

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 838 Session of 2023

INTRODUCED BY BAKER, BARTOLOTTA, A. WILLIAMS, HAYWOOD, KANE, DILLON, SANTARSIERO, STEFANO, ROTHMAN, COSTA, BREWSTER, STREET AND CAPPELLETTI, JUNE 21, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, SEPTEMBER 26, 2023

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in sentencing, further
3 providing for order of probation, for conditions of probation
4 and for modification or revocation of order of probation and
5 providing for probation review conference.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 9754(b) of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 9754. Order of probation.

11 * * *

12 (b) Conditions generally.--The court shall attach reasonable
13 conditions authorized by section 9763 (relating to conditions of
14 probation) [as it deems necessary to ensure or assist the
15 defendant in leading a law-abiding life].

16 * * *

17 Section 2. Section 9763(b) (1), (2) and (11) of Title 42 are
18 amended to read:

1 § 9763. Conditions of probation.

2 * * *

3 (b) Conditions generally.--[The court may attach any of the
4 following conditions upon the defendant as it deems necessary:]
5 Conditions shall be assessed and ordered based on individualized
6 circumstances. Following an individualized assessment of the
7 defendant, including the defendant's history and the underlying
8 crime or crimes committed, the court shall attach only those
9 conditions that the court deems necessary and the least
10 restrictive means available to promote the defendant's
11 rehabilitation and protection of the public, including any of
12 the following:

13 (1) To meet family responsibilities[.], including
14 consideration of child-care responsibilities and limitations,
15 other than the child-care responsibilities and limitations
16 contained in 23 Pa.C.S. Ch. 43 (relating to support matters
17 generally) which shall be governed exclusively by the
18 provisions of that chapter.

19 (2) To be devoted to a specific occupation, employment
20 or education, study or vocational training initiative.

21 * * *

22 (11) To [be subject to intensive supervision while
23 remaining within the jurisdiction of the court and to] notify
24 the court or designated person of any change in address or
25 employment[.] within 72 hours, unless the defendant provides
26 sufficient proof of extenuating circumstances to explain the
27 delay.

28 * * *

29 Section 3. Section 9771(a), (b) and (c) of Title 42 are
30 amended and the section is amended by adding a subsection to

1 read:

2 § 9771. Modification or revocation of order of probation.

3 (a) General rule.--The court has inherent power to at any
4 time terminate continued supervision, lessen the conditions upon
5 which an order of probation has been imposed or increase the
6 conditions under which an order of probation has been imposed
7 upon a finding by clear and convincing evidence that a person
8 presents an identifiable threat to public safety.

9 (b) Revocation.--The court may increase the conditions,
10 impose a brief sanction under section 9771.1 (relating to court-
11 imposed sanctions for violating probation) or revoke an order of
12 probation upon proof of the violation of specified conditions of
13 the probation. [Upon] Subject to the limitations of subsections
14 (b.1) and (c), upon revocation the sentencing alternatives
15 available to the court shall be the same as were available at
16 the time of initial sentencing, due consideration being given to
17 the time spent serving the order of probation. The attorney for
18 the Commonwealth may file notice at any time prior to
19 resentencing of the Commonwealth's intention to proceed under an
20 applicable provision of law requiring a mandatory minimum
21 sentence.

22 (b.1) Nonpayment of fines or costs.--Notwithstanding
23 subsection (b), the court may not extend the period of
24 probation, may not impose a brief sanction under section 9771.1
25 and may not revoke an order of probation solely due to
26 nonpayment of fines or costs unless the court finds, with
27 respect to the payment of fines, the defendant is financially
28 able to pay the fines and has willfully refused to do so.

29 (c) Limitation on sentence of total confinement.--[The court
30 shall not impose a sentence of total confinement upon revocation

1 unless it finds that:

2 (1) the defendant has been convicted of another crime;

3 or

4 (2) the conduct of the defendant indicates that it is
5 likely that he will commit another crime if he is not
6 imprisoned; or

7 (3) such a sentence is essential to vindicate the
8 authority of the court.] There is a presumption against total
9 confinement for technical violations of probation. The
10 following shall apply:

11 (1) The court may impose a sentence of total confinement
12 upon revocation only if:

13 (i) the defendant has been convicted of another
14 crime;

15 (ii) the court finds by clear and convincing
16 evidence that the defendant committed a technical
17 violation that involves an identifiable threat to public
18 safety and the defendant cannot be safely diverted from
19 total confinement through less restrictive means; or

20 (iii) the court finds by a preponderance of the
21 evidence that the defendant committed a technical
22 violation and any of the following apply:

23 (A) The technical violation was sexual in
24 nature.

25 (B) The technical violation involved assaultive
26 behavior or included a credible threat to cause
27 bodily injury to another, including acts committed
28 against a family or household member.

29 (C) The technical violation involved possession
30 or control of a firearm or dangerous weapon.

1 (D) The technical violation involved the
2 manufacture, sale, delivery or possession with the
3 intent to manufacture, sell or deliver, a controlled
4 substance or other drug regulated under the act of
5 April 14, 1972 (P.L.233, No.64), known as The
6 Controlled Substance, Drug, Device and Cosmetic Act.

7 (E) The defendant absconded and cannot be safely
8 diverted from total confinement through less
9 restrictive means.

10 (F) The technical violation involved an
11 intentional and unexcused failure to adhere to
12 recommended programming or conditions on three or
13 more separate occasions and the defendant cannot be
14 safely diverted from total confinement through less
15 restrictive means. For purposes of this clause,
16 multiple technical violations stemming from the same
17 episode of events shall not constitute separate
18 technical violations.

19 (2) If a court imposes a sentence of total confinement
20 following a revocation, the basis of which is for one or more
21 technical violations under paragraph (1)(ii) or (iii), the
22 defendant shall be sentenced as follows:

23 (i) For a first technical violation, a maximum
24 period of 14 days.

25 (ii) For a second technical violation, a maximum
26 period of 30 days.

27 (iii) For a third or subsequent technical violation,
28 the court may impose any sentencing alternatives
29 available at the time of initial sentencing.

30 (iv) The court shall consider allowing the term of

1 incarceration to be served on weekends or other nonwork
2 days for employed probationers who have committed a first
3 or second technical violation.

4 (v) The time limitations contained in this paragraph
5 shall not apply to the extent that a reasonable term of
6 additional total confinement, not to exceed 30 days, is
7 necessary to allow a defendant to either be evaluated for
8 or to participate in:

9 (A) a court-ordered drug, alcohol or mental
10 health treatment program; or

11 (B) a problem-solving court provided for in
12 section 916 (relating to problem-solving courts).

13 (3) Nothing in this section shall prevent the adoption
14 of a program under section 9771.1.

15 * * *

16 Section 4. Title 42 is amended by adding a section to read:
17 § 9774.1. Probation review conference.

18 (a) General rule.--Except as otherwise provided in this
19 section, the court shall hold a probation review conference no
20 later than 60 days from the date the defendant is eligible. If a
21 defendant's probation review conference has not commenced within
22 the time frames specified in this subsection, the defendant's
23 attorney, or the defendant if unrepresented, may file a motion
24 demanding a probation review conference within five business
25 days.

26 (b) Eligibility for review conference.--Except as otherwise
27 provided in this section, a defendant shall be eligible for an
28 initial probation review conference as follows:

29 (1) If the offense for which a sentence of probation was
30 imposed was a misdemeanor, the defendant shall be eligible

1 for an initial probation review conference after completing
2 two years of probation or 50% of the probation sentence,
3 whichever is sooner.

4 (2) If the offense for which a sentence of probation was
5 imposed was a felony, a defendant shall be eligible for an
6 initial probation review conference after completing four
7 years of probation or 50% of the probation sentence,
8 whichever is sooner.

9 (3) If the sentence or sentences imposed arose out of
10 convictions for multiple offenses which the court ordered to
11 be served consecutively and:

12 (i) The offenses for which the sentence or sentences
13 were imposed are misdemeanors based on the same conduct
14 or arising from the same criminal episode, the defendant
15 shall be eligible for a probation review conference after
16 completing two years of probation or 50% of the aggregate
17 probation sentence, whichever is sooner.

18 (ii) The offenses for which the sentence or
19 sentences were imposed included a felony and are based on
20 the same conduct or arise from the same criminal episode,
21 the defendant shall be eligible for a probation review
22 conference after completing four years of probation or
23 50% of the aggregate probation sentence, whichever is
24 sooner.

25 (iii) The offenses for which the sentence or
26 sentences were imposed are based on separate conduct and
27 arose from separate criminal episodes, the defendant
28 shall be eligible for a probation review conference after
29 completing four years of probation or 50% of the
30 aggregate probation sentence, whichever is sooner.

1 (4) A defendant sentenced to a period of probation
2 consecutive to a period of incarceration in a State
3 correctional institution shall be eligible for an initial
4 probation review conference 12 months prior to the date that
5 the defendant would otherwise be eligible for a probation
6 review conference under this subsection if the defendant
7 completed the final 12 months of State parole supervision
8 without violating the terms and conditions of the defendant's
9 parole. This paragraph shall not apply to a defendant who
10 serves fewer than 12 months on State parole supervision.

11 (5) Notwithstanding any other provisions of this
12 section, a defendant shall not be eligible to receive an
13 initial probation review conference less than 12 months from
14 the original date of sentencing.

15 (c) Accelerated early review conference.--

16 (1) Subject to the limitations in subsection (b) (5), a
17 defendant serving probation that was imposed for a
18 misdemeanor or felony offense shall be eligible for an
19 initial probation review conference six months prior to the
20 date that the defendant would otherwise be eligible under
21 subsection (b) if the defendant successfully satisfies any of
22 the following conditions while serving the term of probation:

23 (i) Earns a high school diploma or certificate of
24 high school equivalency.

25 (ii) Earns an associate degree from an accredited
26 university, college, seminary college, community college
27 or two-year college.

28 (iii) Earns a bachelor's degree from an accredited
29 university, college or seminary college.

30 (iv) Earns a master's or other graduate degree from

1 an accredited university, college or seminary college.

2 (v) Obtains a vocational or occupational license,
3 certificate, registration or permit.

4 (vi) Completes a certified vocational, certified
5 technical or certified career education or training
6 program.

7 (vii) Any other condition approved by the court at
8 the time of sentencing that substantially assists the
9 defendant in leading a law-abiding life or furthers the
10 rehabilitative needs of the defendant.

11 (2) Subject to the limitations in subsection (b) (5), a
12 defendant serving probation that was imposed for a felony
13 offense shall be eligible for an initial probation review
14 conference up to a total of six months prior to the date that
15 the defendant would otherwise be eligible under paragraph (1)
16 if the defendant satisfies an additional condition specified
17 in paragraph (1) while serving the term of probation.

18 (3) To qualify a defendant for an accelerated initial
19 probation review conference under paragraphs (1) and (2), any
20 condition under paragraph (1) (v), (vi) or (vii) must be
21 approved by the Pennsylvania Commission on Crime and <--
22 Delinquency or an advisory committee of that commission
23 designated to provide approval PROBATION OFFICER OFFICE <--
24 RESPONSIBLE FOR THE SUPERVISION OF THE DEFENDANT-, IN <--
25 ACCORDANCE WITH STANDARDS DEVELOPED BY THE PENNSYLVANIA
26 COMMISSION ON CRIME AND DELINQUENCY. THE PENNSYLVANIA
27 COMMISSION ON CRIME AND DELINQUENCY SHALL DEVELOP STANDARDS
28 PURSUANT TO THIS PARAGRAPH.

29 (d) Probation status report.--No later than 30 days prior to
30 the date the defendant is otherwise entitled to a probation

1 review conference under subsection (b) or (c), the probation
2 office responsible for the supervision of the defendant shall
3 complete and submit a probation status report to the defendant,
4 the court, ~~AND, the Commonwealth and any victim registered with~~ <--
5 ~~either the Pennsylvania Office of Victim Advocate or a county~~
6 ~~victim witness program~~ AND ANY VICTIM REGISTERED WITH EITHER THE <--
7 PENNSYLVANIA OFFICE OF VICTIM ADVOCATE OR A COUNTY VICTIM
8 WITNESS PROGRAM. The probation status report shall contain the
9 following:

10 (1) The date the probation office believes the defendant
11 is eligible for a probation review conference.

12 (2) A statement as to whether:

13 (i) Any of the factors or violations specified in
14 subsection (g) (1) (ii) and (iii) have occurred.

15 (ii) The defendant has committed any other technical
16 violation within the six months prior to the probation
17 status report.

18 (iii) The defendant was convicted of a misdemeanor
19 or felony while either incarcerated or serving probation.

20 (iv) The defendant has completed all treatment ~~of~~ OR <--
21 any other program required as a condition of probation.

22 (v) The defendant has paid all restitution owed to
23 the victim.

24 (3) A description of the defendant's progress on
25 probation and a recommendation that:

26 (i) the defendant's probation be terminated at or
27 before the date the probation office believes the
28 defendant is eligible for a probation review conference;

29 (ii) the defendant should continue on probation as
30 previously ordered; or

1 (iii) the defendant should continue on probation
2 under different, reduced or increased terms and
3 conditions.

4 (e) Objections to status report.--A person entitled to the <--
5 probation status report under subsection (d) THE COMMONWEALTH <--
6 AND THE DEFENDANT shall have 30 days from the date of the status
7 report to object or otherwise respond to the probation status
8 report. A VICTIM SHALL HAVE 30 DAYS FROM THE DATE OF THE STATUS <--
9 REPORT TO PROVIDE INPUT OR OTHERWISE RESPOND TO THE PROBATION
10 STATUS REPORT. The following shall apply:

11 (1) If a party objects to all or any component of the
12 probation status report, the court shall hold a probation
13 review conference as otherwise provided by this subsection
14 and shall notify the defendant, the Commonwealth and any
15 victim registered with either the Pennsylvania Office of
16 Victim Advocate or a county victim witness program of the
17 date of the probation review conference.

18 (2) If none of the parties entitled to the probation
19 status report object to the recommendation contained in the
20 report within 30 days, upon evidence satisfactory to the
21 court that the probation status report was sent to each party
22 entitled to receive the probation status report, the
23 probation review conference shall be deemed waived. The court
24 shall enter an order memorializing the recommendation
25 contained in the probation status report and so notify the
26 defendant, the Commonwealth and any victim registered with
27 either the Pennsylvania Office of Victim Advocate or a county
28 victim witness program. The court may enter the order even if
29 the defendant's probation, sentence or plea of guilty was the
30 result of an agreement between the Commonwealth and the

1 defendant.

2 (f) Termination of probation.--

3 (1) Except as provided in subsection (g), immediately
4 following the probation review conference, the court shall
5 terminate probation unless the court finds:

6 (i) by clear and convincing evidence that the
7 conduct of the defendant while on probation created an
8 identifiable threat to public safety, including
9 consideration of whether the defendant is the subject of
10 an active protection from abuse order under 23 Pa.C.S.
11 Ch. 61 (relating to protection from abuse) or an active
12 protection from intimidation order under 18 Pa.C.S. Ch.
13 49 Subch. B. (relating to victim and witness
14 intimidation);

15 (ii) by a preponderance of the evidence that the
16 defendant has not successfully completed all treatment or
17 other programs required as a condition of probation, and
18 termination of probation would either prevent the
19 defendant from continuing in the court-mandated treatment
20 or programming that the court determines is still
21 necessary to aid in the defendant's rehabilitation or
22 would create a substantial likelihood that the defendant
23 would discontinue the treatment or programs; or

24 (iii) by a preponderance of the evidence that the
25 defendant has failed to pay the total restitution owed by
26 the defendant.

27 (2) The court may terminate probation under paragraph
28 (1) even if the defendant's probation, sentence or plea of
29 guilty was the result of an agreement between the
30 Commonwealth and the defendant.

1 (3) If the court does not terminate probation at a
2 probation review conference, the defendant shall receive
3 written notice of the court's order detailing the court's
4 findings. The defendant shall be eligible for a subsequent
5 probation review conference no later than 12 months after the
6 date of the most recent probation review conference.

7 (g) Prohibitions on early termination.--

8 (1) A defendant shall not have the defendant's probation
9 terminated under this section if:

10 (i) the defendant was convicted of a misdemeanor of
11 the first degree, misdemeanor of the second degree or
12 felony offense of any degree committed while either
13 incarcerated or serving probation;

14 (ii) the court finds by clear and convincing
15 evidence that the defendant committed a technical
16 violation within the six months immediately preceding the
17 defendant's probation review conference that involved an
18 identifiable threat to public safety; or

19 (iii) a court determines at the probation review
20 conference by a preponderance of the evidence that the
21 defendant committed one of the following technical
22 violations within the six months immediately preceding
23 the defendant's probation review conference:

24 (A) A technical violation that was sexual in
25 nature.

26 (B) A technical violation that involved
27 assaultive behavior or included a credible threat to
28 cause bodily injury to another, including acts
29 committed against a family or household member.

30 (C) A technical violation that involved

1 possession or control of a firearm or dangerous
2 weapon.

3 (D) The technical violation involved the
4 manufacture, sale, delivery or possession with the
5 intent to manufacture, sell or deliver, a controlled
6 substance or other drug regulated under the act of
7 April 14, 1972 (P.L.233, No.64), known as The
8 Controlled Substance, Drug, Device and Cosmetic Act.

9 (E) The defendant absconded.

10 (F) A technical violation that involved an
11 intentional and unexcused failure to adhere to
12 recommended programming or conditions on three or
13 more separate occasions. For purposes of this clause,
14 multiple technical violations stemming from the same
15 episode of events shall not constitute separate
16 technical violations.

17 (2) If the defendant is ineligible for termination of
18 probation as a result of a technical violation enumerated in
19 paragraph (1)(ii) or (iii) occurring within the six months
20 immediately preceding the probation review conference and if
21 all other conditions are satisfied, a probation review
22 conference shall be held six months after the date that the
23 enumerated technical violation occurred.

24 (h) Failure to pay restitution.--

25 (1) If the court does not terminate probation at a
26 probation review conference solely because of the defendant's
27 failure to pay restitution in full, the court shall order
28 that the defendant be placed on administrative probation for
29 the remaining balance of the defendant's probation sentence A<--
30 PERIOD NOT TO EXCEED THE DEFENDANT'S REMAINING BALANCE AT THE

1 ~~TIME ADMINISTRATIVE PROBATION IS ASSIGNED if:~~ THE REMAINING <--
2 BALANCE OF THE DEFENDANT'S PROBATION SENTENCE IF:

3 (i) the defendant has paid at least 50% of the
4 restitution owed; or

5 (ii) the court determines, considering the
6 defendant's resources, income and family, legal or other
7 obligations, that the defendant has made a good faith
8 effort to pay.

9 (2) The provisions of section 9771(c) (relating to
10 modification or revocation of order of probation) shall apply
11 to individuals placed on administrative probation pursuant to
12 this subsection.

13 (3) Nothing in this section shall be construed to
14 interfere with a victim's right to pursue private remedies in
15 accordance with 18 Pa.C.S. § 1106(g) (relating to restitution
16 for injuries to person or property).

17 (i) Applicability.--This section shall not apply and the
18 defendant shall not be entitled to a probation review conference
19 or to early termination of probation under this section if the
20 offense for which the defendant was sentenced to probation was
21 one of the following:

22 (1) an offense under 18 Pa.C.S. Ch. 25 (relating to
23 criminal homicide);

24 (2) a crime of violence;

25 (3) an offense listed under Subchapter H (relating to
26 registration of sexual offenders) or I (relating to continued
27 registration of sexual offenders) of Chapter 97;

28 (4) an offense under 18 Pa.C.S. § 2701 (relating to
29 simple assault) when committed against a family or household
30 member; or

1 (5) an offense under 18 Pa.C.S. § 2709.1 (relating to
2 stalking).

3 (j) Other remedies preserved.--Nothing in this section shall
4 be construed to:

5 (1) prevent a defendant from petitioning a court for
6 early termination of probation or modification of the terms
7 and conditions of probation as otherwise permitted by law;

8 (2) prohibit the court, in its discretion, from
9 eliminating or decreasing the term of probation under section
10 9771(d); or

11 (3) diminish the court's power to:

12 (i) otherwise, at any time, terminate continued
13 supervision or lessen the conditions upon which an order
14 of probation has been imposed;

15 (ii) create or administer a process or program which
16 seeks to terminate continued supervision or lessen the
17 conditions upon which an order of probation has been
18 imposed; or

19 (iii) seek information from the Commonwealth,
20 defendant, victim, county probation officer or any other
21 individual or entity to assist in these processes or
22 programs.

23 (k) Definitions.--As used in this section, the following
24 words and phrases shall have the meanings given to them in this
25 subsection unless the context clearly indicates otherwise:

26 "Administrative probation." A term of imposed probation
27 that:

28 (1) Requires a defendant to make supervision contact at
29 least one time and no more than four times per year.

30 (2) Requires a defendant to notify the court or the

1 designated person of any change in address or employment
2 within a reasonable period of time.

3 (3) Requires a defendant to pay the remaining
4 restitution, as ordered by the court on a schedule or payment
5 plan that the defendant can afford to pay.

6 (4) Does not require the defendant to pay monthly
7 probation administration fees or any additional costs for the
8 continuation of supervision on administrative probation.

9 (5) Does not impose any other condition of probation.
10 "Crime of violence." As defined in section 9714(g) (relating
11 to sentences for second and subsequent offenses).

12 "Dangerous weapon." Any of the following:

13 (1) A "weapon" as defined in 18 Pa.C.S. § 907 (relating
14 to possessing instruments of crime); or

15 (2) An "offensive weapon" as defined in 18 Pa.C.S. § 908
16 (relating to prohibited offensive weapons).

17 "Family or household members." As defined in 23 Pa.C.S. §
18 6102(a) (relating to definitions).

19 "Firearm." As defined in 18 Pa.C.S. § 908.

20 "Technical violation." A violation of the specific terms and
21 conditions of a defendant's probation, other than by the
22 commission of a new crime of which the defendant is convicted or
23 found guilty by a judge or jury or to which the defendant pleads
24 guilty or nolo contendere in a court of record.

25 Section 5. This act shall apply as follows:

26 (1) This act shall apply to individuals sentenced or
27 resentenced on or after the effective date of this section.

28 (2) Except for the addition of 42 Pa.C.S. § 9774.1, this
29 act shall apply to individuals sentenced or resentenced prior
30 to the effective date of this section.

1 Section 6. Nothing in this act shall be construed to prevent
2 a defendant from petitioning a court for early termination of
3 probation or modification of the terms and conditions of
4 probation as otherwise permitted by law.

5 Section 7. The following apply:

6 (1) The following apply to post-sentencing reviews:

7 (i) Subject to paragraph (2), the courts shall
8 ensure that the probation of all individuals sentenced or
9 resentenced prior to the effective date of this section
10 are reviewed to determine whether the individuals should
11 be considered for early termination of probation or
12 modification of the terms and conditions of probation.
13 The review shall occur at the later of one year after the
14 effective date of this section or:

15 (A) For a probation sentence on a misdemeanor
16 conviction, the date the defendant has completed two
17 years of probation.

18 (B) For a felony conviction, the date the
19 defendant has completed four years of probation.

20 (C) For a probation sentence based on a
21 conviction involving multiple offenses arising out of
22 the same criminal episode:

23 (I) the date the defendant has completed two
24 years of probation if all the offenses resulting
25 in the sentence were misdemeanors; or

26 (II) the date the defendant has completed
27 four years of probation if one of the offenses
28 resulting in the sentence included a felony.

29 (ii) For each case under review, the defendant and
30 the Commonwealth shall have the opportunity, in advance

1 of a decision, to provide written comments to the court.
2 Courts may by local rule adopt such procedures as they
3 deem appropriate to accomplish the reviews.

4 (2) (i) This section shall not apply if:

5 (A) The defendant committed one of the following
6 technical violations within the six months
7 immediately preceding the defendant's probation
8 review conference:

9 (i) A technical violation that was sexual in
10 nature.

11 (ii) A technical violation that involved
12 assaultive behavior or included a credible threat
13 to cause bodily injury to another, including
14 incidents involving domestic violence.

15 (iii) A technical violation that involved
16 possession or control of a firearm or dangerous
17 weapon.

18 (iv) The technical violation involved the
19 manufacture, sale, delivery or possession with
20 the intent to manufacture, sell or deliver, a
21 controlled substance or other drug regulated
22 under the act of April 14, 1972 (P.L.233, No.64),
23 known as The Controlled Substance, Drug, Device
24 and Cosmetic Act.

25 (v) The defendant absconded.

26 (vi) A technical violation which involved an
27 intentional and unexcused failure to adhere to
28 recommended programming or conditions on three or
29 more separate occasions. For the purposes of this
30 clause, multiple technical violations stemming

1 from the same episode of events shall not
2 constitute separate technical violations.

3 (vii) A technical violation that involved an
4 identifiable threat to public safety.

5 (ii) The defendant was convicted of a misdemeanor of
6 the first degree, misdemeanor of the second degree or
7 felony offense committed while either incarcerated or
8 serving probation.

9 (iii) The defendant was convicted of an offense
10 listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to
11 registration of sexual offenders) or I (relating to
12 continued registration of sexual offenders).

13 (iv) The defendant was convicted of a crime of
14 violence.

15 (v) The defendant was convicted of an offense under
16 18 Pa.C.S. § 2701 (relating to simple assault) or 2709.1
17 (relating to stalking) against any of the defendant's
18 family or household members.

19 Section 8. When a court, either as a result of a petition or
20 as a result of its review under section 7 of this act, seeks to
21 determine whether an individual sentenced or resentenced prior
22 to the effective date of this section should be considered for
23 early termination of probation or modification of the terms and
24 conditions of probation, the court shall ensure that due
25 consideration is given to whether the individual has
26 successfully satisfied the conditions contained in 42 Pa.C.S. §
27 9774.1(c) (1) or (2).

28 Section 9. This act shall take effect in 180 days.