
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 634 Session of
2019

INTRODUCED BY HARRIS, DECEMBER 9, 2019

REFERRED TO COMMITTEE ON JUDICIARY, DECEMBER 9, 2019

A CONCURRENT RESOLUTION

1 Establishing the Task Force on Technical Probation Violations.

2 WHEREAS, The 14th Amendment to the Constitution of the United
3 States declares in part that no state shall "deprive any person
4 of life, liberty, or property, without due process of law; nor
5 deny to any person within its jurisdiction the equal protection
6 of the laws"; and

7 WHEREAS, In *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), the
8 Supreme Court of the United States held that probation
9 revocation proceedings result in the loss of liberty and,
10 therefore, defendants are entitled to both a preliminary and
11 final revocation hearing under the 14th Amendment to the
12 Constitution of the United States; and

13 WHEREAS, At a preliminary revocation hearing, which is
14 commonly referred to in this Commonwealth as a "Gagnon I
15 hearing," a determination is made as to whether probable cause
16 exists to believe that a violation of the terms of the
17 defendant's sentence has been committed; and

18 WHEREAS, Technical violations refer to violations of the

1 terms and conditions of a defendant's sentence, other than by
2 the commission of a new crime of which the defendant is
3 convicted or found guilty by a judge or jury or to which the
4 defendant pleads guilty or nolo contendere in a court of record;
5 and

6 WHEREAS, The procedures followed by the courts of this
7 Commonwealth that govern technical violations vary widely
8 throughout the 60 judicial districts of this Commonwealth; and

9 WHEREAS, Defendants accused of committing technical
10 violations may be subject to periods of incarceration prior to a
11 Gagnon I hearing; and

12 WHEREAS, In some counties of this Commonwealth, employees of
13 the same county probation office that initiate technical
14 violation proceedings preside over Gagnon I hearings and make
15 determinations as to whether probable cause exists to believe
16 that a technical violation has been committed; and

17 WHEREAS, A review of technical violation procedures will help
18 to ensure that defendants, who are alleged to have committed a
19 technical violation of the terms of their sentences, are
20 afforded their due process rights under the 14th Amendment to
21 the Constitution of the United States in accordance with *Gagnon*
22 and are subject to fair and impartial proceedings; therefore be
23 it

24 RESOLVED (the Senate concurring), That the Task Force on
25 Technical Probation Violations be established; and be it further

26 RESOLVED, That the task force conduct a thorough and
27 comprehensive review to:

28 (1) ascertain any inadequacies relating to the
29 procedures applied by the 60 judicial districts of this
30 Commonwealth that govern technical violations;

1 (2) determine reasonable and appropriate deadlines by
2 which a detained defendant alleged to have committed a
3 technical violation is entitled to a Gagnon I hearing; and

4 (3) recommend whether it is appropriate to permit
5 employees of the county probation office to preside at a
6 defendant's Gagnon I hearing when the defendant is alleged to
7 have committed a technical violation of the terms of
8 probation;

9 and be it further

10 RESOLVED, That the task force consist of the following
11 members, appointed within 25 days after the adoption of this
12 resolution by the Senate and the House of Representatives:

13 (1) twelve members who are knowledgeable and experienced
14 in issues relating to probation as follows:

15 (i) one member who is appointed by the President pro
16 tempore of the Senate and who may be a member of the
17 Senate;

18 (ii) one member who is appointed by the Minority
19 Leader of the Senate and who may be a member of the
20 Senate;

21 (iii) one member who is appointed by the Speaker of
22 the House of Representatives and who may be a member of
23 the House of Representatives;

24 (iv) one member who is appointed by the Minority
25 Leader of the House of Representatives and who may be a
26 member of the House of Representatives;

27 (v) the President of the Pennsylvania District
28 Attorneys Association or a designee;

29 (vi) the President of the Pennsylvania Association
30 of Criminal Defense Lawyers or a designee;

1 (vii) three judges of the courts of common pleas who
2 serve in the criminal court area and are representative
3 of the geographic and demographic diversity of this
4 Commonwealth, who are appointed by the Chief Justice of
5 Pennsylvania;

6 (viii) the Executive Director of the Pennsylvania
7 Commission on Sentencing or a designee, who shall serve
8 as an ex officio and nonvoting member;

9 (ix) the Executive Director of the County Chief
10 Adult Probation and Parole Officers Association of
11 Pennsylvania or a designee; and

12 (x) one member who is appointed by the Governor;
13 and be it further

14 RESOLVED, That the Chief Justice of Pennsylvania select the
15 chairperson of the task force from among the members of the task
16 force; and be it further

17 RESOLVED, That the task force conduct business as follows:

18 (1) the physical presence of six members of the task
19 force shall constitute a quorum of the task force;

20 (2) action of the task force shall be authorized or
21 ratified by majority vote of the members of the task force;

22 (3) a member of the task force who is not physically
23 present at a meeting of the task force may participate by
24 teleconference or video conference;

25 (4) the task force shall meet as necessary but no fewer
26 than five times prior to April 30, 2021, and additional
27 meetings may be called by the chairperson of the task force
28 as necessary;

29 (5) the chairperson of the task force shall schedule a
30 meeting upon written request of eight members of the task

1 force;

2 (6) the first meeting of the task force shall be
3 convened within 45 days after the adoption of this resolution
4 by the Senate and House of Representatives;

5 (7) the task force shall hold public hearings as
6 necessary to obtain the information required to conduct the
7 review under this resolution;

8 (8) the Joint State Government Commission shall
9 cooperate to provide administrative or other assistance to
10 the task force; and

11 (9) members of the task force may not receive
12 compensation but shall be reimbursed for reasonable and
13 necessary expenses incurred in service of the task force;
14 and be it further

15 RESOLVED, That the task force have the power to:

16 (1) examine and analyze the practices, processes and
17 procedures relating to technical violations of the terms of
18 probation;

19 (2) review and analyze law, procedures, practices and
20 rules relating to technical violations of the terms of
21 probation; and

22 (3) hold public hearings for the taking of testimony and
23 the requesting of documents;

24 and be it further

25 RESOLVED, That the chairperson of the task force have the
26 power to administer oaths and affirmations to witnesses
27 appearing before the task force; and be it further

28 RESOLVED, That the task force have the duty to:

29 (1) accept and review written comments from individuals
30 and organizations;

1 (2) make, by September 30, 2021, a final report to the
2 Governor, the Senate, the House of Representatives and the
3 Pennsylvania Supreme Court, which, based on the review by the
4 task force, shall include recommendations to:

5 (i) improve the procedures governing technical
6 violations of probation; and

7 (ii) implement any necessary changes in the Rules of
8 Criminal Procedure and State statutes and practices,
9 policies and procedures relating to technical violations
10 of the terms of probation; and

11 (3) file status reports and updates with the Governor,
12 the Senate, the House of Representatives and the Pennsylvania
13 Supreme Court as the task force deems appropriate, which
14 shall be:

15 (i) adopted at a public meeting of the task force;

16 and

17 (ii) deemed a public record under the act of
18 February 14, 2008 (P.L.6, No.3), known as the Right-to-
19 Know Law;

20 and be it further

21 RESOLVED, That the task force expire October 1, 2021.