
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1067 Session of
2018

INTRODUCED BY WILLIAMS, STREET, HUGHES AND WAGNER, MARCH 7, 2018

REFERRED TO JUDICIARY, MARCH 7, 2018

AN ACT

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

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

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

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

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

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

22 § 9721. Sentencing generally.

1 * * *

2 (a.1) Exception.--

3 * * *

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

7 * * *

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

10 § 9754. Order of probation.

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

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

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

21 (2) for a misdemeanor, three years.

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

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

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

3 (1) To meet his family responsibilities.

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

6 (2.1) To participate in a public or nonprofit community
7 service program unless the defendant was convicted of murder,
8 rape, aggravated assault, arson, theft by extortion,
9 terroristic threats, robbery or kidnapping.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 § 9771. Modification or revocation of order of probation.

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

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

28 (c) Limitation on sentence of total confinement.--[The]
29 Except for defendants who were admitted to a program established
30 under section 9771.1(a) (relating to court-imposed sanctions for

1 offenders violating probation), the court shall not impose a
2 sentence of total confinement upon revocation unless it finds
3 that:

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

8 (1.1) the defendant has been convicted of another
9 misdemeanor, in which case the court may sentence the
10 defendant to imprisonment for not more than six months; or

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

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

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

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

30 § 9771.1. Court-imposed sanctions for offenders violating

1 probation.

2 * * *

3 (d) Warning hearing.--

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

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

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

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

18 * * *

19 (i) Revocation of probation.--

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

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

27 (j) Local rules.--

28 (1) The court may adopt local rules for the
29 administration of this program. [Except as provided for under
30 paragraph (2), the] The local rules [may not be inconsistent]

1 must be consistent with this section or any rules adopted by
2 the Supreme Court.

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

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

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

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

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

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

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

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

1 for a hearing within 30 days after filing shall be deemed denied
2 by operation of law.

3 Section 5. This act shall take effect immediately.