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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 18

Special Session No. 1 of  
1995

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INTRODUCED BY McGEEHAN, PICCOLA, M. COHEN, REBER, LYNCH,  
MAITLAND, BOYES, BROWN, M. N. WRIGHT, SEMMEL, PETTIT, BAKER,  
ARGALL, PHILLIPS, FARMER, MILLER, LEH, DEMPSEY, HESS, STISH,  
KING, PITTS, HUTCHINSON, FEESE, DIGIROLAMO, HABAY, B. SMITH,  
BARLEY, S. H. SMITH, SCHRODER, RUBLEY, SATHER, HERSHEY,  
NAILOR, CIVERA, FAIRCHILD, MARSICO, SAYLOR, D. W. SNYDER,  
BIRMELIN, MERRY, STERN, GRUPPO, HARHART, MAJOR, ADOLPH,  
CLARK, E. Z. TAYLOR, DENT, REINARD, NYCE, BUNT, TRUE,  
FLEAGLE, PERZEL, ZUG, KELLER, BUTKOVITZ, LEDERER, WOZNIAK,  
GLADECK, FLICK, FARGO, RYAN, ROBINSON, DeLUCA, GIGLIOTTI,  
COY, GEORGE, PLATTS, TRELLO, SURRA, GAMBLE, BATTISTO,  
GORDNER, TANGRETTI, CURRY, SAINATO, COLAIZZO, BLAUM, BUXTON,  
TRAVAGLIO, WAUGH, WASHINGTON, PISTELLA, GRUITZA, GODSHALL,  
FAJT, STRITTMATTER, PETRARCA, BOSCOLA, BROWNE, O'BRIEN AND  
JAMES, JANUARY 24, 1995

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AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MARCH 8, 1995

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AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, further providing for restitution for injuries to  
4 person or property, ~~for disposition of profits received from~~ <—  
5 ~~commission of crime~~, for disposition of delinquent child, FOR <—  
6 DISPOSITION OF PROFITS RECEIVED FROM COMMISSION OF CRIME, for  
7 sentencing generally and for collection of restitution,  
8 reparation, fees, costs, fines and penalties; and making a  
9 repeal.

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

12 Section 1. Section 1106(c) AND THE DEFINITION OF "VICTIM" IN <—  
13 SUBSECTION (H) of Title 18 of the Pennsylvania Consolidated

1 Statutes ~~is~~ ARE amended to read:

<—

2 § 1106. Restitution for injuries to person or property.

3 \* \* \*

4 [(c) Authority of sentencing court.--In determining whether  
5 to order restitution as a part of the sentence or as a condition  
6 of probation or parole, the court:

7 (1) Shall consider the extent of injury suffered by the  
8 victim and such other matters as it deems appropriate.

9 (2) May order restitution in a lump sum, by monthly  
10 installments or according to such other schedule as it deems  
11 just, provided that the period of time during which the  
12 offender is ordered to make restitution shall not exceed the  
13 maximum term of imprisonment to which the offender could have  
14 been sentenced for the crime of which he was convicted.

15 (3) May at any time alter or amend any order of  
16 restitution made pursuant to this section providing, however,  
17 that the court state its reasons and conclusions as a matter  
18 of record for any change or amendment to any previous order.]

19 ~~(c) Mandatory restitution. The court shall order full~~

<—

20 ~~restitution, regardless (C) MANDATORY RESTITUTION.--~~

<—

21 (1) THE COURT SHALL ORDER FULL RESTITUTION:

22 (I) REGARDLESS of the current financial resources of  
23 the defendant, so as to provide the victim with the  
24 fullest compensation for the loss. The court shall not  
25 reduce a restitution award by any amount that the victim  
26 has received from the Crime Victim's Compensation Board  
27 OR OTHER GOVERNMENTAL AGENCY, but shall order the  
28 defendant to pay any restitution ordered for loss  
29 previously compensated by the board to the Crime Victim's  
30 Compensation Fund OR OTHER DESIGNATED ACCOUNT WHEN THE

<—

<—

CLAIM INVOLVES A GOVERNMENT AGENCY IN ADDITION TO OR IN  
PLACE OF THE BOARD. THE COURT SHALL NOT REDUCE A  
RESTITUTION AWARD BY ANY AMOUNT THAT THE VICTIM HAS  
RECEIVED FROM AN INSURANCE COMPANY, BUT SHALL ORDER THE  
DEFENDANT TO PAY ANY RESTITUTION ORDERED FOR LOSS  
PREVIOUSLY COMPENSATED BY AN INSURANCE COMPANY TO THE  
INSURANCE COMPANY. ~~If restitution to more than one person~~  
~~is set~~ INSURANCE COMPANY.

(II) IF RESTITUTION TO MORE THAN ONE PERSON IS SET  
at the same time, the court shall set priorities of  
payment. ~~In determining the amount and method of~~  
~~restitution, the court:~~

~~(1) Shall consider the extent of injury suffered by the~~  
~~victim and such other matters as it deems appropriate.~~

~~(2) May order restitution in a lump sum, by monthly~~  
~~installments or according to such other schedule as it deems~~  
~~just, provided that the period of time during which the~~  
~~offender is ordered to make restitution shall not exceed the~~  
~~maximum term of imprisonment to which the offender could have~~  
~~been sentenced for the crime of which he was convicted.~~

~~(3) May at any time alter or amend any order of~~  
~~restitution made pursuant to this section providing, however,~~  
~~that the court state its reasons and conclusions as a matter~~  
~~of record for any change or amendment to any previous order.~~

~~(4) Shall not order incarceration of a defendant for~~  
~~failure to pay restitution if the failure results from the~~  
~~offender's inability to pay. HOWEVER, WHEN ESTABLISHING~~

PRIORITIES, THE COURT SHALL ORDER PAYMENT IN THE FOLLOWING  
ORDER:

(A) THE VICTIM.

1                   (B) THE CRIME VICTIM'S COMPENSATION BOARD.

2                   (C) ANY OTHER GOVERNMENT AGENCY WHICH HAS  
3                   PROVIDED REIMBURSEMENT TO THE VICTIM AS A RESULT OF  
4                   THE DEFENDANT'S CRIMINAL CONDUCT.

5                   (D) ANY INSURANCE COMPANY WHICH HAS PROVIDED  
6                   REIMBURSEMENT TO THE VICTIM AS A RESULT OF THE  
7                   DEFENDANT'S CRIMINAL CONDUCT.

8                   (2) IN DETERMINING THE AMOUNT AND METHOD OF RESTITUTION,  
9                   THE COURT:

10                   (I) SHALL CONSIDER THE EXTENT OF INJURY SUFFERED BY  
11                   THE VICTIM AND SUCH OTHER MATTERS AS IT DEEMS  
12                   APPROPRIATE.

13                   (II) MAY ORDER RESTITUTION IN A LUMP SUM, BY MONTHLY  
14                   INSTALLMENTS OR ACCORDING TO SUCH OTHER SCHEDULE AS IT  
15                   DEEMS JUST, PROVIDED THAT THE PERIOD OF TIME DURING WHICH  
16                   THE OFFENDER IS ORDERED TO MAKE RESTITUTION SHALL NOT  
17                   EXCEED THE MAXIMUM TERM OF IMPRISONMENT TO WHICH THE  
18                   OFFENDER COULD HAVE BEEN SENTENCED FOR THE CRIME OF WHICH  
19                   HE WAS CONVICTED.

20                   (III) MAY AT ANY TIME ALTER OR AMEND ANY ORDER OF  
21                   RESTITUTION MADE PURSUANT TO THIS SECTION PROVIDING,  
22                   HOWEVER, THAT THE COURT STATE ITS REASONS AND CONCLUSIONS  
23                   AS A MATTER OF RECORD FOR ANY CHANGE OR AMENDMENT TO ANY  
24                   PREVIOUS ORDER.

25                   (IV) SHALL NOT ORDER INCARCERATION OF A DEFENDANT  
26                   FOR FAILURE TO PAY RESTITUTION IF THE FAILURE RESULTS  
27                   FROM THE OFFENDER'S INABILITY TO PAY.

28                   (V) SHALL CONSIDER ANY OTHER PREEXISTING ORDERS  
29                   IMPOSED ON THE DEFENDANT, INCLUDING, BUT NOT LIMITED TO,  
30                   ORDERS IMPOSED UNDER THIS TITLE OR ANY OTHER TITLE.

1       \* \* \*

2       (H) DEFINITIONS.--AS USED IN THIS SECTION THE FOLLOWING  
3 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
4 SUBSECTION:

5       \* \* \*

6       "VICTIM." [ANY PERSON, EXCEPT AN OFFENDER, WHO SUFFERED  
7 INJURIES TO HIS PERSON OR PROPERTY AS A DIRECT RESULT OF THE  
8 CRIME.] AS DEFINED IN SECTION 479.1 OF THE ACT OF APRIL 9, 1929  
9 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929. THE  
10 TERM INCLUDES THE CRIME VICTIM'S COMPENSATION FUND IF  
11 COMPENSATION HAS BEEN PAID BY THE CRIME VICTIM'S COMPENSATION  
12 FUND TO THE VICTIM AND ANY INSURANCE COMPANY THAT HAS  
13 COMPENSATED THE VICTIM FOR LOSS UNDER AN INSURANCE CONTRACT.

14       ~~Section 2. Title 18 is amended by adding a section to read:~~  
15 ~~§ 1109. Profits received as a result of commission of crime.~~

16       ~~(a) General rule. If a person has been convicted of a~~  
17 ~~crime, every person who knowingly contracts for, pays or agrees~~  
18 ~~to pay any profit from a crime to that person shall give written~~  
19 ~~notice to the board of the payment or obligation to pay as soon~~  
20 ~~as practicable after discovering that the payment or intended~~  
21 ~~payment is a profit from a crime. The board, upon receipt of~~  
22 ~~notice of a contract, an agreement to pay or payment of profits~~  
23 ~~from a crime shall notify all known eligible persons at their~~  
24 ~~last known address of the existence of the profits.~~

25       ~~(b) Right of action. Notwithstanding any inconsistent~~  
26 ~~provision of law or rules of civil procedure with respect to the~~  
27 ~~timely bringing of an action, any eligible person shall have the~~  
28 ~~right to bring a civil action in a court of competent~~  
29 ~~jurisdiction to recover money damages from a person convicted of~~  
30 ~~a crime, or the legal representative of that convicted person,~~

~~within three years of the discovery of any profits from a crime.  
Any damages awarded in this action shall be recoverable only up  
to the value of the profits from the crime. If an action is  
filed under this subsection after the expiration of all other  
applicable statutes of limitation, any other eligible person  
must file any action for damages as a result of the crime within  
three years of the actual discovery of profits from the crime or  
of actual notice received from or notice published by the board  
of the discovery, whichever is later. IF ANY PROFITS FROM A  
CRIME REMAIN AFTER THE PAYMENT OF CLAIMS MADE UNDER THIS  
SECTION, THE BOARD SHALL DEPOSIT THE REMAINING MONEYS IN THE  
CRIME VICTIM'S COMPENSATION FUND.~~

~~(c) Notice. Upon filing an action under subsection (b), the  
eligible person shall give notice to the board of the filing by  
delivering a copy of the complaint to the board. The eligible  
person may also give notice to the board prior to filing the  
action so as to allow the board to apply for any appropriate  
remedies which are otherwise authorized to be invoked prior to  
the commencement of an action.~~

~~(d) Responsibilities of board. Upon receipt of a copy of a  
complaint, the board shall immediately take action as necessary  
to:~~

~~(1) Notify all other known eligible persons of the  
alleged existence of profits from a crime by certified mail,  
return receipt requested, where the eligible persons' names  
and addresses are known by the board.~~

~~(2) Publish, at least once a year for three years from  
the date it is initially notified by an eligible person under  
subsection (c), a legal notice in newspapers of general  
circulation in the county wherein the crime was committed and~~

~~in counties contiguous to that county advising any eligible persons of the existence of profits from a crime. The board may in its discretion provide for additional notice as it deems necessary.~~

~~(3) Avoid the wasting of the assets identified in the complaint as the newly discovered profits from a crime in any manner consistent with subsection (c).~~

~~(c) Other remedies. The board, acting on behalf of all eligible persons, shall have the right to apply for any and all remedies that are also otherwise available to an eligible person bringing an action under subsection (b). The remedies of attachment, injunction, receivership and notice of pendency available under law to an eligible person bringing an action under subsection (b) shall also be available to the board in all actions under this subsection. On a motion for a remedy, the moving party shall state whether any other remedy has previously been sought in the same action against the same defendant. The court may require the moving party to elect between those remedies to which it would otherwise be entitled.~~

~~(f) Evasive action null and void. Any action taken by any person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this Commonwealth.~~

~~(G) PENALTIES.~~

~~(1) ANY PERSON WHO WILLFULLY FAILS TO DO ANY OF THE FOLLOWING IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN \$10,000 FOR EACH OFFENSE AND NOT MORE THAN AN AMOUNT EQUAL TO THREE TIMES THE CONTRACT AMOUNT:~~

~~(I) SUBMIT TO THE BOARD A COPY OF THE CONTRACT~~

1       ~~DESCRIBED IN SUBSECTION (A); OR~~

2               ~~(II) PAY OVER TO THE BOARD ANY MONEYS OR OTHER~~  
3       ~~CONSIDERATION AS REQUIRED BY THIS SECTION.~~

4       ~~(2) IF TWO OR MORE PERSONS ARE SUBJECT TO THE PENALTIES~~  
5       ~~PROVIDED IN THIS SECTION, THE PERSONS SHALL BE JOINTLY AND~~  
6       ~~SEVERALLY LIABLE FOR THE PAYMENT OF THE PENALTY IMPOSED.~~

7       ~~(3) AFTER NOTICE AND OPPORTUNITY TO BE HEARD IS~~  
8       ~~PROVIDED, THE BOARD MAY BY ORDER ASSESS THE PENALTIES~~  
9       ~~DESCRIBED IN THIS SECTION.~~

10       ~~(4) IF THE PENALTIES ARE NOT PAID WITHIN 30 DAYS FROM~~  
11       ~~THE DATE OF THE ORDER, ANY PENALTY ASSESSED UNDER THIS~~  
12       ~~SECTION SHALL BEAR INTEREST AT THE RATE OF 1% PER MONTH,~~  
13       ~~COMPOUNDED MONTHLY.~~

14       ~~(5) AN ACTION TO RECOVER A CIVIL PENALTY ASSESSED UNDER~~  
15       ~~THIS SECTION MAY BE BROUGHT BY THE BOARD IN A COURT OF~~  
16       ~~COMPETENT JURISDICTION WITHIN SIX YEARS AFTER THE CAUSE OF~~  
17       ~~ACTION ACCRUES.~~

18       ~~(6) ANY MONEYS RECOVERED UNDER THIS SUBSECTION SHALL BE~~  
19       ~~PAID INTO THE CRIME VICTIM'S COMPENSATION FUND.~~

20       ~~(g) (H) Definitions. As used in this section, the following~~ <—  
21       ~~words and phrases shall have the meanings given to them in this~~  
22       ~~subsection:~~

23       ~~"Board." The Crime Victim's Compensation Board as defined in~~  
24       ~~section 477 of the act of April 9, 1929 (P.L.177, No.175), known~~  
25       ~~as The Administrative Code of 1929.~~

26       ~~"Convicted." Includes conviction by entry of a plea of~~  
27       ~~guilty or nolo contendere, conviction after trial and a finding~~  
28       ~~of not guilty due to insanity or of guilty but mentally ill.~~

29       ~~"Eligible person." Includes any of the following persons:~~

30       ~~(1) A victim of the particular crime in question.~~



~~(2) An intervenor in such crime.~~

~~(3) A surviving spouse, parent or child of a deceased victim of, or intervenor in, such crime.~~

~~(4) Any other person dependent for his principal support upon a deceased victim of, or intervenor in, such crime.~~

~~No person who is criminally responsible for the crime in question or was an accomplice of the person who is criminally responsible shall be an eligible person.~~

~~"Profit from a crime." Includes any of the following:~~

~~(1) Any property obtained through or income generated from the commission of a crime of which the defendant was convicted.~~

~~(2) Any property obtained by or income generated from the sale, conversion or exchange of proceeds of a crime of which the defendant was convicted, including any gain realized by such sale, conversion or exchange.~~

~~(3) Any property which the defendant obtained or income generated as a result of having committed the crime of which the defendant was convicted, including any assets obtained through the use of unique knowledge obtained during the commission of, or in preparation for the commission of, the crime, as well as any property obtained by or income generated from the sale, conversion or exchange of such property and any gain realized by such sale, conversion or exchange.~~

~~Section 3. Sections 6352, 9721(c) and 9728 of Title 42 are amended to read:~~

SECTION 2. SECTION 6352 OF TITLE 42 IS AMENDED TO READ:

<—

§ 6352. Disposition of delinquent child.

(a) General rule.--If the child is found to be a delinquent

1 child the court may make any of the following orders of  
2 disposition best suited to his treatment, supervision,  
3 rehabilitation, and welfare:

4 (1) Any order authorized by section 6351 (relating to  
5 disposition of dependent child).

6 (2) Placing the child on probation under supervision of  
7 the probation officer of the court or the court of another  
8 state as provided in section 6363 (relating to ordering  
9 foreign supervision), under conditions and limitations the  
10 court prescribes.

11 (3) Committing the child to an institution, youth  
12 development center, camp, or other facility for delinquent  
13 children operated under the direction or supervision of the  
14 court or other public authority and approved by the  
15 Department of Public Welfare.

16 (4) If the child is 12 years of age or older, committing  
17 the child to an institution operated by the Department of  
18 Public Welfare.

19 (5) Ordering payment by the child of reasonable amounts  
20 of money as fines[, ] or costs [or restitution] as deemed  
21 appropriate as part of the plan of rehabilitation considering  
22 the nature of the acts committed and the earning capacity of  
23 the child.

24 [(6) An order of the terms of probation may include an  
25 appropriate fine considering the nature of the act committed  
26 or restitution not in excess of actual damages caused by the  
27 child which shall be paid from the earnings of the child  
28 received through participation in a constructive program of  
29 service or education acceptable to the victim and the court  
30 whereby, during the course of such service, the child shall

1 be paid not less than the minimum wage of this Commonwealth.  
2 In ordering such service, the court shall take into  
3 consideration the age, physical and mental capacity of the  
4 child and the service shall be designed to impress upon the  
5 child a sense of responsibility for the injuries caused to  
6 the person or property of another. The order of the court  
7 shall be limited in duration consistent with the limitations  
8 in section 6353 (relating to limitation on and change in  
9 place of commitment) and in the act of May 13, 1915 (P.L.286,  
10 No.177), known as the "Child Labor Law." The court order  
11 shall specify the nature of the work, the number of hours to  
12 be spent performing the assigned tasks, and shall further  
13 specify that as part of a plan of treatment and  
14 rehabilitation that up to 75% of the earnings of the child be  
15 used for restitution in order to provide positive  
16 reinforcement for the work performed.]

17 (6) A child shall not be committed or transferred to a  
18 penal institution or other facility used primarily for the  
19 execution of sentences of adults convicted of a crime.

20 In selecting from the alternatives set forth in this section,  
21 the court shall follow the general principle that the  
22 disposition imposed should provide the means through which the  
23 provisions of this chapter are executed and enforced consistent  
24 with section 6301(b) (relating to purposes) and when confinement  
25 is necessary, the court shall impose the minimum amount of  
26 confinement that is consistent with the protection of the public  
27 and the rehabilitation needs of the child.

28 [(b) Limitation on place of commitment.--A child shall not  
29 be committed or transferred to a penal institution or other  
30 facility used primarily for the execution of sentences of adults

1 convicted of a crime.]

2 (b) Mandatory restitution.--If the child is found to be a  
3 delinquent child, in addition to any orders issued under  
4 subsection (a), the court shall order the child or the child's  
5 parent or parents or the child and the child's parent or parents  
6 to compensate the victim of the child's conduct for the damage  
7 or injury that the victim sustained.

8 ~~(c) Parental liability. In addition to any restitution~~ <—  
9 ~~ordered to be paid by the child, the court shall order any~~

10 (C) PARENTAL LIABILITY.-- <—

11 (1) IN ADDITION TO ANY RESTITUTION ORDERED TO BE PAID BY  
12 THE CHILD, THE COURT SHALL ORDER ANY remaining restitution to  
13 be paid by the parent or parents. Where the court finds that  
14 the parent or parents have the capacity to compensate the  
15 victim in an amount exceeding the limits set forth in 23  
16 Pa.C.S. § 5505 (relating to monetary limits of liability),  
17 the court may, in the interest of justice, order restitution  
18 in an amount exceeding the limits, in accordance with the  
19 capacity of the parent's or parents' ability to pay and the  
20 relation which the parent's or parents' conduct or omission  
21 bears to the commission of the delinquent act.

22 (2) THE COURT SHALL AFFORD ALL OF THE FOLLOWING TO ANY <—  
23 PARENT AGAINST WHOM AN ORDER OF RESTITUTION MAY BE MADE UNDER  
24 THIS SUBSECTION:

25 (I) NOTICE THAT THE PARENT MAY POTENTIALLY BE LIABLE  
26 TO PAY RESTITUTION AS PROVIDED FOR UNDER THIS SECTION;

27 (II) AN OPPORTUNITY FOR A HEARING BEFORE THE COURT;

28 (III) AN OPPORTUNITY TO BE HEARD AT THE HEARING  
29 REQUIRED BY SUBPARAGRAPH (II); AND

30 (IV) THE RIGHT TO BE REPRESENTED BY COUNSEL AT THE

1           HEARING REQUIRED BY SUBPARAGRAPH (II), BUT NOT AT COURT  
2           EXPENSE.

3           (3) NOTHING IN THIS SECTION SHALL PREVENT A COURT FROM  
4           IMPLEMENTING AN ORDER OF DISPOSITION UNDER SUBSECTION (A)  
5           EVEN THOUGH ISSUES OF RESTITUTION MAY NOT FULLY BE RESOLVED.

6           (d) Collection of restitution.--Any order of restitution  
7           entered under this section shall be collectible in accordance  
8           with the provisions set forth under section 9728 (relating to  
9           collection of restitution, reparation, fees, costs, fines and  
10          penalties).

11          (e) Program of service, education or employment.--The court  
12          may order that fines, costs or restitution shall be paid from  
13          the earnings of the child received through participation in a  
14          constructive program of service, education or employment that is  
15          acceptable to the victim and court whereby, during the course of  
16          the service, the child shall be paid not less than the minimum  
17          wage of this Commonwealth. In making such an order, the court  
18          shall take into consideration the age and physical, mental and  
19          earning capacity of the child, and the program shall be designed  
20          to impress upon the child a sense of responsibility for the  
21          injuries caused to the person or property of another. The order  
22          of the court shall be limited in duration consistent with the  
23          limitations under section 6353 (relating to limitation on and  
24          change in place of commitment) and in the act of May 13, 1915  
25          (P.L.286, No.177), known as the Child Labor Law. The court order  
26          shall specify the nature of the work and the number of hours to  
27          be spent performing the assigned tasks and shall further specify  
28          that, as part of a plan of treatment and rehabilitation, up to  
29          75% of the earnings of the child be used for restitution, in  
30          order to provide positive reinforcement for the work performed.

1     (F) DEFINITION.--AS USED IN THIS SECTION, THE TERM "VICTIM"     <—  
2     SHALL BE AS DEFINED IN SECTION 479.1 OF THE ACT OF APRIL 9, 1929  
3     (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

4     SECTION 3. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:     <—  
5     § 8312. PROFITS RECEIVED AS A RESULT OF COMMISSION OF CRIME.

6     (A) GENERAL RULE.--IF A PERSON HAS BEEN CONVICTED OF A  
7     CRIME, EVERY PERSON WHO KNOWINGLY CONTRACTS FOR, PAYS OR AGREES  
8     TO PAY ANY PROFIT FROM A CRIME TO THAT PERSON SHALL GIVE WRITTEN  
9     NOTICE TO THE BOARD OF THE PAYMENT OR OBLIGATION TO PAY AS SOON  
10    AS PRACTICABLE AFTER DISCOVERING THAT THE PAYMENT OR INTENDED  
11    PAYMENT IS A PROFIT FROM A CRIME. THE BOARD, UPON RECEIPT OF  
12    NOTICE OF A CONTRACT, AN AGREEMENT TO PAY OR PAYMENT OF PROFITS  
13    FROM A CRIME SHALL NOTIFY ALL KNOWN ELIGIBLE PERSONS AT THEIR  
14    LAST KNOWN ADDRESS OF THE EXISTENCE OF THE PROFITS.

15    (B) RIGHT OF ACTION.--NOTWITHSTANDING ANY INCONSISTENT  
16    PROVISION OF LAW OR RULES OF CIVIL PROCEDURE WITH RESPECT TO THE  
17    TIMELY BRINGING OF AN ACTION, ANY ELIGIBLE PERSON SHALL HAVE THE  
18    RIGHT TO BRING A CIVIL ACTION IN A COURT OF COMPETENT  
19    JURISDICTION TO RECOVER MONEY DAMAGES FROM A PERSON CONVICTED OF  
20    A CRIME, OR THE LEGAL REPRESENTATIVE OF THAT CONVICTED PERSON,  
21    WITHIN THREE YEARS OF THE DISCOVERY OF ANY PROFITS FROM A CRIME.  
22    ANY DAMAGES AWARDED IN THIS ACTION SHALL BE RECOVERABLE ONLY UP  
23    TO THE VALUE OF THE PROFITS FROM THE CRIME. IF AN ACTION IS  
24    FILED UNDER THIS SUBSECTION AFTER THE EXPIRATION OF ALL OTHER  
25    APPLICABLE STATUTES OF LIMITATION, ANY OTHER ELIGIBLE PERSON  
26    MUST FILE ANY ACTION FOR DAMAGES AS A RESULT OF THE CRIME WITHIN  
27    THREE YEARS OF THE ACTUAL DISCOVERY OF PROFITS FROM THE CRIME OR  
28    OF ACTUAL NOTICE RECEIVED FROM OR NOTICE PUBLISHED BY THE BOARD  
29    OF THE DISCOVERY, WHICHEVER IS LATER. IF ANY PROFITS FROM A  
30    CRIME REMAIN AFTER THE PAYMENT OF CLAIMS MADE UNDER THIS

1 SECTION, THE BOARD SHALL HAVE THE RIGHT TO BRING A CIVIL ACTION  
2 WITHIN TWO YEARS IN A COURT OF COMPETENT JURISDICTION TO RECOVER  
3 ANY PAYMENTS MADE BY THE BOARD PURSUANT TO ARTICLE IV OF THE ACT  
4 OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE  
5 CODE OF 1929, AND ANY EXPENSES INCURRED BY THE BOARD PURSUANT TO  
6 ARTICLE IV OF THE ADMINISTRATIVE CODE OF 1929, OR THIS SECTION  
7 WITH REGARD TO SUCH CRIME OR THE PERSON CONVICTED OF SUCH CRIME.

8 (C) NOTICE.--UPON FILING AN ACTION UNDER SUBSECTION (B), THE  
9 ELIGIBLE PERSON SHALL GIVE NOTICE TO THE BOARD OF THE FILING BY  
10 DELIVERING A COPY OF THE COMPLAINT TO THE BOARD. THE ELIGIBLE  
11 PERSON MAY ALSO GIVE NOTICE TO THE BOARD PRIOR TO FILING THE  
12 ACTION SO AS TO ALLOW THE BOARD TO APPLY FOR ANY APPROPRIATE  
13 REMEDIES WHICH ARE OTHERWISE AUTHORIZED TO BE INVOKED PRIOR TO  
14 THE COMMENCEMENT OF AN ACTION.

15 (D) RESPONSIBILITIES OF BOARD.--UPON RECEIPT OF A COPY OF A  
16 COMPLAINT, THE BOARD SHALL IMMEDIATELY TAKE ACTION AS NECESSARY  
17 TO:

18 (1) NOTIFY ALL OTHER KNOWN ELIGIBLE PERSONS OF THE  
19 ALLEGED EXISTENCE OF PROFITS FROM A CRIME BY CERTIFIED MAIL,  
20 RETURN RECEIPT REQUESTED, WHERE THE ELIGIBLE PERSONS' NAMES  
21 AND ADDRESSES ARE KNOWN BY THE BOARD.

22 (2) PUBLISH, AT LEAST ONCE A YEAR FOR THREE YEARS FROM  
23 THE DATE IT IS INITIALLY NOTIFIED BY AN ELIGIBLE PERSON UNDER  
24 SUBSECTION (C), A LEGAL NOTICE IN NEWSPAPERS OF GENERAL  
25 CIRCULATION IN THE COUNTY WHEREIN THE CRIME WAS COMMITTED AND  
26 IN COUNTIES CONTIGUOUS TO THAT COUNTY ADVISING ANY ELIGIBLE  
27 PERSONS OF THE EXISTENCE OF PROFITS FROM A CRIME. THE BOARD  
28 MAY IN ITS DISCRETION PROVIDE FOR ADDITIONAL NOTICE AS IT  
29 DEEMS NECESSARY.

30 (3) AVOID THE WASTING OF THE ASSETS IDENTIFIED IN THE

1 COMPLAINT AS THE NEWLY DISCOVERED PROFITS FROM A CRIME IN ANY  
2 MANNER CONSISTENT WITH SUBSECTION (E).

3 (E) OTHER REMEDIES.--THE BOARD, ACTING ON BEHALF OF ALL  
4 ELIGIBLE PERSONS, SHALL HAVE THE RIGHT TO APPLY FOR ANY AND ALL  
5 REMEDIES THAT ARE ALSO OTHERWISE AVAILABLE TO AN ELIGIBLE PERSON  
6 BRINGING AN ACTION UNDER SUBSECTION (B). THE REMEDIES OF  
7 ATTACHMENT, INJUNCTION, RECEIVERSHIP AND NOTICE OF PENDENCY  
8 AVAILABLE UNDER LAW TO AN ELIGIBLE PERSON BRINGING AN ACTION  
9 UNDER SUBSECTION (B) SHALL ALSO BE AVAILABLE TO THE BOARD IN ALL  
10 ACTIONS UNDER THIS SUBSECTION. ON A MOTION FOR A REMEDY, THE  
11 MOVING PARTY SHALL STATE WHETHER ANY OTHER REMEDY HAS PREVIOUSLY  
12 BEEN SOUGHT IN THE SAME ACTION AGAINST THE SAME DEFENDANT. THE  
13 COURT MAY REQUIRE THE MOVING PARTY TO ELECT BETWEEN THOSE  
14 REMEDIES TO WHICH IT WOULD OTHERWISE BE ENTITLED.

15 (F) EVASIVE ACTION NULL AND VOID.--ANY ACTION TAKEN BY ANY  
16 PERSON CONVICTED OF A CRIME, WHETHER BY WAY OF EXECUTION OF A  
17 POWER OF ATTORNEY, CREATION OF CORPORATE ENTITIES OR OTHERWISE,  
18 TO DEFEAT THE PURPOSE OF THIS SECTION SHALL BE NULL AND VOID AS  
19 AGAINST THE PUBLIC POLICY OF THIS COMMONWEALTH.

20 (G) PENALTIES.--

21 (1) ANY PERSON WHO WILLFULLY FAILS TO DO ANY OF THE  
22 FOLLOWING IS SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN  
23 \$10,000 FOR EACH OFFENSE AND NOT MORE THAN AN AMOUNT EQUAL TO  
24 THREE TIMES THE CONTRACT AMOUNT:

25 (I) SUBMIT TO THE BOARD A COPY OF THE CONTRACT  
26 DESCRIBED IN SUBSECTION (A); OR  
27 (II) PAY OVER TO THE BOARD ANY MONEYS OR OTHER  
28 CONSIDERATION AS REQUIRED BY THIS SECTION.

29 (2) IF TWO OR MORE PERSONS ARE SUBJECT TO THE PENALTIES  
30 PROVIDED IN THIS SECTION, THE PERSONS SHALL BE JOINTLY AND



1 SEVERALLY LIABLE FOR THE PAYMENT OF THE PENALTY IMPOSED.

2 (3) AFTER NOTICE AND OPPORTUNITY TO BE HEARD IS  
3 PROVIDED, THE BOARD MAY BY ORDER ASSESS THE PENALTIES  
4 DESCRIBED IN THIS SECTION.

5 (4) IF THE PENALTIES ARE NOT PAID WITHIN 30 DAYS FROM  
6 THE DATE OF THE ORDER, ANY PENALTY ASSESSED UNDER THIS  
7 SECTION SHALL BEAR INTEREST AT THE RATE OF 1% PER MONTH,  
8 COMPOUNDED MONTHLY.

9 (5) AN ACTION TO RECOVER A CIVIL PENALTY ASSESSED UNDER  
10 THIS SECTION MAY BE BROUGHT BY THE BOARD IN A COURT OF  
11 COMPETENT JURISDICTION WITHIN SIX YEARS AFTER THE CAUSE OF  
12 ACTION ACCRUES.

13 (6) ANY MONEYS RECOVERED UNDER THIS SUBSECTION SHALL BE  
14 PAID INTO THE CRIME VICTIM'S COMPENSATION FUND.

15 (H) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
16 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
17 SUBSECTION:

18 "BOARD." THE CRIME VICTIM'S COMPENSATION BOARD AS DEFINED IN  
19 SECTION 477 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN  
20 AS THE ADMINISTRATIVE CODE OF 1929.

21 "CONVICTED." INCLUDES CONVICTION BY ENTRY OF A PLEA OF  
22 GUILTY OR NOLO CONTENDERE, CONVICTION AFTER TRIAL AND A FINDING  
23 OF NOT GUILTY DUE TO INSANITY OR OF GUILTY BUT MENTALLY ILL.

24 "ELIGIBLE PERSON." INCLUDES ANY OF THE FOLLOWING PERSONS:

25 (1) A VICTIM OF THE PARTICULAR CRIME IN QUESTION, AS  
26 "VICTIM" IS DEFINED IN SECTION 479.1 OF THE ACT OF APRIL 9,  
27 1929 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF  
28 1929.

29 (2) AN INTERVENOR IN SUCH CRIME.

30 (3) A SURVIVING SPOUSE, PARENT OR CHILD OF A DECEASED

1 VICTIM OF, OR INTERVENOR IN, SUCH CRIME.

2 (4) ANY OTHER PERSON DEPENDENT FOR HIS PRINCIPAL SUPPORT  
3 UPON A DECEASED VICTIM OF, OR INTERVENOR IN, SUCH CRIME.  
4 NO PERSON WHO IS CRIMINALLY RESPONSIBLE FOR THE CRIME IN  
5 QUESTION OR WAS AN ACCOMPLICE OF THE PERSON WHO IS CRIMINALLY  
6 RESPONSIBLE SHALL BE AN ELIGIBLE PERSON.

7 "PROFIT FROM A CRIME." INCLUDES ANY OF THE FOLLOWING:

8 (1) ANY PROPERTY OBTAINED THROUGH OR INCOME GENERATED  
9 FROM THE COMMISSION OF A CRIME OF WHICH THE DEFENDANT WAS  
10 CONVICTED.

11 (2) ANY PROPERTY OBTAINED BY OR INCOME GENERATED FROM  
12 THE SALE, CONVERSION OR EXCHANGE OF PROCEEDS OF A CRIME OF  
13 WHICH THE DEFENDANT WAS CONVICTED, INCLUDING ANY GAIN  
14 REALIZED BY SUCH SALE, CONVERSION OR EXCHANGE.

15 (3) ANY PROPERTY WHICH THE DEFENDANT OBTAINED OR INCOME  
16 GENERATED AS A RESULT OF HAVING COMMITTED THE CRIME OF WHICH  
17 THE DEFENDANT WAS CONVICTED, INCLUDING ANY ASSETS OBTAINED  
18 THROUGH THE USE OF UNIQUE KNOWLEDGE OBTAINED DURING THE  
19 COMMISSION OF, OR IN PREPARATION FOR THE COMMISSION OF, THE  
20 CRIME, AS WELL AS ANY PROPERTY OBTAINED BY OR INCOME  
21 GENERATED FROM THE SALE, CONVERSION OR EXCHANGE OF SUCH  
22 PROPERTY AND ANY GAIN REALIZED BY SUCH SALE, CONVERSION OR  
23 EXCHANGE.

24 SECTION 4. SECTIONS 9721(C) AND 9728 OF TITLE 42 ARE AMENDED  
25 TO READ:

26 § 9721. Sentencing generally.

27 \* \* \*

28 (c) [Restitution] Mandatory restitution.--In addition to the  
29 alternatives set forth in subsection (a) of this section the  
30 court [may] shall order the defendant to compensate the victim

1 of his criminal conduct for the damage or injury that he  
2 sustained. FOR PURPOSES OF THIS SUBSECTION, THE TERM "VICTIM"  
3 SHALL BE AS DEFINED IN SECTION 479.1 OF THE ACT OF APRIL 9, 1929  
4 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

5 \* \* \*

6 § 9728. Collection of restitution, reparation, fees, costs,  
7 fines and penalties.

8 (a) General rule.--All restitution, reparation, fees, costs,  
9 fines and penalties shall be collectible in any manner provided  
10 by law. However, such restitution, reparation, fees, costs,  
11 fines and penalties are part of a criminal action or proceeding  
12 and shall not be deemed debts. A sentence [or], pretrial  
13 disposition order or order entered under section 6352 (relating  
14 to disposition of delinquent child) for restitution, reparation,  
15 fees, costs, fines or penalties shall, together with interest  
16 and any additional costs that may accrue, be a judgment in favor  
17 of the probation department upon the person or the property of  
18 the person sentenced or subject to the [pretrial disposition]  
19 order.

20 (b) Procedure.--The county probation department or other  
21 appropriate governmental agency shall, upon sentencing [or],  
22 pretrial disposition or other order, transmit to the  
23 prothonotary of the respective county certified copies of all  
24 judgments for restitution, reparation, fees, costs, fines and  
25 penalties, and it shall be the duty of each prothonotary to  
26 enter and docket the same of record in his office and to index  
27 the same as judgments are indexed, without requiring the payment  
28 of costs as a condition precedent to the entry thereof. The  
29 total amount for which the person is liable pursuant to this  
30 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.

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

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

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

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

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

(i) there is a substantial probability that:

1 (A) the Commonwealth will prevail on the  
2 underlying criminal charges or allegation of  
3 delinquency;

4 (B) restitution will be ordered exceeding  
5 \$10,000 in value;

6 (C) the property appears to be necessary to  
7 satisfy such restitution order; and

8 (D) failure to enter the order will result in  
9 the property being destroyed, removed from the  
10 jurisdiction of the court or otherwise made  
11 unavailable for payment of the anticipated  
12 restitution order; and

13 (ii) the need to preserve the availability of the  
14 property through the entry of the requested order  
15 outweighs the hardship on any party against whom the  
16 order is to be entered.

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

1 an extension for a longer period. A hearing requested concerning  
2 an order entered under this subsection shall be held at the  
3 earliest possible time and prior to the expiration of the  
4 temporary order.

5 (g) Costs, etc.--Any sheriff's costs, filing fees and costs  
6 of the county probation department or other appropriate  
7 governmental agency shall be borne by the defendant and shall be  
8 collected by the county probation department or other  
9 appropriate governmental agency along with the total amount of  
10 the judgment and remitted to the appropriate agencies at the  
11 time of or prior to satisfaction of judgment.

12 (h) Effect on contempt proceedings.--This section shall not  
13 affect contempt proceedings mandated by 18 Pa.C.S. § 1106(f).

14 Section 4 5. Section 477.18 of the act of April 9, 1929 <—  
15 (P.L.177, No.175), known as The Administrative Code of 1929, is  
16 repealed.

17 ~~Section 5. This act shall take effect in 60 days.~~ <—

18 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

19 (1) THE ADDITION OF 18 PA.C.S. § 1109 SHALL TAKE EFFECT  
20 IMMEDIATELY.

21 (2) SECTION 5 AND THIS SECTION SHALL TAKE EFFECT  
22 IMMEDIATELY.

23 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
24 DAYS.