office
14 of, or hired, employed or contracted by, the Commonwealth or a
15 political subdivision when acting within the scope of those
16 duties.

17 "Prison." A State, county or other facility which
18 incarcerates or officially detains persons accused of, convicted
19 of or sentenced for violations of criminal law or the terms or
20 conditions of parole, probation, pretrial release or a
21 diversionary program.

22 "Prison conditions litigation." A civil proceeding arising
23 in whole or in part under Federal or State law with respect to
24 the conditions of confinement or the effects of actions by a
25 government party on the life of an individual confined in
26 prison. The term includes an appeal. The term does not include
27 criminal proceedings or habeas corpus proceedings challenging
28 the fact or duration of confinement in prison.

29 "Prisoner." A person subject to incarceration, detention or
30 admission to prison.

1 "Prisoner release order." An order, including a temporary
2 restraining order or preliminary injunction, which has the
3 purpose or effect of reducing or limiting the prison population
4 or which directs the release of prisoners from or nonadmission
5 of prisoners to a prison.

6 "Private settlement agreement." An agreement entered into
7 among parties to an action which is not subject to judicial
8 enforcement other than reinstatement of the civil proceeding
9 which the agreement settled.

10 "Prospective relief." All relief other than compensatory
11 monetary damages.

12 "Relief." Relief in any form which may be granted or
13 approved by a court. The term includes a consent decree. The
14 term does not include a private settlement agreement.

15 "Special master." A person appointed to assist the court in
16 prison conditions litigation or to perform functions comparable
17 to those performed by a special master in Federal court pursuant
18 to Fed. Rules Civ. Proc. Rule 53 (relating to masters) or 18
19 U.S.C. § 3626 (relating to appropriate remedies with respect to
20 prison crowding). The term includes persons performing such
21 functions regardless of the title given by the court.

22 "Violation of Pennsylvania law." A violation of the
23 Constitution of Pennsylvania or a Pennsylvania statute. The term
24 does not include the violation of a regulation, consent decree
25 or a court order unless such violation also independently
26 establishes a violation of the Constitution of Pennsylvania or a
27 Pennsylvania statute.

28 § 6602. Prisoner filing fees.

29 (a) Prisoner filing requirements.--

30 (1) A prisoner seeking to bring prison conditions

1 litigation without the prepayment of fees or security due to
2 indigency must submit a request to the court to proceed
3 without the prepayment of fees. The request must include a
4 certified copy of the prisoner's prison account statement,
5 which shall be provided by the prison, for the six-month
6 period immediately preceding the filing of the complaint or
7 notice of appeal. The request shall include a statement of
8 any other assets of the prisoner.

9 (2) The court shall deny in forma pauperis status to any
10 prisoner where:

11 (i) the request is not accompanied by a certified
12 copy as provided in paragraph (1);

13 (ii) the average monthly deposits or average highest
14 monthly balance for the six-month period preceding the
15 filing of the action exceeds the amount of the filing
16 fee; or

17 (iii) other grounds exist for the denial of in forma
18 pauperis status pursuant to the Pennsylvania Rules of
19 Civil Procedure.

20 (b) Partial filing fees.--

21 (1) The court may grant in forma pauperis status to
22 excuse the prisoner from paying the full filing fee prior to
23 the initiation of the action or appeal. Where in forma
24 pauperis status is granted, the court shall order the
25 prisoner to pay the full amount of the filing fee and shall
26 assess and, when funds exist, collect a full or partial
27 payment of the filing fee which shall be the greater of the
28 following:

29 (i) The average monthly deposits to the prisoner's
30 account.

(ii) The average highest monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint or notice of appeal requiring the payment of a fee.

(2) The court shall send a copy of the assessment order to the prisoner, the parties to the action and prison having custody of the prisoner. The court may also direct upon condition of maintaining the action that the prisoner make a written request to the prison officials to deduct payments required by the court.

(3) The court may modify the assessment order for cause.

(c) Payment of filing fees.--Following payment of an initial partial filing fee, the prisoner shall make monthly payments of 20% of the preceding month's income credited to the prisoner's account. The prison having custody of the prisoner shall deduct payments from the prisoner's account when the prisoner's account balance exceeds \$10 until the filing fees are paid in full. The prison shall forward to the prothonotary the deducted payments upon deduction, on a monthly basis, or upon complete payment of the full filing fee if the court so directs. The Department of Corrections and county prison systems shall develop written guidelines regarding the priority of payment, which shall be consistent with law.

(d) Implementation of filing fee assessments.--

(1) A prisoner shall not be prohibited from filing prison conditions litigation because the prisoner has no assets or other means to pay the filing fee. This paragraph shall not prevent the court from dismissing or otherwise disposing of prison conditions litigation pursuant to this chapter or any other provision of law.

1 (2) No sooner than 60 days after notice of the denial in
2 forma pauperis status or the assessment of partial filing
3 fees, the prothonotary shall enter a judgment of non pros in
4 the action or strike the appeal if the fees remain unpaid.
5 The action or appeal may be reinstated by the court for good
6 cause shown.

7 (e) Dismissal of litigation.--Notwithstanding any filing fee
8 which has been paid, the court shall dismiss prison conditions
9 litigation at any time, including prior to service on the
10 defendant, if the court determines any of the following:

11 (1) The allegation of indigency is untrue.

12 (2) The prison conditions litigation is frivolous or
13 malicious or fails to state a claim upon which relief may be
14 granted or the defendant is entitled to assert a valid
15 affirmative defense, including immunity, which, if asserted,
16 would preclude the relief.

17 The court may reinstate the prison conditions litigation where
18 the dismissal is based upon an untrue allegation of indigency
19 and the prisoner establishes to the satisfaction of the court
20 that the untrue information was not known to the prisoner.

21 (f) Abusive litigation.--If the prisoner has previously
22 filed prison conditions litigation and:

23 (1) three or more of these prior civil actions have been
24 dismissed pursuant to subsection (e)(2); or

25 (2) the prisoner has previously filed prison conditions
26 litigation against a person named as a defendant in the
27 instant action, or a person serving in the same official
28 capacity as a named defendant, and a court made a finding
29 that the prior action was filed in bad faith or that the
30 prisoner knowingly presented false evidence or testimony at a

1 hearing or trial;
2 the court may dismiss the action. The court shall not, however,
3 dismiss a request for preliminary injunctive relief or a
4 temporary restraining order which makes a credible allegation
5 that the prisoner is in imminent danger of serious bodily
6 injury.

7 § 6603. Limitations on remedies.

8 (a) Limitations on remedies for Federal claims.--Prison
9 conditions litigation filed in or remanded to a court of this
10 Commonwealth alleging in whole or in part a violation of Federal
11 law shall be subject to any limitations on remedies established
12 by Federal law or Federal courts with respect to the Federal
13 claims.

14 (b) Limitations on remedies under Pennsylvania law.--Prison
15 conditions litigation arising in whole or in part due to an
16 allegation of a violation of Pennsylvania law shall be subject
17 to the limitations set forth in this act with respect to those
18 claims arising under Pennsylvania law.

19 (c) Special masters.--In prison conditions litigation
20 arising in whole or in part under Pennsylvania law, the court
21 shall not appoint a person to assist the court or delegate any
22 judicial function, including fact-finding, reporting or
23 monitoring, unless the appointment or delegation is specifically
24 authorized under Pennsylvania court rules. Any court order
25 appointing a special master shall state the specific duties
26 delegated to the special master. Any fact-finding by the special
27 master shall be based upon the record.

28 § 6604. Prospective relief.

29 (a) General rule.--Prospective relief in prison conditions
30 litigation shall extend no further than necessary to correct the

1 violation of Pennsylvania law. The court shall not grant or
2 approve prospective relief unless the relief is narrowly drawn,
3 extends no further than necessary and is the least intrusive
4 means necessary to correct the violation of Pennsylvania law.
5 The court shall give substantial weight to any adverse impact on
6 public safety, prison operations or the operation of the
7 criminal justice system.

8 (b) Conformity.--The court shall not order any prospective
9 relief that requires or permits a government official to exceed
10 authority under, or otherwise violate, Pennsylvania law or the
11 law of a political subdivision unless the relief meets all of
12 the following:

13 (1) Is required by Pennsylvania law.

14 (2) Is necessary to correct the violation.

15 (3) Is the only relief which will correct the violation.

16 (c) Limitation.--Nothing in this section shall be construed
17 to authorize the court to order the construction of prisons or
18 to repeal or detract from otherwise applicable limitations on
19 the remedial powers of the courts.

20 (d) Private settlement agreements.--The provisions of this
21 section shall not apply to private settlement agreements.

22 § 6605. Types of prospective relief.

23 (a) Preliminary injunctive relief.--In prison conditions
24 litigation, the court may, to the extent authorized by law,
25 enter a temporary restraining order or preliminary injunction. A
26 preliminary injunction shall automatically expire 90 days after
27 its entry unless the court makes the findings required under
28 section 6604 (relating to prospective relief) for the entry of
29 prospective relief and makes the order final before the
30 expiration of the 90-day period.

1 (b) Prisoner release orders.--The court shall enter a
2 prisoner release order only if it finds by clear and convincing
3 evidence that crowding is the primary cause of the violation.
4 The government party with jurisdiction over the prison subject
5 to the prisoner release order or the prosecution or custody of
6 persons who may be released from prison as a result of a
7 prisoner release order shall have standing to intervene in any
8 related proceeding and to oppose the imposition or continuation
9 of the order and to seek termination of the order. No prisoner
10 release order shall be entered unless:

11 (1) a court previously entered an order for less
12 intrusive relief which has failed to remedy the violation
13 sought to be remedied. Such order may include a prisoner
14 release order;

15 (2) the defendant has had a reasonable amount of time to
16 comply with the previous court order; and

17 (3) no other relief will remedy the violation.

18 § 6606. Termination or modification of prospective relief.

19 (a) General rule.--In prison conditions litigation in which
20 prospective relief is or has been ordered, the relief shall be
21 terminable upon the motion of a party or intervener two years
22 after the date the court granted or approved the prospective
23 relief or one year after the date the court entered an order
24 denying termination of prospective relief under this subsection.

25 (b) Early termination.--Nothing in this section shall
26 prevent the parties from agreeing to terminate or modify relief
27 before the relief is terminated under subsection (a).

28 (c) Immediate termination.--In prison conditions litigation,
29 a party or intervener shall be entitled to the immediate
30 termination of prospective relief if the relief was approved or

1 granted in the absence of a finding on the record by the court
2 that the relief is narrowly drawn, extends no further than
3 necessary and is the least intrusive means necessary to correct
4 the violation of Pennsylvania law.

5 (d) Limitation.--Prospective relief shall not terminate if
6 the court makes written findings based on the record that
7 prospective relief remains necessary to correct a current and
8 ongoing violation of Pennsylvania law previously determined by
9 the court to exist, extends no further than necessary and is the
10 least intrusive means necessary to correct that violation of
11 Pennsylvania law.

12 (e) Other termination or modification.--Nothing in this
13 section shall prevent a party or intervener from seeking
14 modification or termination to the extent otherwise legally
15 permissible.

16 § 6607. Time limits on settlements.

17 In prison conditions litigation, a government party,
18 including an elected official who was not in office at the time
19 of the execution of the consent decree, may petition the court
20 to modify or vacate the terms of the consent decree previously
21 entered into. The court shall have the power and authority to
22 void or modify the consent decree at any time upon a showing
23 that, whether in whole or in part, it violates the provisions of
24 this act or for other cause.

25 § 6608. Payment of damage award or settlement.

26 Monetary damages awarded to a prisoner in connection with
27 prison conditions litigation or paid in settlement of prison
28 conditions litigation which is payable from funds appropriated
29 by the General Assembly or by a political subdivision or an
30 insurance policy purchased by the Commonwealth or political

1 subdivision shall first be used to satisfy any outstanding court
2 orders requiring the prisoner to pay restitution, costs, bail,
3 judgments, fines, fees, sanctions or other court-imposed amounts
4 in connection with a criminal prosecution or sentence. Upon
5 receipt of a copy of an outstanding court order, the government
6 party or person designated by the government party shall deduct
7 the full amount owed from the remaining moneys and arrange to
8 pay it directly to the person or entity owed in accordance with
9 Pennsylvania law. Where the amount of outstanding court orders
10 exceeds the monetary damage award or settlement, the government
11 party shall notify the parties owed of the intended distribution
12 of the amounts. Any person or entity owed who objects to the
13 proposed distribution may seek a court order compelling a
14 different distribution. Any remainder of a monetary damage award
15 shall be used to satisfy any amount owed to a government party,
16 including a judgment or any other costs and fees assessed
17 against or imposed upon the prisoner, including, but not limited
18 to, costs for medical services, incarceration and destruction of
19 property. The procedures for such assessment shall be set forth
20 by the prison in written policy and procedure. Notice that all
21 or part of a monetary damage award has been expended pursuant to
22 this section shall be provided to the prisoner by certified mail
23 or personal service. The fact that a prisoner's monetary damage
24 award may be subject to this section may not be taken into
25 consideration in calculating the amount of any monetary damage
26 award.

27 ~~Section 3. Section 8127(a) of Title 42 is amended to read:~~ <—

28 SECTION 4. SECTIONS 8127(A), 9728, 9730.1(A) AND 9732 OF <—
29 TITLE 42 ARE AMENDED TO READ:

30 § 8127. Personal earnings exempt from process.

1 (a) General rule and exceptions.--The wages, salaries and
2 commissions of individuals shall while in the hands of the
3 employer be exempt from any attachment, execution or other
4 process except upon an action or proceeding:

5 (1) Under 23 Pa.C.S. Pt. IV (relating to divorce).

6 (2) For support.

7 (3) For board for four weeks or less.

8 (3.1) For damages awarded to a judgment creditor-
9 landlord arising out of a residential lease upon which the
10 court has rendered judgment which is final. However, the
11 amount subject to attachment shall have deducted from it any
12 security deposit held by the judgment creditor-landlord and
13 forfeited by the judgment debtor-tenant under section 511.1
14 of the act of April 6, 1951 (P.L.69, No.20), known as The
15 Landlord and Tenant Act of 1951, unless the security deposit
16 has been applied to payment of rent due on the same premises
17 for which the judgment for attachment has been entered. The
18 judgment creditor-landlord shall have the burden of proving
19 that such security deposit has been applied to payment of
20 rent due on the premises herein described. The sum attached
21 shall be no more than 10% of the net wages per pay period of
22 the judgment debtor-tenant or a sum not to place the debtor's
23 net income below the poverty income guidelines as provided
24 annually by the Federal Office of Management and Budget,
25 whichever is less. For the purposes of this paragraph, "net
26 wages" shall mean all wages paid less only the following
27 items:

28 (i) Federal, State and local income taxes.

29 (ii) F.I.C.A. payments and nonvoluntary retirement
30 payments.

1 (iii) Union dues.

2 (iv) Health insurance premiums.

3 (3.2) In the case of wage attachment for damages arising
4 out of a residential lease, to implement the wage attachment,
5 the judgment creditor-landlord shall comply with the
6 Pennsylvania Rules of Civil Procedure and any applicable
7 local rules. The judgment of the district justice, magistrate
8 or any other court having jurisdiction over landlord and
9 tenant matters or a judgment before the court of common pleas
10 shall reflect that portion of the judgment which is for
11 damages arising out of a residential lease.

12 (4) Under the act of August 7, 1963 (P.L.549, No.290),
13 referred to as the Pennsylvania Higher Education Assistance
14 Agency Act.

15 (5) For restitution to crime victims, costs, fines or
16 bail judgments pursuant to an order entered by a court in a
17 criminal proceeding.

18 * * *

19 ~~Section 4. Sections 9728, 9730.1(a) and 9732 of Title 42 are~~ <—
20 ~~amended to read:~~

21 § 9728. Collection of restitution, reparation, fees, costs,
22 fines and penalties.

23 (a) General rule.--[All]

24 (1) Except as provided in subsection (b)(5), all
25 restitution, reparation, fees, costs, fines and penalties
26 shall be [collectible] collected by the county probation
27 department or other agent designated by the county
28 commissioners of the county with the approval of the
29 president judge of the county for that purpose in any manner
30 provided by law. However, such restitution, reparation, fees,

1 costs, fines and penalties are part of a criminal action or
2 proceeding and shall not be deemed debts. A sentence,
3 pretrial disposition order or order entered under section
4 6352 (relating to disposition of delinquent child) for
5 restitution, reparation, fees, costs, fines or penalties
6 shall, together with interest and any additional costs that
7 may accrue, be a judgment in favor of the probation
8 department upon the person or the property of the person
9 sentenced or subject to the order.

10 (2) In accordance with section 9730.1 (relating to
11 collection of court costs, restitution and fines by private
12 collection agency), the collection of restitution,
13 reparation, fees, costs, fines and penalties under this
14 section may be referred to a private collection agency.
15 Statistical information relating to the amount of restitution
16 collected by the county probation department or any agent
17 designated by the county commissioners of the county with the
18 approval of the president judge of the county shall be made
19 available to the Pennsylvania Commission on Crime and
20 Delinquency on an annual basis.

21 (b) Procedure.--

22 (1) The county clerk of courts shall, upon sentencing,
23 pretrial disposition or other order, transmit to the
24 prothonotary [of the respective county] and the department of <—
25 probation of the respective county or other agent designated
26 by the county commissioners of the county with the approval
27 of the president judge of the county and to the county
28 correctional facility to which the offender has been
29 sentenced or to the Department of Corrections, whichever is
30 appropriate, certified copies of all judgments for

~~county, the county correctional facility to which the
offender has been sentenced or to the Department of
Corrections a record of the amount of outstanding restitution
and any other court ordered obligation owed by any defendant.~~

(3) THE COUNTY CLERK OF COURTS SHALL, UPON SENTENCING,
PRETRIAL DISPOSITION OR OTHER ORDER, TRANSMIT TO THE
DEPARTMENT OF PROBATION OF THE RESPECTIVE COUNTY OR OTHER
AGENT DESIGNATED BY THE COUNTY COMMISSIONERS OF THE COUNTY
WITH THE APPROVAL OF THE PRESIDENT JUDGE OF THE COUNTY AND TO
THE COUNTY CORRECTIONAL FACILITY TO WHICH THE OFFENDER HAS
BEEN SENTENCED OR TO THE DEPARTMENT OF CORRECTIONS, WHICHEVER
IS APPROPRIATE, COPIES OF ALL ORDERS FOR RESTITUTION AND
AMENDMENTS OR ALTERATIONS THERETO, REPARATION, FEES, COSTS,
FINES AND PENALTIES.

(4) The total amount for which the person is liable
pursuant to this section may be entered as a judgment upon
the person or the property of the person sentenced or
ordered, regardless of whether the amount has been ordered to
be paid in installments.

(5) The county correctional facility to which the
offender has been sentenced or the Department of Corrections
shall be authorized to make monetary deductions from inmate
personal accounts for the purpose of collecting restitution
or any other court-ordered obligation. Any amount deducted
shall be transmitted by the Department of Corrections or the
county correctional facility to the probation department of
the county or other agent designated by the county
commissioners of the county with the approval of the
president judge of the county in which the offender was
convicted. ~~A record of each deduction received from the~~

~~Department of Corrections or the county correctional facility and a record of any amounts of restitution collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county shall be transmitted by the probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county to the prothonotary or clerk of courts, or other agent designated to enter and docket judgments for restitution and amendments or alterations thereto, reparation, fees, costs, fines and penalties of the respective county. The Department of Corrections shall develop guidelines relating to its responsibilities under this paragraph.~~

(b.1) Restitution file.--Upon receipt of each order from the clerk of courts as provided in subsection (b)(1) (B)(3), the department of probation of the respective county or other agent designated by the county commissioners of the county with the approval of the president judge of the county shall open a restitution file for the purposes of recording the amounts of restitution deducted by the Department of Corrections or county correctional facility or collected by the department of probation or the agent designated by the county commissioners of the county with the approval of the president judge of the county.

(c) Period of time.--Notwithstanding section 6353 (relating to limitation on and change in place of commitment) or 18 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to person or property), the period of time during which such judgments shall have full effect may exceed the maximum term of

1 imprisonment to which the offender could have been sentenced for
2 the crimes of which he was convicted or the maximum term of
3 confinement to which the offender was committed.

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

8 (e) Preservation of assets subject to restitution.--Upon
9 application of the Commonwealth, the court may enter a
10 restraining order or injunction, require the execution of a
11 satisfactory performance bond or take any other action to
12 preserve the availability of property which may be necessary to
13 satisfy an anticipated restitution order under this section:

14 (1) upon the filing of a criminal complaint, information
15 or indictment charging a criminal violation or a petition
16 alleging delinquency for which restitution may be ordered and
17 alleging that the property with respect to which the order is
18 sought appears to be necessary to satisfy such restitution
19 order and judgment; and

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

23 (i) there is a substantial probability that:

24 (A) the Commonwealth will prevail on the
25 underlying criminal charges or allegation of
26 delinquency;

27 (B) restitution will be ordered exceeding
28 \$10,000 in value;

29 (C) the property appears to be necessary to
30 satisfy such restitution order; and

1 (D) failure to enter the order will result in
2 the property being destroyed, removed from the
3 jurisdiction of the court or otherwise made
4 unavailable for payment of the anticipated
5 restitution order; and

6 (ii) the need to preserve the availability of the
7 property through the entry of the requested order
8 outweighs the hardship on any party against whom the
9 order is to be entered.

10 (f) Temporary restraining order.--A temporary restraining
11 order under subsection (e) may be entered upon application of
12 the Commonwealth without notice or opportunity for a hearing,
13 whether or not a complaint, information, indictment or petition
14 alleging delinquency has been filed with respect to the
15 property, if the Commonwealth demonstrates that there is
16 probable cause to believe that the property with respect to
17 which the order is sought appears to be necessary to satisfy an
18 anticipated restitution order under this section and that
19 provision of notice will jeopardize the availability of the
20 property to satisfy such restitution order and judgment. Such a
21 temporary order shall expire not more than ten days after the
22 date on which it is entered, unless extended for good cause
23 shown or unless the party against whom it is entered consents to
24 an extension for a longer period. A hearing requested concerning
25 an order entered under this subsection shall be held at the
26 earliest possible time and prior to the expiration of the
27 temporary order.

28 (g) Costs, etc.--Any sheriff's costs, filing fees and costs
29 of the county probation department, clerk of courts or other
30 appropriate governmental agency, including any reasonable

1 administrative costs associated with the collection of
2 restitution shall be borne by the defendant and shall be
3 collected by the county probation department or other
4 appropriate governmental agency along with the total amount of
5 the judgment and remitted to the appropriate agencies at the
6 time of or prior to satisfaction of judgment.

7 (g.1) Payment.--No less than 50% of all moneys collected by
8 the county probation department or other agent designated by the
9 county commissioners of the county with the approval of the
10 president judge of the county pursuant to subsection (b)(1) and
11 deducted pursuant to subsection (b)(5) shall, until the
12 satisfaction of the defendant's restitution obligation, be used
13 to pay restitution to victims. Any remaining moneys shall be
14 used to pay fees, costs, fines, penalties and other court-
15 ordered obligations.

16 (h) Effect on contempt proceedings.--This section shall not
17 affect contempt proceedings mandated by 18 Pa.C.S. § 1106(f).
18 § 9730.1. Collection of court costs, restitution and fines by
19 private collection agency.

20 (a) Generally.--In accordance with section 9730(b)(1) and
21 (2) (relating to payment of court costs, restitution and fines),
22 an issuing authority may refer the collection of costs, fines
23 and restitution of a defendant to a private collection agency
24 [upon the expiration of a] whether or not the defendant's
25 maximum sentence or probationary term has expired with or
26 without holding a hearing pursuant to this section. Such
27 collection agency shall adhere to accepted practices in
28 accordance with applicable Federal and State law to collect such
29 costs, fines and restitution.

30 * * *

1 § 9732. Contents of presentence report.

2 The presentence report shall include a summary of the
3 circumstances attending the commission of the crime, the history
4 of delinquency or criminality, physical and mental condition,
5 family situation and background, economic status, education,
6 occupation and personal habits of the defendant, any history of
7 drug or alcohol abuse or addiction, and any other matters that
8 the person preparing the report deems relevant or that the court
9 directs be included.

10 Section 5. Title 42 is amended by adding a section to read:

11 § 9764. Information required upon commitment and subsequent
12 disposition.

13 (a) General rule.--Upon commitment of an offender to the
14 custody of the Department of Corrections, the sheriff shall
15 provide to the institution's records officer or duty officer, in
16 addition to the court commitment order, the following
17 information unless the department, prior to the time of <—
18 commitment, agrees to accept the offender without the
19 information:

20 (1) Record of adjustment in the county correctional
21 facility, including, but not limited to, misconducts and
22 escape history.

23 (2) Any current medical or psychological condition
24 requiring treatment, including, but not limited to, suicide
25 attempts.

26 (3) Any medical admission testing performed by the
27 county and the results of those tests, including, but not
28 limited to, hepatitis, HIV/AIDS, tuberculosis or other
29 infectious disease testing. Any release of medical
30 information relating to HIV/AIDS shall be in accordance with

1 the act of November 29, 1990 (P.L.585, No.148), known as the
2 Confidentiality of HIV-Related Information Act.

3 (4) Notice of current or previously administered
4 medications.

5 (5) A 48-hour supply of current medications.

6 (b) Additional information.--Within ten days from the date
7 sentence is imposed, the court shall provide to the county
8 correctional facility the following information pertaining to
9 the offender:

10 (1) A copy of the presentence investigation report.
11 Where a presentence investigation report was not ordered by
12 the court, the official version of the crime for which the
13 offender was convicted, or a copy of the guilty plea
14 transcript or preliminary hearing transcript.

15 (2) the criminal complaint or affidavit of probable
16 cause accompanying the arrest warrant.

17 (3) Where available, the police report summarizing the
18 facts of the crime.

19 (4) A copy of the guideline sentence form issued by the
20 Pennsylvania Commission on Sentencing.

21 (c) Transfer of offender.--Where an offender is transferred
22 from a county correctional facility to a State correctional
23 facility, for any reason, the information specified in
24 subsection (b) shall be transmitted to the State correctional
25 facility within 20 calendar days from the date on which the
26 offender is transferred.

27 (d) Transfer to county facility.--Upon transfer of an inmate
28 from a State correctional institution to a county correctional
29 facility, the Department of Corrections shall provide to the
30 county facility, unless the facility, prior to the time of

transfer, agrees to accept the inmate without the information,
the record of the inmate's institutional adjustment, including,
but not limited to, misconducts and/or escape history; written
notice of any current medical or psychological condition
requiring treatment, including, but not limited to, suicide
attempts, notice of current or previously ordered medication and
a 48-hour supply of current medication.

(e) Release by Department of Corrections.--Prior to the
release of an inmate from the Department of Corrections to State
parole supervision, the Department of Corrections shall provide
to the Board of Probation and Parole the information contained
in subsections (a)(1) and (2) and (b).

(f) Release from county correctional facility to State
parole.--Prior to the release of an inmate from a county
correctional facility to State parole supervision, the facility
shall provide to the Board of Probation and Parole the
information contained in subsections (a) and (b).

(g) Release from county correctional facility to county
parole.--Prior to the release of an inmate from a county
correctional facility to county parole supervision, the facility
shall provide to the county probation department the information
contained in subsections (a) and (b).

(h) Record of inmate moneys.--Prior to the release of an
inmate from the Department of Corrections to State parole
supervision, the department shall provide to the Board of
Probation and Parole a record of any moneys paid by the inmate
and any balance remaining towards satisfaction of restitution or
any other court-ordered financial obligations. Prior to the
release of an inmate from a county correctional facility to
State parole supervision, the county correctional facility shall

1 provide to the Board of Probation and Parole a record of any
2 moneys paid by the inmate and any balance remaining towards the
3 satisfaction of restitution or any other court-ordered financial
4 obligations. Prior to the release of an inmate from a county
5 correctional facility to county parole supervision, the facility
6 shall provide to the county probation department or other agent
7 designated by the county commissioners of the county with the
8 approval of the president judge of the county a record of any
9 moneys paid by the inmate and any remaining balance towards the
10 satisfaction of restitution and any other court-ordered
11 financial obligations.

12 (i) Continuing payments.--The Board of Probation and Parole
13 shall require as a condition of parole that any inmate released
14 to their supervision shall make continuing payments on
15 restitution or any other court-ordered financial obligations.
16 The sentencing court shall require as a condition of county
17 parole that any inmate released to the supervision of the county
18 probation department shall make continuing payments of
19 restitution or any other court-ordered financial obligations.

20 (j) Release after maximum sentence.--Upon release of an
21 inmate from the Department of Corrections at the expiration of
22 his maximum sentence, the Department of Corrections shall
23 transmit to the county probation department or other agent
24 designated by the county commissioners of the county with the
25 approval of the president judge of the county in which the
26 inmate was convicted a record of any moneys paid by the inmate
27 and any outstanding amounts owed by the inmate towards
28 satisfaction of restitution or any other court-ordered financial
29 obligations.

30 (k) Procedures.--The Department of Corrections and the

1 Pennsylvania Board of Probation and Parole shall develop
2 procedures to implement the provisions of this section.

3 (L) APPLICATION.--THIS SECTION SHALL APPLY TO OFFENDERS <—
4 TRANSFERRED TO OR RELEASED FROM A STATE OR COUNTY CORRECTIONAL
5 FACILITY AFTER THE EFFECTIVE DATE OF THIS SECTION.

6 Section 6. The addition of 42 Pa.C.S. Ch. 66 shall apply to
7 cases pending, or prospective relief that remains in effect, on
8 or after the effective date of this act.

9 Section 7. This act shall take effect as follows:

10 (1) This section shall take effect immediately.

11 (2) THE AMENDMENT OF 42 PA.C.S. § 3532 SHALL TAKE EFFECT <—
12 JULY 1, 1998, OR IMMEDIATELY, WHICHEVER IS LATER.

13 ~~(2)~~ (3) The amendment or addition of the definition of <—
14 "delinquent act" in 42 Pa.C.S. § 6302, Ch. 66 and § 9732
15 shall take effect in 60 days.

16 ~~(3)~~ (4) The remainder of this act shall take effect in <—
17 120 days.