

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 421 Session of  
2001

INTRODUCED BY ARMSTRONG, THOMPSON, WAGNER, RHOADES, MADIGAN,  
TARTAGLIONE, COSTA, BODACK, STOUT, M. WHITE, WOZNIAK, O'PAKE,  
WAUGH, MOWERY, GREENLEAF, CORMAN, GERLACH, BOSCOLA, EARLL,  
MUSTO, LOGAN AND KASUNIC, FEBRUARY 12, 2001

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, NOVEMBER 20, 2001

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing FOR <—  
3 COSTS, FOR COMMONWEALTH PORTION OF FINES, ETC. AND for the  
4 right of action regarding profits received as a result of the  
5 commission of a crime; AND PROVIDING FOR LIABILITY FOR <—  
6 VIOLATIONS OF GENERAL AND SPECIFIC CRIMINAL STATUTES, FOR  
7 SENTENCING FOR TERRORISM AND FOR SENTENCING GENERALLY AND FOR  
8 MERGER OF SENTENCES.

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

11 ~~Section 1. Section 8312(b) and (h) of Title 42 of the~~ <—  
12 ~~Pennsylvania Consolidated Statutes are amended to read:~~

13 SECTION 1. SECTIONS 1725.1, 3571(C) AND 8312(B) AND (H) OF <—  
14 TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED  
15 TO READ:

16 § 1725.1. COSTS.

17 (A) CIVIL CASES.--SUBJECT TO SUBSECTION (F), THE COSTS TO BE  
18 CHARGED BY DISTRICT JUSTICES IN EVERY CIVIL CASE, EXCEPT AS  
19 OTHERWISE PROVIDED IN THIS SECTION, SHALL BE AS FOLLOWS:

1	(1) ACTIONS INVOLVING \$500 OR	
2	LESS.....	\$30.00
3	(2) ACTIONS INVOLVING MORE THAN	
4	\$500 BUT NOT MORE THAN \$2,000.....	\$40.00
5	(3) ACTIONS INVOLVING MORE THAN	
6	\$2,000 BUT NOT MORE THAN \$4,000.....	\$50.00
7	(4) ACTIONS INVOLVING MORE THAN	
8	\$4,000 BUT NOT MORE THAN \$8,000.....	\$75.00
9	(5) LANDLORD-TENANT ACTIONS INVOLVING	
10	LESS THAN \$2,000.....	\$45.00
11	(6) LANDLORD-TENANT ACTIONS INVOLVING MORE	
12	THAN \$2,000 BUT NOT MORE THAN \$4,000.....	\$55.00
13	(7) LANDLORD-TENANT ACTIONS INVOLVING MORE	
14	THAN \$4,000 BUT NOT MORE THAN \$8,000.....	\$75.00
15	(8) ORDER OF EXECUTION.....	\$22.50
16	(9) OBJECTION TO LEVY.....	\$10.00
17	(10) REINSTATEMENT OF COMPLAINT.....	\$ 5.00

18 SUCH COSTS SHALL INCLUDE ALL CHARGES EXCEPT THE COSTS OF A  
19 DISTRICT JUSTICE'S TRANSCRIPT OF EVERY PROCEEDING ON APPEAL OR  
20 CERTIORARI (INCLUDING AFFIDAVIT AND CERTIFICATE) WHICH SHALL BE  
21 \$2.50 PER TRANSCRIPT. SAID COSTS SHALL NOT INCLUDE, HOWEVER, THE  
22 COST OF POSTAGE AND REGISTERED MAIL WHICH SHALL BE BORNE BY THE  
23 PLAINTIFF.

24 (A.1) CUSTODY CASES.--EXCEPT AS PROVIDED IN SECTION  
25 1725(C)(2)(V) (RELATING TO ESTABLISHMENT OF FEES AND CHARGES)  
26 AND SUBJECT TO SUBSECTION (F), IN A CUSTODY CASE, THE COURT OF  
27 COMMON PLEAS SHALL, IN ADDITION TO THE COST PROVIDED BY GENERAL  
28 RULE, ASSESS A COST OF \$5.00. EIGHTY PERCENT OF THE FUNDS  
29 GENERATED BY THE CHARGE UNDER THIS SUBSECTION SHALL BE  
30 TRANSMITTED BY THE PROTHONOTARY TO THE ADMINISTRATIVE OFFICE TO

1 PAY FOR THE IMPLEMENTATION OF SECTION 1904 (RELATING TO  
2 AVAILABILITY OF CRIMINAL CHARGE INFORMATION IN CHILD CUSTODY  
3 PROCEEDINGS).

4 (B) CRIMINAL CASES.--SUBJECT TO SUBSECTION (F), THE COSTS TO  
5 BE CHARGED BY THE MINOR JUDICIARY OR BY THE COURT OF COMMON  
6 PLEAS WHERE APPROPRIATE IN EVERY CRIMINAL CASE, EXCEPT AS  
7 OTHERWISE PROVIDED IN THIS SECTION, SHALL BE AS FOLLOWS:

8 (1) SUMMARY CONVICTION, EXCEPT MOTOR VEHICLE  
9 CASES..... \$28.50

10 (2) SUMMARY CONVICTION, MOTOR VEHICLES CASES,  
11 OTHER THAN PARAGRAPH (3)..... \$22.50

12 (3) SUMMARY CONVICTION, MOTOR VEHICLE CASES,  
13 HEARING DEMANDED..... \$27.50

14 (4) MISDEMEANOR..... \$32.50

15 (5) FELONY..... \$37.50

16 SUCH COSTS SHALL INCLUDE ALL CHARGES INCLUDING THE COSTS OF  
17 GIVING A DISTRICT JUSTICE'S TRANSCRIPT TO THE PROSECUTOR OR  
18 DEFENDANT, OR BOTH, IF REQUESTED. SUCH COSTS SHALL NOT INCLUDE,  
19 HOWEVER, THE COST OF POSTAGE AND REGISTERED MAIL WHICH SHALL BE  
20 PAID BY THE DEFENDANT UPON CONVICTION.

21 (C) UNCLASSIFIED COSTS OR CHARGES.--SUBJECT TO SUBSECTION  
22 (F), THE COSTS TO BE CHARGED BY THE MINOR JUDICIARY IN THE  
23 FOLLOWING INSTANCES NOT READILY CLASSIFIABLE SHALL BE AS  
24 FOLLOWS:

25 (1) ENTERING TRANSCRIPT OF JUDGMENT FROM ANOTHER  
26 MEMBER OF THE MINOR JUDICIARY..... \$ 5.00

27 (2) MARRYING EACH COUPLE, MAKING RECORD THEREOF,  
28 AND CERTIFICATE TO THE PARTIES..... \$25.00

29 (3) GRANTING EMERGENCY RELIEF PURSUANT TO 23 PA.C.S.  
30 CH. 61 (RELATING TO PROTECTION FROM ABUSE)..... \$10.00

1           (4) ISSUING A SEARCH WARRANT (EXCEPT AS PROVIDED  
2       IN SUBSECTION (D))..... \$10.00

3           (5) ANY OTHER ISSUANCE NOT OTHERWISE PROVIDED FOR  
4       IN THIS SUBSECTION..... \$10.00

5       (D) SEARCH WARRANTS.--IN EVERY CASE WHERE A SEARCH WARRANT  
6       IS REQUESTED BY A POLICE OFFICER, CONSTABLE OR OTHER PEACE  
7       OFFICER ENGAGED AS SUCH IN THE EMPLOY OR SERVICE OF THE  
8       COMMONWEALTH OR ANY OF ITS POLITICAL SUBDIVISIONS, NO COST OR  
9       CHARGE SHALL BE ASSESSED AGAINST SUCH OFFICER, THE COMMONWEALTH  
10      OR POLITICAL SUBDIVISION FOR THE ISSUANCE OF SUCH SEARCH  
11      WARRANT.

12      (E) FISH AND BOATING OFFENSES.--

13           (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), ANY PERSON  
14      CONVICTED OF A SUMMARY OFFENSE UNDER TITLE 30 (RELATING TO  
15      FISH) SHALL, IN ADDITION TO THE FINE IMPOSED, BE SENTENCED TO  
16      PAY \$10 AS COSTS OF THE ISSUING AUTHORITY WHICH COSTS SHALL  
17      INCLUDE ALL CHARGES INCLUDING, WHEN CALLED FOR, THE COSTS OF  
18      POSTAGE AND REGISTERED OR CERTIFIED MAIL AND THE COSTS OF  
19      GIVING A TRANSCRIPT TO THE PROSECUTOR OR DEFENDANT, OR BOTH,  
20      IF REQUESTED.

21           (2) WHERE THE PERSON CHARGED WITH A SUMMARY OFFENSE  
22      UNDER TITLE 30 DEMANDS A HEARING, THE COSTS OF THE ISSUING  
23      AUTHORITY SHALL BE \$15, WHICH COSTS SHALL INCLUDE ALL CHARGES  
24      INCLUDING THE CHARGES SPECIFIED IN PARAGRAPH (1).

25      (F) ANNUAL INCREASE IN COSTS.--BEGINNING ON JANUARY 1, 1994,  
26      AND EACH JANUARY 1 THEREAFTER, THE COSTS UNDER SUBSECTIONS (A),  
27      (B) AND (C) SHALL BE INCREASED BY THE PERCENTAGE OF INCREASE IN  
28      THE CONSUMER PRICE INDEX FOR URBAN WORKERS FOR THE IMMEDIATE  
29      PRECEDING CALENDAR YEAR WHICH SHALL BE PUBLISHED IN THE  
30      PENNSYLVANIA BULLETIN ANNUALLY BY THE SUPREME COURT ON OR BEFORE

1 THE PRECEDING NOVEMBER 30. THIS SUBSECTION SHALL EXPIRE JANUARY  
2 1, [2001] 2010.

3 § 3571. COMMONWEALTH PORTION OF FINES, ETC.

4 \* \* \*

5 (C) COSTS IN DISTRICT JUSTICE PROCEEDINGS.--

6 (1) COSTS COLLECTED BY A DISTRICT JUSTICE SHALL BE  
7 TRANSMITTED MONTHLY TO THE COMMONWEALTH IN AMOUNTS AS  
8 PRESCRIBED IN SUBSECTION (B) AND THE BALANCE SHALL BE  
9 TRANSMITTED MONTHLY TO THE COUNTY IN WHICH THE MAGISTERIAL  
10 DISTRICT IS LOCATED. COSTS TRANSMITTED TO THE COMMONWEALTH  
11 SHALL BE CREDITED TO THE GENERAL FUND. COSTS TRANSMITTED TO  
12 THE COUNTY SHALL BE RETAINED BY THE COUNTY FOR ITS USE.

13 (2) AMOUNTS PAYABLE TO THE COMMONWEALTH:

14 (I) SUMMARY CONVICTION, EXCEPT MOTOR VEHICLE  
15 CASES..... \$10.00  
16 (II) SUMMARY CONVICTION, MOTOR VEHICLE CASES OTHER  
17 THAN SUBPARAGRAPH (III)..... \$10.00  
18 (III) SUMMARY CONVICTION, MOTOR VEHICLE CASES,  
19 HEARING DEMANDED..... \$10.00  
20 (IV) MISDEMEANOR..... \$13.00  
21 (V) FELONY..... \$20.00  
22 (VI) ASSUMPSIT OR TRESPASS INVOLVING:  
23 (A) \$500 OR LESS..... \$12.50  
24 (B) MORE THAN \$500 BUT NOT MORE THAN  
25 \$2,000..... \$20.00  
26 (C) MORE THAN \$2,000 BUT NOT MORE  
27 THAN \$4,000..... \$30.00  
28 (D) MORE THAN \$4,000 BUT NOT MORE  
29 THAN \$8,000..... \$50.00  
30 (VII) LANDLORD-TENANT PROCEEDING INVOLVING:

1 (A) \$2,000 OR LESS..... \$20.00  
2 (B) MORE THAN \$2,000 BUT NOT MORE THAN  
3 \$4,000..... \$25.00  
4 (C) MORE THAN \$4,000 BUT NOT MORE THAN  
5 \$8,000..... \$35.00  
6 (VIII) OBJECTION TO LEVY..... \$ 5.00  
7 (IX) ORDER OF EXECUTION..... \$15.00  
8 (X) ISSUING A SEARCH WARRANT (EXCEPT AS PROVIDED  
9 IN SECTION 1725.1(D) (RELATING TO COSTS))..... \$ 7.00  
10 (XI) ORDER OF POSSESSION..... \$15.00

11 (3) IN ALL CASES WHERE COSTS ARE BORNE BY THE COUNTY  
12 PURSUANT TO SECTION 1725.2 (RELATING TO ASSUMPTION OF SUMMARY  
13 CONVICTION COSTS BY COUNTY), NO SHARE OF SUCH COSTS SHALL BE  
14 PAYABLE TO THE COMMONWEALTH.

15 (4) BEGINNING ON JANUARY 1, 1994, AND EACH JANUARY 1  
16 THEREAFTER, THE COSTS UNDER PARAGRAPH (2) SHALL BE INCREASED  
17 BY THE PERCENTAGE OF INCREASE IN THE CONSUMER PRICE INDEX FOR  
18 URBAN WORKERS FOR THE IMMEDIATE PRECEDING CALENDAR YEAR WHICH  
19 SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN ANNUALLY BY  
20 THE SUPREME COURT ON OR BEFORE THE PRECEDING NOVEMBER 30.  
21 THIS PARAGRAPH SHALL EXPIRE JANUARY 1, [2001] 2010.

22 \* \* \*

23 § 8312. Profits received as a result of commission of crime.

24 \* \* \*

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

1 within three years of the discovery of any profits from a crime.  
2 Any damages awarded in this action shall be recoverable only up  
3 to the value of the profits from the crime and all reasonable  
4 attorney fees and other costs associated with the litigation of  
5 the action. If an action is filed under this subsection after  
6 the expiration of all other applicable statutes of limitation,  
7 any other eligible person must file any action for damages as a  
8 result of the crime within three years of the actual discovery  
9 of profits from the crime or of actual notice received from or  
10 notice published by the [board] bureau of the discovery,  
11 whichever is later. If any profits from a crime remain after the  
12 payment of claims made under this section, the [board] bureau  
13 shall have the right to bring a civil action within two years in  
14 a court of competent jurisdiction to recover any payments made  
15 by the [board pursuant to Article IV of the act of April 9, 1929  
16 (P.L.177, No.175), known as The Administrative Code of 1929, and  
17 any expenses incurred by the board pursuant to Article IV of The  
18 Administrative Code of 1929] bureau pursuant to the act of  
19 November 24, 1998 (P.L.882, No.111), known as the Crime Victims  
20 Act, and any expenses incurred by the bureau pursuant to that  
21 act or this section with regard to such crime or the person  
22 convicted of such crime.

23 \* \* \*

24 (h) Definitions.--As used in this section, the following  
25 words and phrases shall have the meanings given to them in this  
26 subsection:

27 ["Board." The Crime Victim's Compensation Board as defined  
28 in section 477 of the act of April 9, 1929 (P.L.177, No.175),  
29 known as The Administrative Code of 1929.]

30 "Bureau." The Bureau of Victim's Services in the

Pennsylvania Commission on Crime and Delinquency as defined in  
section 103 of the act of November 24, 1998 (P.L.882, No.111),  
known as the Crime Victims Act.

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

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

(1) A victim of the particular crime in question, as  
"victim" is defined in [section 479.1 of the act of April 9,  
1929 (P.L.177, No.175), known as The Administrative Code of  
1929.] section 103 of the act of November 24, 1998 (P.L.882,  
No.111), known as the Crime Victims Act.

(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



1 the defendant was convicted, including any assets obtained  
2 through the use of unique knowledge obtained during the  
3 commission of or in preparation for the commission of the  
4 crime, as well as any property obtained by or income  
5 generated from the sale, conversion or exchange of such  
6 property and any gain realized by such sale, conversion or  
7 exchange.

8 SECTION 2. TITLE 42 IS AMENDED BY ADDING SECTIONS TO READ: <—

9 § 9303. LIABILITY FOR VIOLATIONS OF GENERAL AND SPECIFIC  
10 CRIMINAL STATUTES.

11 NOTWITHSTANDING THE PROVISIONS OF 1 PA.C.S. § 1933 (RELATING  
12 TO PARTICULAR CONTROLS GENERAL) OR ANY OTHER STATUTE TO THE  
13 CONTRARY, WHERE THE SAME CONDUCT OF A DEFENDANT VIOLATES MORE  
14 THAN ONE CRIMINAL STATUTE, THE DEFENDANT MAY BE PROSECUTED UNDER  
15 ALL AVAILABLE STATUTORY CRIMINAL PROVISIONS WITHOUT REGARD TO  
16 THE GENERALITY OR SPECIFICITY OF THE STATUTES.

17 § 9720.2. SENTENCE ENHANCEMENT FOR TERRORISM.

18 (A) GENERAL RULE.--IN ADDITION TO ANY PENALTY PROVIDED BY  
19 LAW, A PERSON MAY BE SENTENCED TO AN ADDITIONAL TERM NOT TO  
20 EXCEED TEN YEARS' CONFINEMENT AND AN ADDITIONAL FINE NOT TO  
21 EXCEED \$100,000 FOR AN OFFENSE GRADED ABOVE A SUMMARY OFFENSE  
22 IF, AT TRIAL, THE PROSECUTION PROVES BEYOND A REASONABLE DOUBT  
23 THAT THE PERSON COMMITTED THE OFFENSE WITH THE INTENT TO DO ANY  
24 OF THE FOLLOWING:

25 (1) INTIMIDATE OR COERCE A CIVILIAN POPULATION BY  
26 VIOLENCE OR THREAT OF VIOLENCE.

27 (2) INFLUENCE THE POLICY OF A UNIT OF GOVERNMENT BY  
28 INTIMIDATION OR COERCION BY VIOLENCE OR THREAT OF VIOLENCE.

29 (3) AFFECT THE CONDUCT OF A UNIT OF GOVERNMENT BY MASS  
30 DESTRUCTION, ASSASSINATION OR KIDNAPPING.

1     (B) INCHOATE CRIMES.--SUBSECTION (A) APPLIES TO ANY ATTEMPT,  
2 CONSPIRACY OR SOLICITATION TO COMMIT AN OFFENSE.

3     (C) PROCEDURE.--THE PROSECUTION MUST INDICATE INTENT TO  
4 PROCEED UNDER THIS SECTION IN THE INDICTMENT OR INFORMATION  
5 WHICH COMMENCES THE PROSECUTION.

6     (D) FORFEITURE.--

7         (1) THE FOLLOWING PROPERTY MAY BE DEEMED CONTRABAND AND  
8 FORFEITED UNDER THIS SECTION:

9             (I) ALL ASSETS, FOREIGN OR DOMESTIC:

10                 (A) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION  
11 ENGAGED IN PLANNING OR PERPETRATING AN ACT IN THIS  
12 COMMONWEALTH TO WHICH SUBSECTION (A) IS APPLICABLE  
13 AND ALL ASSETS, FOREIGN OR DOMESTIC, AFFORDING A  
14 PERSON A SOURCE OF INFLUENCE OVER SUCH AN ENTITY OR  
15 ORGANIZATION.

16                 (B) ACQUIRED OR MAINTAINED IN THIS COMMONWEALTH  
17 BY A PERSON WITH THE INTENT AND FOR THE PURPOSE OF  
18 SUPPORTING, PLANNING, CONDUCTING OR CONCEALING AN ACT  
19 TO WHICH SUBSECTION (A) IS APPLICABLE.

20                 (C) DERIVED FROM, INVOLVED IN OR USED OR  
21 INTENDED TO BE USED TO COMMIT AN ACT IN THIS  
22 COMMONWEALTH TO WHICH SUBSECTION (A) IS APPLICABLE.

23             (II) ALL ASSETS WITHIN THIS COMMONWEALTH:

24                 (A) OF AN INDIVIDUAL, ENTITY OR ORGANIZATION  
25 ENGAGED IN PLANNING OR PERPETRATING AN UNLAWFUL ACT,  
26 EITHER FOREIGN OR DOMESTIC, WITH THE INTENT TO DO ANY  
27 OF THE FOLLOWING:

28                     (I) INTIMIDATE OR COERCE A CIVILIAN  
29 POPULATION, EITHER FOREIGN OR DOMESTIC, BY  
30 VIOLENCE OR THREAT OF VIOLENCE.

1                   (II) INFLUENCE THE POLICY OF A UNIT OF  
2                   GOVERNMENT BY INTIMIDATION OR COERCION, EITHER  
3                   FOREIGN OR DOMESTIC, BY VIOLENCE OR THREAT OF  
4                   VIOLENCE.

5                   (III) AFFECT THE CONDUCT OF A UNIT OF  
6                   GOVERNMENT, EITHER FOREIGN OR DOMESTIC, BY MASS  
7                   DESTRUCTION, ASSASSINATION OR KIDNAPPING.

8                   (B) ACQUIRED OR MAINTAINED WITH THE INTENT AND  
9                   FOR THE PURPOSE OF SUPPORTING, PLANNING, CONDUCTING  
10                  OR CONCEALING AN UNLAWFUL ACT UNDER CLAUSE (A); OR

11                  (C) DERIVED FROM, INVOLVED IN OR USED OR  
12                  INTENDED TO BE USED TO COMMIT AN UNLAWFUL ACT UNDER  
13                  CLAUSE (A).

14                  (2) (I) PROPERTY SUBJECT TO FORFEITURE UNDER THIS  
15                  SECTION MAY BE SEIZED BY THE LAW ENFORCEMENT AUTHORITY  
16                  UPON PROCESS ISSUED BY A COURT OF COMMON PLEAS HAVING  
17                  JURISDICTION OVER THE PROPERTY.

18                  (II) SEIZURE WITHOUT PROCESS MAY BE MADE IF ANY OF  
19                  THE FOLLOWING APPLY:

20                  (A) THE SEIZURE IS INCIDENT TO AN ARREST, A  
21                  SEARCH UNDER A SEARCH WARRANT OR AN INSPECTION UNDER  
22                  AN ADMINISTRATIVE INSPECTION WARRANT.

23                  (B) THE PROPERTY SUBJECT TO SEIZURE HAS BEEN THE  
24                  SUBJECT OF A PRIOR JUDGMENT IN FAVOR OF THE  
25                  COMMONWEALTH IN A CRIMINAL INJUNCTION OR FORFEITURE  
26                  PROCEEDING UNDER THIS CHAPTER.

27                  (C) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE  
28                  PROPERTY IS DANGEROUS TO HEALTH OR SAFETY.

29                  (D) THERE IS PROBABLE CAUSE TO BELIEVE THAT THE  
30                  PROPERTY HAS BEEN OR IS INTENDED TO BE USED IN THE

1           COMMISSION OF AN ACTION TO WHICH SUBSECTION (A) IS  
2           APPLICABLE.

3           (III) IN THE EVENT SEIZURE IS MADE WITHOUT PROCESS,  
4           PROCEEDINGS FOR THE ISSUANCE OF PROCESS SHALL BE  
5           INSTITUTED FORTHWITH.

6           (3) PROPERTY TAKEN OR DETAINED UNDER THIS SECTION SHALL  
7           NOT BE SUBJECT TO REPLEVIN, BUT IS DEEMED TO BE IN THE  
8           CUSTODY OF THE LAW ENFORCEMENT AUTHORITY, SUBJECT ONLY TO THE  
9           ORDERS AND DECREES OF THE COURT OF COMMON PLEAS HAVING  
10           JURISDICTION OVER THE FORFEITURE PROCEEDINGS AND OF THE  
11           DISTRICT ATTORNEY OR THE ATTORNEY GENERAL. WHEN PROPERTY IS  
12           SEIZED UNDER THIS SUBSECTION, THE LAW ENFORCEMENT AUTHORITY  
13           SHALL PLACE THE PROPERTY UNDER SEAL AND EITHER:

14           (I) REMOVE THE PROPERTY TO A PLACE DETERMINED BY THE  
15           LAW ENFORCEMENT AUTHORITY; OR

16           (II) REQUEST THAT THE DISTRICT ATTORNEY OR ATTORNEY  
17           GENERAL TAKE CUSTODY OF THE PROPERTY AND REMOVE IT TO AN  
18           APPROPRIATE LOCATION FOR DISPOSITION IN ACCORDANCE WITH  
19           LAW.

20           (4) PROPERTY FORFEITED UNDER THIS CHAPTER SHALL BE  
21           TRANSFERRED TO THE CUSTODY OF THE DISTRICT ATTORNEY IF THE  
22           LAW ENFORCEMENT AUTHORITY SEIZING THE PROPERTY HAS LOCAL OR  
23           COUNTY JURISDICTION, OR OF THE ATTORNEY GENERAL IF THE LAW  
24           ENFORCEMENT AUTHORITY SEIZING THE PROPERTY HAS STATEWIDE  
25           JURISDICTION. THE DISTRICT ATTORNEY OR THE ATTORNEY GENERAL,  
26           WHERE APPROPRIATE, MAY:

27           (I) RETAIN THE PROPERTY FOR OFFICIAL USE.

28           (II) SELL ANY FORFEITED PROPERTY WHICH IS NOT  
29           REQUIRED TO BE DESTROYED BY LAW AND WHICH IS NOT HARMFUL  
30           TO THE PUBLIC, THE PROCEEDS FROM ANY SUCH SALE TO BE USED

1       TO PAY ALL PROPER EXPENSES OF THE PROCEEDINGS FOR  
2       FORFEITURE AND SALE, INCLUDING EXPENSES OF SEIZURE,  
3       MAINTENANCE OF CUSTODY, ADVERTISING AND COURT COSTS. THE  
4       BALANCE OF THE PROCEEDS SHALL BE DEALT WITH UNDER  
5       PARAGRAPHS (5) AND (6).

6       (5) CASH OR PROCEEDS OF FORFEITED PROPERTY TRANSFERRED  
7       TO THE CUSTODY OF THE DISTRICT ATTORNEY UNDER PARAGRAPH (4)  
8       SHALL BE PLACED IN THE OPERATING FUND OF THE COUNTY IN WHICH  
9       THE DISTRICT ATTORNEY IS ELECTED. THE APPROPRIATE COUNTY  
10      AUTHORITY SHALL IMMEDIATELY RELEASE FROM THE OPERATING FUND,  
11      WITHOUT RESTRICTION, A LIKE AMOUNT FOR THE USE OF THE  
12      DISTRICT ATTORNEY IN ENFORCING THE CRIMINAL LAWS OF THE  
13      COMMONWEALTH OF PENNSYLVANIA. THE ENTITY HAVING BUDGETARY  
14      CONTROL SHALL NOT ANTICIPATE FUTURE FORFEITURES OR PROCEEDS  
15      THEREFROM IN ADOPTION AND APPROVAL OF THE BUDGET FOR THE  
16      DISTRICT ATTORNEY.

17      (6) IF BOTH MUNICIPAL AND STATE LAW ENFORCEMENT  
18      AUTHORITIES WERE SUBSTANTIALLY INVOLVED IN EFFECTING THE  
19      SEIZURE, THE COURT HAVING JURISDICTION OVER THE FORFEITURE  
20      PROCEEDINGS SHALL EQUITABLY DISTRIBUTE THE PROPERTY BETWEEN  
21      THE DISTRICT ATTORNEY AND THE ATTORNEY GENERAL.

22      (7) THE DISTRICT ATTORNEY AND THE ATTORNEY GENERAL SHALL  
23      UTILIZE FORFEITED PROPERTY OR PROCEEDS THEREOF FOR THE  
24      PURPOSE OF ENFORCING THE PROVISIONS OF THIS ACT. IN  
25      APPROPRIATE CASES, THE DISTRICT ATTORNEY AND THE ATTORNEY  
26      GENERAL MAY DESIGNATE PROCEEDS FROM FORFEITED PROPERTY TO BE  
27      UTILIZED FOR ANTITERRORISM PUBLIC SAFETY PROGRAMS AND FOR  
28      RELOCATION AND PROTECTION OF WITNESSES IN CRIMINAL CASES.

29      (8) IT SHALL BE THE RESPONSIBILITY OF EVERY COUNTY IN  
30      THIS COMMONWEALTH TO PROVIDE, THROUGH THE CONTROLLER, BOARD

1 OF AUDITORS OR OTHER APPROPRIATE AUDITOR AND THE DISTRICT  
2 ATTORNEY, AN ANNUAL AUDIT OF ALL FORFEITED PROPERTY AND  
3 PROCEEDS OBTAINED UNDER THIS SECTION. THE AUDIT SHALL NOT BE  
4 MADE PUBLIC BUT SHALL BE SUBMITTED TO THE OFFICE OF ATTORNEY  
5 GENERAL. THE COUNTY SHALL REPORT ALL FORFEITED PROPERTY AND  
6 PROCEEDS OBTAINED UNDER THIS SECTION AND THE DISPOSITION  
7 THEREOF TO THE ATTORNEY GENERAL BY SEPTEMBER 30 OF EACH YEAR.

8 (9) THE ATTORNEY GENERAL SHALL ANNUALLY SUBMIT A REPORT  
9 TO THE APPROPRIATIONS COMMITTEE AND JUDICIARY COMMITTEE OF  
10 THE SENATE AND THE APPROPRIATIONS COMMITTEE AND JUDICIARY  
11 COMMITTEE OF THE HOUSE OF REPRESENTATIVES SPECIFYING THE  
12 FORFEITED PROPERTY OR PROCEEDS THEREOF OBTAINED UNDER THIS  
13 SECTION. THE REPORT SHALL GIVE AN ACCOUNTING OF ALL PROCEEDS  
14 DERIVED FROM THE SALE OF FORFEITED PROPERTY AND THE USE MADE  
15 OF UNSOLD FORFEITED PROPERTY. THE ATTORNEY GENERAL SHALL  
16 ADOPT PROCEDURES AND GUIDELINES GOVERNING THE RELEASE OF  
17 INFORMATION BY THE DISTRICT ATTORNEY TO PROTECT THE  
18 CONFIDENTIALITY OF FORFEITED PROPERTY OR PROCEEDS USED IN  
19 ONGOING ANTITERRORIST ACTIVITIES.

20 (10) THE PROCEEDS OR FUTURE PROCEEDS FROM PROPERTY  
21 FORFEITED UNDER THIS CHAPTER SHALL BE IN ADDITION TO ANY  
22 APPROPRIATION MADE TO THE OFFICE OF ATTORNEY GENERAL.

23 (E) PROCEDURE WITH RESPECT TO SEIZED PROPERTY SUBJECT TO  
24 LIENS AND RIGHTS OF LIENHOLDERS.--

25 (1) PROCEEDINGS FOR FORFEITURE OR CONDEMNATION OF  
26 PROPERTY, THE SALE OF WHICH IS PROVIDED FOR IN THIS CHAPTER,  
27 SHALL BE IN REM, IN WHICH THE COMMONWEALTH SHALL BE THE  
28 PLAINTIFF AND THE PROPERTY THE DEFENDANT. A PETITION SHALL BE  
29 FILED IN THE COURT OF COMMON PLEAS OF THE JUDICIAL DISTRICT  
30 WHERE THE PROPERTY IS LOCATED, VERIFIED BY OATH OR

1 AFFIRMATION OF AN OFFICER OR CITIZEN, CONTAINING THE  
2 FOLLOWING:

3 (I) A DESCRIPTION OF THE PROPERTY SEIZED.

4 (II) A STATEMENT OF THE TIME AND PLACE SEIZED.

5 (III) THE OWNER, IF KNOWN.

6 (IV) THE PERSON OR PERSONS IN POSSESSION, IF KNOWN.

7 (V) AN ALLEGATION THAT THE PROPERTY IS SUBJECT TO  
8 FORFEITURE UNDER SUBSECTION (D) AND AN AVERMENT OF  
9 MATERIAL FACTS UPON WHICH THE FORFEITURE ACTION IS BASED.

10 (VI) A PRAYER FOR AN ORDER THAT THE PROPERTY BE  
11 ADJUDGED FORFEITED TO THE COMMONWEALTH, CONDEMNED AND  
12 SOLD ACCORDING TO LAW, UNLESS CAUSE BE SHOWN TO THE  
13 CONTRARY.

14 (2) A COPY OF THE PETITION REQUIRED UNDER SUBSECTION (A)  
15 SHALL BE SERVED PERSONALLY OR BY CERTIFIED MAIL ON THE OWNER  
16 OR UPON THE PERSON OR PERSONS IN POSSESSION AT THE TIME OF  
17 THE SEIZURE. THE COPY SHALL HAVE ENDORSED A NOTICE, AS  
18 FOLLOWS:

19 TO THE CLAIMANT OF WITHIN DESCRIBED PROPERTY:  
20 YOU ARE REQUIRED TO FILE AN ANSWER TO THIS PETITION,  
21 SETTING FORTH YOUR TITLE IN AND RIGHT TO POSSESSION OF  
22 THE PROPERTY WITHIN 30 DAYS FROM THE SERVICE OF THIS  
23 NOTICE, AND YOU ARE FURTHER NOTIFIED THAT, IF YOU FAIL TO  
24 FILE AN ANSWER, A DECREE OF FORFEITURE AND CONDEMNATION  
25 WILL BE ENTERED AGAINST THE PROPERTY.

26 THE NOTICE SHALL BE SIGNED BY THE ATTORNEY GENERAL, DEPUTY  
27 ATTORNEY GENERAL, DISTRICT ATTORNEY, DEPUTY DISTRICT ATTORNEY  
28 OR ASSISTANT DISTRICT ATTORNEY.

29 (3) IF THE OWNER OF THE PROPERTY IS UNKNOWN, THERE WAS  
30 NO PERSON IN POSSESSION OF THE PROPERTY WHEN SEIZED OR IF THE

1 OWNER OR PERSON OR PERSONS IN POSSESSION AT THE TIME OF THE  
2 SEIZURE CANNOT BE PERSONALLY SERVED OR LOCATED WITHIN THE  
3 JURISDICTION OF THE COURT, NOTICE OF THE PETITION SHALL BE  
4 GIVEN BY THE COMMONWEALTH THROUGH AN ADVERTISEMENT IN ONE  
5 NEWSPAPER OF GENERAL CIRCULATION PUBLISHED IN THE COUNTY  
6 WHERE THE PROPERTY WAS SEIZED, ONCE A WEEK FOR TWO SUCCESSIVE  
7 WEEKS. NO OTHER ADVERTISEMENT SHALL BE NECESSARY, ANY LAW TO  
8 THE CONTRARY NOTWITHSTANDING. THE NOTICE SHALL CONTAIN A  
9 STATEMENT OF THE SEIZURE OF THE PROPERTY WITH A DESCRIPTION  
10 OF THE PROPERTY AND THE PLACE AND DATE OF SEIZURE AND SHALL  
11 DIRECT ANY CLAIMANTS TO THE PROPERTY TO FILE A CLAIM ON OR  
12 BEFORE A DATE GIVEN IN THE NOTICE, WHICH DATE SHALL NOT BE  
13 LESS THAN 30 DAYS FROM THE DATE OF THE FIRST PUBLICATION. IF  
14 NO CLAIMS ARE FILED WITHIN 30 DAYS OF PUBLICATION, THE  
15 PROPERTY SHALL SUMMARILY FORFEIT TO THE COMMONWEALTH.

16 (4) FOR PURPOSES OF THIS SECTION, THE OWNER OR PERSON IN  
17 POSSESSION CANNOT BE FOUND IN THE JURISDICTION OF THE COURT  
18 IF ALL OF THE FOLLOWING STEPS ARE TAKEN:

19 (I) A COPY OF THE PETITION IS MAILED TO THE LAST  
20 KNOWN ADDRESS BY CERTIFIED MAIL AND IS RETURNED WITHOUT  
21 DELIVERY.

22 (II) PERSONAL SERVICE IS ATTEMPTED ONCE, BUT CANNOT  
23 BE MADE AT THE LAST KNOWN ADDRESS.

24 (III) A COPY OF THE PETITION IS LEFT AT THE LAST  
25 KNOWN ADDRESS.

26 (5) THE NOTICE PROVISIONS OF THIS SECTION ARE  
27 AUTOMATICALLY WAIVED WHEN THE OWNER OR PERSON IN POSSESSION,  
28 WITHOUT GOOD CAUSE, FAILS TO APPEAR IN COURT IN RESPONSE TO A  
29 SUBPOENA ON THE UNDERLYING CRIMINAL CHARGES. UNLESS GOOD  
30 CAUSE IS DEMONSTRATED, THE PROPERTY SHALL SUMMARILY FORFEIT



1 TO THE COMMONWEALTH 45 DAYS AFTER SUCH A FAILURE TO APPEAR.

2 (6) (I) UPON APPLICATION OF THE COMMONWEALTH, THE COURT  
3 MAY ENTER A RESTRAINING ORDER OR INJUNCTION, REQUIRE THE  
4 EXECUTION OF A SATISFACTORY PERFORMANCE BOND OR TAKE ANY  
5 OTHER ACTION TO PRESERVE THE AVAILABILITY OF PROPERTY  
6 DESCRIBED IN SUBSECTION (D) FOR FORFEITURE UNDER THIS  
7 SECTION:

8 (A) UPON THE FILING OF AN INFORMATION OR AN  
9 INDICTMENT CHARGING A VIOLATION OF THIS SECTION FOR  
10 WHICH CRIMINAL FORFEITURE MAY BE ORDERED UNDER THIS  
11 SUBSECTION AND ALLEGING THAT THE PROPERTY WITH  
12 RESPECT TO WHICH THE ORDER IS SOUGHT WOULD BE SUBJECT  
13 TO FORFEITURE; OR

14 (B) PRIOR TO THE FILING OF AN INDICTMENT OR  
15 INFORMATION, IF, AFTER NOTICE TO PERSONS APPEARING TO  
16 HAVE AN INTEREST IN THE PROPERTY AND AN OPPORTUNITY  
17 FOR A HEARING, THE COURT DETERMINES THAT:

18 (I) THERE IS A SUBSTANTIAL PROBABILITY THAT  
19 THE COMMONWEALTH WILL PREVAIL ON THE ISSUE OF  
20 FORFEITURE AND THAT FAILURE TO ENTER THE ORDER  
21 WILL RESULT IN THE PROPERTY BEING DESTROYED,  
22 REMOVED FROM THE JURISDICTION OF THE COURT OR  
23 OTHERWISE MADE UNAVAILABLE FOR FORFEITURE; AND

24 (II) THE NEED TO PRESERVE THE AVAILABILITY  
25 OF THE PROPERTY THROUGH THE ENTRY OF THE  
26 REQUESTED ORDER OUTWEIGHS THE HARDSHIP ON ANY  
27 PARTY AGAINST WHOM THE ORDER IS TO BE ENTERED.

28 (II) AN ORDER ENTERED UNDER THIS PARAGRAPH SHALL BE  
29 EFFECTIVE FOR NOT MORE THAN 90 DAYS UNLESS EXTENDED BY  
30 THE COURT FOR GOOD CAUSE SHOWN OR AN INDICTMENT OR

1 INFORMATION DESCRIBED IN CLAUSE (A) HAS BEEN FILED.

2 (7) (I) A TEMPORARY RESTRAINING ORDER UNDER PARAGRAPH

3 (6) MAY BE ENTERED UPON APPLICATION OF THE COMMONWEALTH

4 WITHOUT NOTICE OR OPPORTUNITY FOR A HEARING IF AN

5 INFORMATION OR INDICTMENT HAS NOT YET BEEN FILED WITH

6 RESPECT TO THE PROPERTY AND IF THE COMMONWEALTH

7 DEMONSTRATES THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT

8 THE PROPERTY WITH RESPECT TO WHICH THE ORDER IS SOUGHT

9 WOULD BE SUBJECT TO FORFEITURE UNDER THIS CHAPTER AND

10 THAT PROVISION OF NOTICE WILL JEOPARDIZE THE AVAILABILITY

11 OF THE PROPERTY FOR FORFEITURE.

12 (II) A TEMPORARY ORDER UNDER SUBPARAGRAPH (I) SHALL

13 EXPIRE NOT MORE THAN TEN DAYS AFTER THE DATE ON WHICH IT

14 IS ENTERED, UNLESS EXTENDED FOR GOOD CAUSE SHOWN OR

15 UNLESS THE PARTY AGAINST WHOM IT IS ENTERED CONSENTS TO

16 AN EXTENSION FOR A LONGER PERIOD. A HEARING REQUESTED

17 CONCERNING AN ORDER ENTERED UNDER THIS PARAGRAPH SHALL BE

18 HELD AT THE EARLIEST POSSIBLE TIME AND PRIOR TO THE

19 EXPIRATION OF THE TEMPORARY ORDER.

20 (8) THE COURT MAY RECEIVE AND CONSIDER, AT A HEARING

21 HELD UNDER PARAGRAPH (6) OR (7), EVIDENCE AND INFORMATION

22 THAT WOULD BE INADMISSIBLE UNDER THE RULES OF EVIDENCE.

23 (9) UPON THE FILING OF A CLAIM FOR THE PROPERTY SETTING

24 FORTH A RIGHT OF POSSESSION, THE CASE SHALL BE DEEMED AT

25 ISSUE AND A TIME SHALL BE FIXED FOR THE HEARING.

26 (10) AT THE TIME OF THE HEARING, IF THE COMMONWEALTH

27 PRODUCES EVIDENCE THAT THE PROPERTY IN QUESTION WAS

28 UNLAWFULLY USED, POSSESSED OR OTHERWISE SUBJECT TO FORFEITURE

29 UNDER SUBSECTION (D), THE BURDEN SHALL BE UPON THE CLAIMANT

30 TO SHOW:

1           (I) THAT THE CLAIMANT IS THE OWNER OF THE PROPERTY  
2           OR THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF  
3           CONDITIONAL SALE THEREON.

4           (II) THAT THE CLAIMANT LAWFULLY ACQUIRED THE  
5           PROPERTY.

6           (III) THAT THE PROPERTY WAS NOT UNLAWFULLY USED OR  
7           POSSESSED BY THE CLAIMANT. IN THE EVENT THAT IT APPEARS  
8           THAT THE PROPERTY WAS UNLAWFULLY USED OR POSSESSED BY A  
9           PERSON OTHER THAN THE CLAIMANT, THE CLAIMANT MUST SHOW  
10          THAT THE UNLAWFUL USE OR POSSESSION WAS WITHOUT HIS  
11          KNOWLEDGE OR CONSENT. THE ABSENCE OF KNOWLEDGE OR CONSENT  
12          MUST BE REASONABLE UNDER THE CIRCUMSTANCES.

13          (11) IF, PRIOR TO THE SALE OF PROPERTY THE DISPOSITION  
14          OF WHICH IS PROVIDED FOR IN THIS SECTION, A PERSON CLAIMING  
15          THE OWNERSHIP OF OR RIGHT OF POSSESSION TO OR CLAIMING TO BE  
16          THE HOLDER OF A CHATTEL MORTGAGE OR CONTRACT OF CONDITIONAL  
17          SALE UPON THE PROPERTY PRESENTS A PETITION TO THE COURT  
18          ALLEGING LAWFUL OWNERSHIP OR RIGHT OF POSSESSION OF A LIEN  
19          AGAINST OR RESERVATION OF TITLE TO THE PROPERTY AND IF, UPON  
20          PUBLIC HEARING, DUE NOTICE OF WHICH HAVING BEEN GIVEN TO THE  
21          ATTORNEY GENERAL OR THE DISTRICT ATTORNEY, THE CLAIMANT  
22          PROVES BY COMPETENT EVIDENCE TO THE SATISFACTION OF THE COURT  
23          THAT THE PROPERTY WAS LAWFULLY ACQUIRED, POSSESSED AND USED  
24          BY THE CLAIMANT AND THAT THE PROPERTY WAS UNLAWFULLY USED BY  
25          A PERSON OTHER THAN THE CLAIMANT AND THE UNLAWFUL USE WAS  
26          WITHOUT THE CLAIMANT'S KNOWLEDGE OR CONSENT, THE COURT MAY  
27          ORDER THE PROPERTY RETURNED OR DELIVERED TO THE CLAIMANT.  
28          ABSENCE OF KNOWLEDGE OR CONSENT MUST BE REASONABLE UNDER THE  
29          CIRCUMSTANCES.

30          SECTION 3. SECTION 9721(C) OF TITLE 42 IS AMENDED TO READ:

1 § 9721. SENTENCING GENERALLY.

2 \* \* \*

3 (C) MANDATORY RESTITUTION.--IN ADDITION TO THE ALTERNATIVES  
4 SET FORTH IN SUBSECTION (A) OF THIS SECTION THE COURT SHALL  
5 ORDER THE DEFENDANT TO COMPENSATE THE VICTIM OF HIS CRIMINAL  
6 CONDUCT FOR THE DAMAGE OR INJURY THAT HE SUSTAINED. FOR PURPOSES  
7 OF THIS SUBSECTION, THE TERM "VICTIM" SHALL BE AS DEFINED IN  
8 [SECTION 479.1 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),  
9 KNOWN AS THE ADMINISTRATIVE CODE OF 1929] THE ACT OF NOVEMBER  
10 24, 1998 (P.L.882, NO.111), KNOWN AS THE CRIME VICTIMS ACT.

11 \* \* \*

12 SECTION 4. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

13 § 9765. MERGER OF SENTENCES.

14 NO CRIMES SHALL MERGE FOR SENTENCING PURPOSES UNLESS THE  
15 CRIMES ARISE FROM A SINGLE CRIMINAL TRANSACTION AND ALL OF THE  
16 STATUTORY ELEMENTS OF ONE OFFENSE ARE INCLUDED IN THE STATUTORY  
17 ELEMENTS OF THE OTHER OFFENSE.

18 SECTION 5. THE ADDITION OF 42 PA.C.S. § 9720.2 SHALL APPLY  
19 TO OFFENSES COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS  
20 ACT.

21 Section ~~2~~ 6. This act shall take effect in 60 days.

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