
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 14 Session of
2019

INTRODUCED BY A. WILLIAMS, BARTOLOTTA, STREET, FONTANA, WHITE,
HUGHES, ALLOWAY, HAYWOOD AND COSTA, JANUARY 24, 2019

REFERRED TO JUDICIARY, JANUARY 24, 2019

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in judicial boards and
3 commissions, providing for adoption of guidelines for
4 administrative probation violations; and, in sentencing,
5 further providing for sentencing generally, for order of
6 probation, for modification or revocation of order of
7 probation, for court-imposed sanctions for offenders
8 violating probation and providing for resentencing of certain
9 offenders incarcerated due to revocation of probation.

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

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

14 Section 2154.8. Adoption of guidelines for administrative
15 probation violations.

16 Within 180 days of the effective date of this section, the
17 commission shall adopt guidelines for a graduated response to
18 administrative probation violations. The guidelines may not
19 include imprisonment for more than 30 days.

20 Section 2. Section 9721(a.1) of Title 42 is amended by
21 adding a paragraph to read:

1 § 9721. Sentencing generally.

2 * * *

3 (a.1) Exception.--

4 * * *

5 (4) A court may not impose a sentence of probation
6 consecutive to another sentence of probation, total
7 confinement or State or county intermediate punishment.

8 * * *

9 Section 3. Sections 9754, 9771 and 9771.1(d), (i) and (j)
10 are amended to read:

11 § 9754. Order of probation.

12 (a) General rule.--In imposing an order of probation the
13 court shall specify at the time of sentencing the length of any
14 term during which the defendant is to be supervised[, which term
15 may not exceed the maximum term for which the defendant could be
16 confined, and the authority that shall conduct the supervision.]
17 and that the term of probation may be continued, extended or
18 terminated.

19 (a.1) Misdemeanors and felonies.--The total probation period
20 may not exceed the following:

21 (1) for a felony, five years; and

22 (2) for a misdemeanor, three years.

23 (a.2) Nonpayment of fines, costs or restitution.--The court
24 may not extend the period of supervision due to nonpayment of
25 fines, costs or restitution unless the court makes a finding on
26 the record that the defendant is financially able to pay and has
27 willfully refused to do so.

28 (b) Conditions generally.--The court shall attach such of
29 the reasonable conditions authorized by subsection (c) of this
30 section as it deems necessary to insure or assist the defendant

1 in leading a law-abiding life.

2 (c) Specific conditions.--The court may as a condition of
3 its order require the defendant:

4 (1) To meet his family responsibilities.

5 (2) To devote himself to a specific occupation or
6 employment.

7 (2.1) To participate in a public or nonprofit community
8 service program unless the defendant was convicted of murder,
9 rape, aggravated assault, arson, theft by extortion,
10 terroristic threats, robbery or kidnapping.

11 (3) To undergo available medical or psychiatric
12 treatment and to enter and remain in a specified institution,
13 when required for that purpose.

14 (4) To pursue a prescribed secular course of study or
15 vocational training.

16 (5) To attend or reside in a facility established for
17 the instruction, recreation, or residence of persons on
18 probation.

19 (6) To refrain from frequenting unlawful or disreputable
20 places or consorting with disreputable persons.

21 (7) To have in his possession no firearm or other
22 dangerous weapon unless granted written permission.

23 (8) To make restitution of the fruits of his crime or to
24 make reparations, in an amount he can afford to pay, for the
25 loss or damage caused thereby.

26 (9) To remain within the jurisdiction of the court and
27 to notify the court or the probation officer of any change in
28 his address or his employment.

29 (10) To report as directed to the court or the probation
30 officer and to permit the probation officer to visit his

1 home.

2 (11) To pay such fine as has been imposed.

3 (12) To participate in drug or alcohol treatment
4 programs.

5 (13) To satisfy any other conditions reasonably related
6 to the rehabilitation of the defendant and not unduly
7 restrictive of his liberty or incompatible with his freedom
8 of conscience.

9 (14) To remain within the premises of his residence
10 during the hours designated by the court.

11 (d) Sentence following violation of probation.--The sentence
12 to be imposed in the event of the violation of a condition shall
13 [not be fixed prior to a finding on the record that a violation
14 has occurred.] conform with the guidelines adopted under section
15 2154.8 (relating to adoption of guidelines for administrative
16 probation violations).

17 § 9771. Modification or revocation of order of probation.

18 (a) General rule.--The court may at any time terminate
19 continued supervision or lessen or increase the conditions upon
20 which an order of probation has been imposed.

21 (b) Revocation.--The court may revoke an order of probation
22 upon proof of the violation of specified conditions of the
23 probation. Upon revocation the sentencing alternatives available
24 to the court shall be [the same as were available at the time of
25 initial sentencing, due consideration being given to the time
26 spent serving the order of probation.] those adopted under
27 section 2154.8 (relating to adoption of guidelines for
28 administrative probation violations).

29 (c) Limitation on sentence of total confinement.--[The]
30 Except for defendants who were admitted to a program established

1 under section 9771.1(a) (relating to court-imposed sanctions for
2 offenders violating probation), the court shall not impose a
3 sentence of total confinement upon revocation unless it finds
4 that:

5 (1) the defendant has been convicted of another [crime;
6 or] felony, in which case the court may sentence the
7 defendant to the sentencing alternatives available at the
8 time of the initial sentencing;

9 (1.1) the defendant has been convicted of another
10 misdemeanor, in which case the court may sentence the
11 defendant to imprisonment for not more than six months; or

12 (2) the conduct of the defendant indicates that it is
13 likely that he will commit another crime if he is not
14 imprisoned[; or] and no other condition of supervision or
15 treatment would decrease the likelihood that the defendant
16 will commit a future crime, in which case the court may
17 sentence the defendant to imprisonment for not more than 30
18 days.

19 [(3) such a sentence is essential to vindicate the
20 authority of the court.]

21 (d) Hearing required.--There shall be no revocation or
22 increase of conditions of sentence under this section except
23 after a hearing at which the court shall consider the record of
24 the sentencing proceeding together with evidence of the conduct
25 of the defendant while on probation. Probation may be eliminated
26 or the term decreased without a hearing.

27 (e) Early termination of probation for merit time.--Where a
28 defendant has successfully completed 18 months of supervised
29 probation without violation or revocation, the probation
30 sentence shall be terminated by the county probation department.

1 § 9771.1. Court-imposed sanctions for offenders violating
2 probation.

3 * * *

4 (d) Warning hearing.--

5 (1) At the time of sentencing, the court shall hold a
6 warning hearing for each participant in the program to
7 clearly communicate program expectations and consequences and
8 to encourage the participant's compliance and success.

9 (2) The court shall emphasize the expectations that the
10 participant remain drug free and comply with any treatment or
11 services ordered by the court as a condition of the
12 participant's probation.

13 (3) The court shall put the participant on notice that
14 each probation violation, including missed appointments and
15 positive drug tests, will result in jail time as provided for
16 under subsection (g).

17 (4) A warning shall be provided to the participant at
18 the warning hearing verbally and in writing.

19 * * *

20 (i) Revocation of probation.--

21 (1) After a third violation, the court may revoke the
22 order of probation.

23 (2) Upon revocation, the sentencing alternatives shall
24 be [the same as were available at the time of initial
25 sentencing, due consideration being given to the time spent
26 serving the order of probation.] in accordance with section
27 9771(c).

28 (j) Local rules.--

29 (1) The court may adopt local rules for the
30 administration of this program. [Except as provided for under

1 paragraph (2), the] The local rules [may not be inconsistent]
2 must be consistent with this section or any rules adopted by
3 the Supreme Court.

4 [(2) The court may adopt local rules that are
5 inconsistent with subsection (g) regarding the terms of
6 imprisonment or other sanctions or conditions provided for
7 under subsection (g).]

8 Section 4. Title 42 is amended by adding a section to read:
9 Section 9771.2. Resentencing of certain offenders incarcerated
10 due to revocation of probation.

11 (a) General rule.--The sentencing court shall resentence a
12 defendant as provided under section 9771(c) (relating to
13 modification or revocation of order of probation) upon petition
14 of the defendant and proof of all of the following:

15 (1) The defendant's probation sentence was revoked and
16 the petitioner was sentenced to imprisonment for more than
17 one year as a result of an administrative probation
18 violation.

19 (2) The defendant has no disciplinary infractions during
20 imprisonment.

21 (3) The defendant has no pending criminal charges or
22 convictions for a new offense since the date the petitioner
23 was placed on probation.

24 (b) Petition procedure.--The petition for resentencing shall
25 be recognized as an authorized motion for sentence modification,
26 assigned an identification code by the Administrative Office of
27 Pennsylvania Courts and shall not require payment of a filing
28 fee.

29 (c) Successive petitions.--A successive petition may not be
30 considered by the sentencing court unless new grounds are raised

1 in the petition. Any successive petition that is not scheduled
2 for a hearing within 30 days after filing shall be deemed denied
3 by operation of law.

4 Section 5. This act shall take effect immediately.