

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 251** Session of  
1989

INTRODUCED BY CALTAGIRONE, FEBRUARY 6, 1989

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,  
NOVEMBER 13, 1990

AN ACT

1 ~~Amending Title 18 (Crimes and Offenses) of the Pennsylvania~~ <—  
2 ~~Consolidated Statutes, defining the offense of flight to~~  
3 ~~avoid prosecution.~~

4 AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 42 (JUDICIARY AND <—  
5 JUDICIAL PROCEDURE) OF THE PENNSYLVANIA CONSOLIDATED  
6 STATUTES, FURTHER PROVIDING FOR BURGLARY; PROVIDING FOR  
7 INTERMEDIATE PUNISHMENT; AND PROVIDING PENALTIES.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 ~~Section 1. Title 18 of the Pennsylvania Consolidated~~ <—  
11 ~~Statutes is amended by adding a section to read:~~

12 ~~§ 5126. Flight to avoid prosecution.~~

13 ~~A person who moves or travels or secretes himself with intent~~  
14 ~~to avoid prosecution for or, after conviction, to avoid custody~~  
15 ~~or confinement for a crime, including an attempt to commit a~~  
16 ~~crime, commits:~~

17 ~~(1) A felony of the first degree when the crime with~~  
18 ~~which the person was charged or of which he was convicted is~~  
19 ~~punishable by death or is a felony of the first degree.~~

~~(2) A felony of the third degree when the crime with which the person was charged or of which he was convicted is a felony of the second or third degree.~~

~~(3) A misdemeanor of the third degree when the crime with which the person was charged or of which he was convicted is a misdemeanor of the first, second or third degree.~~

~~Section 2. This act shall take effect in 60 days.~~

SECTION 1. SECTION 3502(C) OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

§ 3502. BURGLARY.

\* \* \*

(C) GRADING.--[BURGLARY IS A FELONY OF THE FIRST DEGREE.]

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), BURGLARY IS A FELONY OF THE FIRST DEGREE.

(2) IF THE BUILDING, STRUCTURE OR PORTION ENTERED IS NOT ADAPTED FOR OVERNIGHT ACCOMMODATION AND IF NO INDIVIDUAL IS PRESENT AT THE TIME OF ENTRY, BURGLARY IS A FELONY OF THE SECOND DEGREE.

\* \* \*

SECTION 2. SECTION 9721(A) OF TITLE 42 IS AMENDED TO READ:

§ 9721. SENTENCING GENERALLY.

(A) GENERAL RULE.--IN DETERMINING THE SENTENCE TO BE IMPOSED THE COURT SHALL, EXCEPT WHERE A MANDATORY MINIMUM SENTENCE IS OTHERWISE PROVIDED BY LAW, CONSIDER AND SELECT ONE OR MORE OF THE FOLLOWING ALTERNATIVES, AND MAY IMPOSE THEM CONSECUTIVELY OR CONCURRENTLY:

(1) AN ORDER OF PROBATION.

(2) A DETERMINATION OF GUILT WITHOUT FURTHER PENALTY.

(3) PARTIAL CONFINEMENT.

1           (4) TOTAL CONFINEMENT.

2           (5) A FINE.

3           (6) INTERMEDIATE PUNISHMENT.

4           \* \* \*

5           SECTION 3. TITLE 42 IS AMENDED BY ADDING SECTIONS TO READ:

6   § 9728. INTERMEDIATE PUNISHMENT.

7       (A) GENERAL RULE.--THE COURT MAY, PURSUANT TO SECTION 9763  
8 (RELATING TO SENTENCE OF INTERMEDIATE PUNISHMENT) SENTENCE AN  
9 ELIGIBLE OFFENDER TO A COUNTY INTERMEDIATE PUNISHMENT PROGRAM.  
10 THE COURT MAY AT ANY TIME TERMINATE A SENTENCE OF INTERMEDIATE  
11 PUNISHMENT OR INCREASE OR LESSEN THE CONDITIONS OF SENTENCE  
12 PURSUANT TO SECTION 9773 (RELATING TO MODIFICATION OR REVOCATION  
13 OF INTERMEDIATE PUNISHMENT SENTENCE). THE COURT MAY IMPOSE  
14 REASONABLE COSTS OF PARTICIPATION IN THE PROGRAM UPON THE  
15 OFFENDER.

16       (B) ELIGIBILITY.--FOR THE PURPOSES OF SENTENCING UNDER THIS  
17 SECTION, AN ELIGIBLE OFFENDER SHALL BE A PERSON CONVICTED OF AN  
18 OFFENSE WHO WOULD OTHERWISE BE SENTENCED TO A COUNTY  
19 CORRECTIONAL FACILITY, WHO DOES NOT DEMONSTRATE A PRESENT OR  
20 PAST PATTERN OF VIOLENT BEHAVIOR AND WHO WOULD OTHERWISE BE  
21 SENTENCED TO PARTIAL CONFINEMENT PURSUANT TO SECTION 9724  
22 (RELATING TO PARTIAL CONFINEMENT) OR TOTAL CONFINEMENT PURSUANT  
23 TO SECTION 9725 (RELATING TO TOTAL CONFINEMENT).

24       (C) INELIGIBILITY.--

25           (1) A PERSON CONVICTED OF ANY OF THE FOLLOWING OFFENSES  
26 SHALL BE INELIGIBLE FOR SENTENCING UNDER THIS SECTION:

27               18 PA.C.S. § 2502 (RELATING TO MURDER).

28               18 PA.C.S. § 2503 (RELATING TO VOLUNTARY  
29 MANSLAUGHTER).

30               18 PA.C.S. § 2702 (RELATING TO AGGRAVATED ASSAULT).

18 PA.C.S. § 2703 (RELATING TO ASSAULT BY PRISONER).  
18 PA.C.S. § 2704 (RELATING TO ASSAULT BY LIFE  
PRISONER).

18 PA.C.S. § 2901 (RELATING TO KIDNAPPING).  
18 PA.C.S. § 3121 (RELATING TO RAPE).  
18 PA.C.S. § 3122 (RELATING TO STATUTORY RAPE).  
18 PA.C.S. § 3123 (RELATING TO INVOLUNTARY DEVIATE  
SEXUAL INTERCOURSE).

18 PA.C.S. § 3126 (RELATING TO INDECENT ASSAULT).  
18 PA.C.S. § 3301 (RELATING TO ARSON AND RELATED  
OFFENSES).

18 PA.C.S. § 3701 (RELATING TO ROBBERY).  
18 PA.C.S. § 3923 (RELATING TO THEFT BY EXTORTION).  
18 PA.C.S. § 5121 (RELATING TO ESCAPE).

(2) AN OFFENSE UNDER THIS SUBSECTION ALSO INCLUDES A  
CONVICTION UNDER 18 PA.C.S. SECTION 3502 (RELATING TO  
BURGLARY) WHERE THE GRADING OF THE OFFENSE WAS A FELONY OF  
THE FIRST DEGREE UNDER SECTION 3502(C)(1).

(3) AN OFFENSE UNDER THIS SUBSECTION ALSO INCLUDES A  
CONVICTION UNDER THE ACT OF APRIL 14, 1972 (P.L.233, NO.64),  
KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC  
ACT.

§ 9763. SENTENCE OF INTERMEDIATE PUNISHMENT.

(A) GENERAL RULE.--IN IMPOSING A SENTENCE OF INTERMEDIATE  
PUNISHMENT, THE COURT SHALL SPECIFY AT THE TIME OF SENTENCING  
THE LENGTH OF THE TERM FOR WHICH THE DEFENDANT IS TO BE IN AN  
INTERMEDIATE PUNISHMENT PROGRAM, OR A COMBINATION OF  
INTERMEDIATE PUNISHMENT PROGRAMS. THE TERM MAY NOT EXCEED THE  
MAXIMUM TERM FOR WHICH THE DEFENDANT COULD BE CONFINED AND THE  
PROGRAM TO WHICH THE DEFENDANT IS SENTENCED. THE COURT MAY ORDER

1 A DEFENDANT TO SERVE A PORTION OF THE SENTENCE UNDER SECTION  
2 9755 (RELATING TO SENTENCE OF PARTIAL CONFINEMENT) OR 9756  
3 (RELATING TO SENTENCE OF TOTAL CONFINEMENT) AND TO SERVE A  
4 PORTION IN AN INTERMEDIATE PUNISHMENT PROGRAM OR A COMBINATION  
5 OF INTERMEDIATE PUNISHMENT PROGRAMS.

6 (B) CONDITIONS GENERALLY.--THE COURT MAY ATTACH ANY OF THE  
7 FOLLOWING CONDITIONS UPON THE DEFENDANT AS IT DEEMS NECESSARY:

8 (1) TO MEET FAMILY RESPONSIBILITIES.

9 (2) TO BE DEVOTED TO A SPECIFIC OCCUPATION OR  
10 EMPLOYMENT.

11 (3) TO PARTICIPATE IN A PUBLIC OR NONPROFIT COMMUNITY  
12 SERVICE PROGRAM.

13 (4) TO UNDERGO INDIVIDUAL OR FAMILY COUNSELING.

14 (5) TO UNDERGO AVAILABLE MEDICAL OR PSYCHIATRIC  
15 TREATMENT OR TO ENTER AND REMAIN IN A SPECIFIED INSTITUTION,  
16 WHEN REQUIRED FOR THAT PURPOSE.

17 (6) TO ATTEND EDUCATIONAL OR VOCATIONAL TRAINING  
18 PROGRAMS.

19 (7) TO ATTEND OR RESIDE IN A REHABILITATIVE FACILITY OR  
20 OTHER INTERMEDIATE PUNISHMENT PROGRAM.

21 (8) TO REFRAIN FROM FREQUENTING UNLAWFUL OR DISREPUTABLE  
22 PLACES OR CONSORTING WITH DISREPUTABLE PERSONS.

23 (9) TO NOT POSSESS A FIREARM OR OTHER DANGEROUS WEAPON  
24 UNLESS GRANTED WRITTEN PERMISSION.

25 (10) TO MAKE RESTITUTION OF THE FRUITS OF THE CRIME OR  
26 TO MAKE REPARATIONS, IN AN AFFORDABLE AMOUNT, FOR THE LOSS OR  
27 DAMAGE CAUSED BY THE CRIME.

28 (11) TO BE SUBJECT TO INTENSIVE SUPERVISION WHILE  
29 REMAINING WITHIN THE JURISDICTION OF THE COURT AND TO NOTIFY  
30 THE COURT OR DESIGNATED PERSON OF ANY CHANGE IN ADDRESS OR

1 EMPLOYMENT.

2 (12) TO REPORT AS DIRECTED TO THE COURT OR THE  
3 DESIGNATED PERSON AND TO PERMIT THE DESIGNATED PERSON TO  
4 VISIT THE DEFENDANT'S HOME.

5 (13) TO PAY A FINE.

6 (14) TO PARTICIPATE IN DRUG OR ALCOHOL SCREENING AND  
7 TREATMENT PROGRAMS, INCLUDING OUTPATIENT AND INPATIENT  
8 PROGRAMS.

9 (15) TO DO OTHER THINGS REASONABLY RELATED TO  
10 REHABILITATION.

11 (16) TO REMAIN WITHIN THE PREMISES OF THE DEFENDANT'S  
12 RESIDENCE DURING THE HOURS DESIGNATED BY THE COURT.

13 (17) TO BE SUBJECT TO ELECTRONIC MONITORING.

14 (C) RESTRICTION.--A DEFENDANT CONVICTED UNDER 75 PA.C.S.  
15 SECTION 3731(E) (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL  
16 OR CONTROLLED SUBSTANCE) MAY ONLY BE SENTENCED TO INTERMEDIATE  
17 PUNISHMENT:

18 (1) IN A REHABILITATION CENTER; OR

19 (2) BY HOUSE ARREST OR ELECTRONIC SURVEILLANCE COMBINED  
20 WITH DRUG AND ALCOHOL TREATMENT.

21 (D) SENTENCE FOLLOWING VIOLATION OF CONDITION.--THE SENTENCE  
22 TO BE IMPOSED IN THE EVENT OF THE VIOLATION OF A CONDITION UNDER  
23 SUBSECTION (B) SHALL NOT BE IMPOSED PRIOR TO A FINDING ON THE  
24 RECORD THAT A VIOLATION HAS OCCURRED.

25 § 9773. MODIFICATION OR REVOCATION OF INTERMEDIATE PUNISHMENT  
26 SENTENCE.

27 (A) GENERAL RULE.--THE COURT MAY AT ANY TIME TERMINATE A  
28 SENTENCE OF INTERMEDIATE PUNISHMENT OR INCREASE OR DECREASE THE  
29 CONDITIONS OF A SENTENCE PURSUANT TO SECTION 9763 (RELATING TO  
30 SENTENCE OF INTERMEDIATE PUNISHMENT).

1        (B) REVOCATION.--THE COURT MAY REVOKE A SENTENCE OF  
2        INTERMEDIATE PUNISHMENT UPON PROOF OF A VIOLATION OF SPECIFIC  
3        CONDITIONS OF THE SENTENCE. UPON REVOCATION, THE SENTENCING  
4        ALTERNATIVES AVAILABLE TO THE COURT SHALL BE THE SAME AS THE  
5        ALTERNATIVES AVAILABLE AT THE TIME OF INITIAL SENTENCING.  
6        CONSIDERATION SHALL BE GIVEN TO THE TIME SERVED IN THE  
7        INTERMEDIATE PUNISHMENT PROGRAM.

8        (C) HEARING REQUIRED.--A COURT SHALL NOT REVOKE OR INCREASE  
9        THE CONDITIONS OF A SENTENCE OF INTERMEDIATE PUNISHMENT WITHOUT  
10       A HEARING AT WHICH THE COURT SHALL CONSIDER THE RECORD OF THE  
11       INITIAL SENTENCING PROCEEDING AS WELL AS THE CONDUCT OF THE  
12       DEFENDANT WHILE SERVING A SENTENCE OF INTERMEDIATE PUNISHMENT. A  
13       HEARING IS NOT REQUIRED TO DECREASE THE CONDITIONS OF THE  
14       SENTENCE.

15       SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.