

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 14 Session of 2019

INTRODUCED BY A. WILLIAMS, BARTOLOTTA, STREET, FONTANA, WHITE, HUGHES, ALLOWAY, HAYWOOD, COSTA, KEARNEY, LEACH, COLLETT, MENSCH, FARNESE, BREWSTER, MUTH, FOLMER, BLAKE, SANTARSIERO, KILLION, L. WILLIAMS, K. WARD, IOVINO, BOSCOLA, MARTIN AND TARTAGLIONE, JANUARY 24, 2019

SENATOR BAKER, JUDICIARY, IN SENATE, AS AMENDED, JUNE 24, 2020

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 AMENDING TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) OF THE <--  
11 PENNSYLVANIA CONSOLIDATED STATUTES, IN SENTENCING, FURTHER  
12 PROVIDING FOR CONDITIONS OF PROBATION AND FOR MODIFICATION OR  
13 REVOCATION OF ORDER OF PROBATION.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 ~~Section 1. Title 42 of the Pennsylvania Consolidated~~ <--  
17 ~~Statutes is amended by adding a section to read:~~  
18 ~~Section 2154.8. Adoption of guidelines for administrative~~  
19 ~~probation violations.~~  
20 ~~Within 180 days of the effective date of this section, the~~  
21 ~~commission shall adopt guidelines for a graduated response to~~  
22 ~~administrative probation violations. The guidelines may not~~

1 ~~include imprisonment for more than 30 days.~~

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

4 ~~§ 9721. Sentencing generally.~~

5 ~~\* \* \*~~

6 ~~(a.1) Exception.~~

7 ~~\* \* \*~~

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

11 ~~\* \* \*~~

12 ~~Section 3. Sections 9754, 9771 and 9771.1(d), (i) and (j)~~  
13 ~~are amended to read:~~

14 ~~§ 9754. Order of probation.~~

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

22 ~~(a.1) Misdemeanors and felonies. The total probation period~~  
23 ~~may not exceed the following:~~

24 ~~(1) for a felony, five years; and~~

25 ~~(2) for a misdemeanor, three years.~~

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

1 ~~(b) Conditions generally. The court shall attach such of~~  
2 ~~the reasonable conditions authorized by subsection (c) of this~~  
3 ~~section as it deems necessary to insure or assist the defendant~~  
4 ~~in leading a law abiding life.~~

5 ~~(c) Specific conditions. The court may as a condition of~~  
6 ~~its order require the defendant:~~

7 ~~(1) To meet his family responsibilities.~~

8 ~~(2) To devote himself to a specific occupation or~~  
9 ~~employment.~~

10 ~~(2.1) To participate in a public or nonprofit community~~  
11 ~~service program unless the defendant was convicted of murder,~~  
12 ~~rape, aggravated assault, arson, theft by extortion,~~  
13 ~~terroristic threats, robbery or kidnapping.~~

14 ~~(3) To undergo available medical or psychiatric~~  
15 ~~treatment and to enter and remain in a specified institution,~~  
16 ~~when required for that purpose.~~

17 ~~(4) To pursue a prescribed secular course of study or~~  
18 ~~vocational training.~~

19 ~~(5) To attend or reside in a facility established for~~  
20 ~~the instruction, recreation, or residence of persons on~~  
21 ~~probation.~~

22 ~~(6) To refrain from frequenting unlawful or disreputable~~  
23 ~~places or consorting with disreputable persons.~~

24 ~~(7) To have in his possession no firearm or other~~  
25 ~~dangerous weapon unless granted written permission.~~

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

29 ~~(9) To remain within the jurisdiction of the court and~~  
30 ~~to notify the court or the probation officer of any change in~~

1 ~~his address or his employment.~~

2 ~~(10) To report as directed to the court or the probation~~  
3 ~~officer and to permit the probation officer to visit his~~  
4 ~~home.~~

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

6 ~~(12) To participate in drug or alcohol treatment~~  
7 ~~programs.~~

8 ~~(13) To satisfy any other conditions reasonably related~~  
9 ~~to the rehabilitation of the defendant and not unduly~~  
10 ~~restrictive of his liberty or incompatible with his freedom~~  
11 ~~of conscience.~~

12 ~~(14) To remain within the premises of his residence~~  
13 ~~during the hours designated by the court.~~

14 ~~(d) Sentence following violation of probation. The sentence~~  
15 ~~to be imposed in the event of the violation of a condition shall~~  
16 ~~not be fixed prior to a finding on the record that a violation~~  
17 ~~has occurred.] conform with the guidelines adopted under section~~  
18 ~~2154.8 (relating to adoption of guidelines for administrative~~  
19 ~~probation violations).~~

20 ~~§ 9771. Modification or revocation of order of probation.~~

21 ~~(a) General rule. The court may at any time terminate~~  
22 ~~continued supervision or lessen or increase the conditions upon~~  
23 ~~which an order of probation has been imposed.~~

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

1 ~~administrative probation violations).~~

2 ~~(c) Limitation on sentence of total confinement. [The]~~  
3 ~~Except for defendants who were admitted to a program established~~  
4 ~~under section 9771.1(a) (relating to court imposed sanctions for~~  
5 ~~offenders violating probation), the court shall not impose a~~  
6 ~~sentence of total confinement upon revocation unless it finds~~  
7 ~~that:~~

8 ~~(1) the defendant has been convicted of another [crime;~~  
9 ~~or] felony, in which case the court may sentence the~~  
10 ~~defendant to the sentencing alternatives available at the~~  
11 ~~time of the initial sentencing;~~

12 ~~(1.1) the defendant has been convicted of another~~  
13 ~~misdemeanor, in which case the court may sentence the~~  
14 ~~defendant to imprisonment for not more than six months; or~~

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

22 ~~[(3) such a sentence is essential to vindicate the~~  
23 ~~authority of the court.]~~

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

30 ~~(e) Early termination of probation for merit time. Where a~~

1 ~~defendant has successfully completed 18 months of supervised~~  
2 ~~probation without violation or revocation, the probation~~  
3 ~~sentence shall be terminated by the county probation department.~~

4 ~~§ 9771.1. Court imposed sanctions for offenders violating~~  
5 ~~probation.~~

6 \* \* \*

7 ~~(d) Warning hearing.~~

8 ~~(1) At the time of sentencing, the court shall hold a~~  
9 ~~warning hearing for each participant in the program to~~  
10 ~~clearly communicate program expectations and consequences and~~  
11 ~~to encourage the participant's compliance and success.~~

12 ~~(2) The court shall emphasize the expectations that the~~  
13 ~~participant remain drug free and comply with any treatment or~~  
14 ~~services ordered by the court as a condition of the~~  
15 ~~participant's probation.~~

16 ~~(3) The court shall put the participant on notice that~~  
17 ~~each probation violation, including missed appointments and~~  
18 ~~positive drug tests, will result in jail time as provided for~~  
19 ~~under subsection (g).~~

20 ~~(4) A warning shall be provided to the participant at~~  
21 ~~the warning hearing verbally and in writing.~~

22 \* \* \*

23 ~~(i) Revocation of probation.~~

24 ~~(1) After a third violation, the court may revoke the~~  
25 ~~order of probation.~~

26 ~~(2) Upon revocation, the sentencing alternatives shall~~  
27 ~~be [the same as were available at the time of initial~~  
28 ~~sentencing, due consideration being given to the time spent~~  
29 ~~-serving the order of probation.] in accordance with section~~  
30 ~~9771(c).~~

1 ~~(j) Local rules.~~

2 ~~(1) The court may adopt local rules for the~~  
3 ~~administration of this program. [Except as provided for under~~  
4 ~~paragraph (2), the] The local rules [may not be inconsistent]~~  
5 ~~must be consistent with this section or any rules adopted by~~  
6 ~~the Supreme Court.~~

7 ~~[(2) The court may adopt local rules that are~~  
8 ~~inconsistent with subsection (g) regarding the terms of~~  
9 ~~imprisonment or other sanctions or conditions provided for~~  
10 ~~under subsection (g).]~~

11 ~~Section 4. Title 42 is amended by adding a section to read:~~  
12 ~~Section 9771.2. Resentencing of certain offenders incarcerated~~  
13 ~~due to revocation of probation.~~

14 ~~(a) General rule. The sentencing court shall resentence a~~  
15 ~~defendant as provided under section 9771(c) (relating to~~  
16 ~~modification or revocation of order of probation) upon petition~~  
17 ~~of the defendant and proof of all of the following:~~

18 ~~(1) The defendant's probation sentence was revoked and~~  
19 ~~the petitioner was sentenced to imprisonment for more than~~  
20 ~~one year as a result of an administrative probation~~  
21 ~~violation.~~

22 ~~(2) The defendant has no disciplinary infractions during~~  
23 ~~imprisonment.~~

24 ~~(3) The defendant has no pending criminal charges or~~  
25 ~~convictions for a new offense since the date the petitioner~~  
26 ~~was placed on probation.~~

27 ~~(b) Petition procedure. The petition for resentencing shall~~  
28 ~~be recognized as an authorized motion for sentence modification,~~  
29 ~~assigned an identification code by the Administrative Office of~~  
30 ~~Pennsylvania Courts and shall not require payment of a filing~~

1 ~~fee.~~

2 ~~(c) Successive petitions. A successive petition may not be~~  
3 ~~considered by the sentencing court unless new grounds are raised~~  
4 ~~in the petition. Any successive petition that is not scheduled~~  
5 ~~for a hearing within 30 days after filing shall be deemed denied~~  
6 ~~by operation of law.~~

7 ~~Section 5. This act shall take effect immediately.~~

8 SECTION 1. SECTION 9763(B) OF TITLE 42 OF THE PENNSYLVANIA <--  
9 CONSOLIDATED STATUTES, AMENDED DECEMBER 18, 2019 (P.L.770,  
10 NO.115), IS AMENDED TO READ:

11 § 9763. CONDITIONS OF PROBATION.

12 \* \* \*

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

15 (1) TO MEET FAMILY RESPONSIBILITIES[.], INCLUDING  
16 CONSIDERATION OF CHILD CARE RESPONSIBILITIES AND LIMITATIONS,  
17 OTHER THAN THE CHILD CARE RESPONSIBILITIES AND LIMITATIONS  
18 CONTAINED IN 23 PA.C.S. CH. 43 (RELATING TO SUPPORT MATTERS  
19 GENERALLY) WHICH SHALL BE GOVERNED EXCLUSIVELY BY THE  
20 PROVISIONS OF THAT CHAPTER.

21 (2) TO BE DEVOTED TO A SPECIFIC OCCUPATION, EMPLOYMENT  
22 OR EDUCATION, STUDY OR VOCATIONAL TRAINING INITIATIVE.

23 (3) TO PARTICIPATE IN A PUBLIC OR NONPROFIT COMMUNITY  
24 SERVICE PROGRAM.

25 (4) TO UNDERGO INDIVIDUAL OR FAMILY COUNSELING.

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

29 (6) TO ATTEND EDUCATIONAL OR VOCATIONAL TRAINING  
30 PROGRAMS.



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

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

5 (10) TO MAKE RESTITUTION OF THE FRUITS OF THE CRIME OR  
6 TO MAKE REPARATIONS, IN AN AFFORDABLE AMOUNT AND ON A  
7 SCHEDULE THAT THE DEFENDANT CAN AFFORD TO PAY, FOR THE LOSS  
8 OR DAMAGE CAUSED BY THE CRIME.

9 (11) TO BE SUBJECT TO INTENSIVE SUPERVISION WHILE  
10 REMAINING WITHIN THE JURISDICTION OF THE COURT AND TO NOTIFY  
11 THE COURT OR DESIGNATED PERSON OF ANY CHANGE IN ADDRESS OR  
12 EMPLOYMENT. THE COURT MUST PERMIT THE DEFENDANT TO  
13 TEMPORARILY LEAVE THE JURISDICTION OF THE COURT UNLESS THE  
14 COURT FINDS A SPECIFIC, IDENTIFIABLE AND FORSEEABLE REASON  
15 THAT LEAVING THE COURT'S JURISDICTION WOULD LIKELY RESULT IN  
16 THE DEFENDANT ABSCONDING, CAUSING HARM TO HIMSELF OR OTHERS  
17 OR COMMITTING A CRIME.

18 (12) TO REPORT AS DIRECTED TO THE COURT OR THE  
19 DESIGNATED PERSON AND TO PERMIT THE DESIGNATED PERSON TO  
20 VISIT THE DEFENDANT'S HOME.

21 (13) TO PAY A FINE.

22 (14) TO PARTICIPATE IN DRUG OR ALCOHOL SCREENING AND  
23 TREATMENT PROGRAMS, INCLUDING OUTPATIENT PROGRAMS.

24 (15) TO DO OTHER THINGS REASONABLY RELATED TO  
25 REHABILITATION.

26 \* \* \*

27 SECTION 2. SECTION 9771(C) OF TITLE 42 IS AMENDED AND THE  
28 SECTION IS AMENDED BY ADDING SUBSECTIONS TO READ:

29 § 9771. MODIFICATION OR REVOCATION OF ORDER OF PROBATION.

30 \* \* \*

1 (B.1) NONPAYMENT OF FINES OR COSTS.--NOTWITHSTANDING  
2 SUBSECTION (B), THE COURT MAY NOT EXTEND THE PERIOD OF  
3 PROBATION, MAY NOT IMPOSE A BRIEF SANCTION UNDER SECTION 9771.1  
4 (RELATING TO COURT-IMPOSED SANCTIONS FOR VIOLATING PROBATION)  
5 AND MAY NOT REVOKE AN ORDER OF PROBATION SOLELY DUE TO  
6 NONPAYMENT OF FINES OR COSTS UNLESS THE COURT FINDS, WITH  
7 RESPECT TO THE PAYMENT OF FINES, THE DEFENDANT IS FINANCIALLY  
8 ABLE TO PAY THE FINES AND HAS WILLFULLY REFUSED TO DO SO.

9 (C) LIMITATION ON SENTENCE OF TOTAL CONFINEMENT.--[THE COURT  
10 SHALL NOT IMPOSE A SENTENCE OF TOTAL CONFINEMENT UPON REVOCATION  
11 UNLESS IT FINDS THAT:

12 (1) THE DEFENDANT HAS BEEN CONVICTED OF ANOTHER CRIME;

13 OR

14 (2) THE CONDUCT OF THE DEFENDANT INDICATES THAT IT IS  
15 LIKELY THAT HE WILL COMMIT ANOTHER CRIME IF HE IS NOT  
16 IMPRISONED; OR

17 (3) SUCH A SENTENCE IS ESSENTIAL TO VINDICATE THE  
18 AUTHORITY OF THE COURT.] THE FOLLOWING APPLY:

19 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE COURT MAY  
20 NOT IMPOSE A SENTENCE OF TOTAL CONFINEMENT UPON REVOCATION  
21 UNLESS THE COURT FINDS THE DEFENDANT HAS BEEN CONVICTED OF  
22 ANOTHER CRIME.

23 (2) A COURT MAY IMPOSE A DETERMINATE SENTENCE OF TOTAL  
24 CONFINEMENT UPON REVOCATION IF THE COURT FINDS BY A  
25 PREPONDERANCE OF THE EVIDENCE THAT THE DEFENDANT COMMITTED A  
26 TECHNICAL VIOLATION AND ANY OF THE FOLLOWING APPLY:

27 (I) THE TECHNICAL VIOLATION WAS SEXUAL IN NATURE.

28 (II) THE TECHNICAL VIOLATION INVOLVED ASSAULTIVE  
29 BEHAVIOR OR INCLUDED A CREDIBLE THREAT TO CAUSE BODILY  
30 INJURY TO ANOTHER.

1           (III) THE TECHNICAL VIOLATION INVOLVED POSSESSION OR  
2           CONTROL OF A WEAPON.

3           (IV) THE DEFENDANT ABSCONDED AND CANNOT BE SAFELY  
4           DIVERTED FROM TOTAL CONFINEMENT THROUGH LESS RESTRICTIVE  
5           MEANS.

6           (V) THERE EXISTS AN IDENTIFIABLE THREAT TO PUBLIC  
7           SAFETY, AND THE DEFENDANT CANNOT BE SAFELY DIVERTED FROM  
8           TOTAL CONFINEMENT THROUGH LESS RESTRICTIVE MEANS.

9           (VI) THE TECHNICAL VIOLATION INVOLVED AN INTENTIONAL  
10          AND UNEXCUSED FAILURE TO ADHERE TO RECOMMENDED  
11          PROGRAMMING OR CONDITIONS ON MORE THAN THREE OCCASIONS,  
12          AND THE DEFENDANT CANNOT BE SAFELY DIVERTED FROM TOTAL  
13          CONFINEMENT THROUGH LESS RESTRICTIVE MEANS.

14          (3) IF A COURT IMPOSES A SENTENCE OF TOTAL CONFINEMENT  
15          UPON REVOCATION FOR A CONDITION UNDER PARAGRAPH (2), THE  
16          DEFENDANT SHALL BE SENTENCED AS FOLLOWS:

17           (I) FOR A FIRST TECHNICAL VIOLATION, A MAXIMUM  
18           PERIOD OF 14 DAYS.

19           (II) FOR A SECOND TECHNICAL VIOLATION, A MAXIMUM  
20           PERIOD OF 30 DAYS.

21           (III) FOR A THIRD OR SUBSEQUENT TECHNICAL VIOLATION,  
22           THE COURT MAY IMPOSE ANY SENTENCING ALTERNATIVES  
23           AVAILABLE AT THE TIME OF INITIAL SENTENCING.

24           (IV) FOR A SENTENCE OF TOTAL CONFINEMENT UPON  
25           REVOCATION FOR A CONDITION UNDER PARAGRAPH (2) (I), (II),  
26           (III) OR (V), THE COURT MAY ADD UP TO AN ADDITIONAL 30  
27           DAYS FOR A FIRST TECHNICAL VIOLATION OR UP TO AN  
28           ADDITIONAL 45 DAYS FOR A SECOND TECHNICAL VIOLATION.

29           (V) THE COURT SHALL CONSIDER ALLOWING THE TERM OF  
30           INCARCERATION TO BE SERVED ON WEEKENDS OR OTHER NONWORK

1 DAYS FOR EMPLOYED PROBATIONERS WHO HAVE COMMITTED A FIRST  
2 OR SECOND TECHNICAL VIOLATION.

3 (VI) THE TIME LIMITATIONS CONTAINED IN THIS  
4 PARAGRAPH SHALL NOT APPLY TO THE EXTENT AN ADDITIONAL  
5 TERM OF TOTAL CONFINEMENT IS NECESSARY TO ALLOW A  
6 DEFENDANT TO EITHER BE EVALUATED FOR OR TO PARTICIPATE  
7 IN:

8 (A) A COURT-ORDERED DRUG, ALCOHOL OR MENTAL  
9 HEALTH TREATMENT PROGRAM; OR

10 (B) A PROBLEM-SOLVING COURT PROVIDED FOR IN  
11 SECTION 916 (RELATING TO PROBLEM-SOLVING COURTS).

12 \* \* \*

13 (E) MANDATORY PROBATION REVIEW CONFERENCE.--

14 (1) (I) SUBJECT TO SUBPARAGRAPH (II), A DEFENDANT SHALL  
15 BE ELIGIBLE FOR AN INITIAL PROBATION REVIEW CONFERENCE  
16 AFTER THE DEFENDANT HAS COMPLETED THREE YEARS OF  
17 PROBATION FOLLOWING A MISDEMEANOR CONVICTION OR FIVE  
18 YEARS OF PROBATION FOLLOWING A FELONY CONVICTION.

19 (II) IF THE SENTENCE OR SENTENCES IMPOSED ARISE OUT  
20 OF THE CONVICTION FOR MULTIPLE OFFENSES AND:

21 (A) THE SENTENCE OR SENTENCES IMPOSED ARE ALL  
22 MISDEMEANORS AND ARE BASED ON THE SAME CONDUCT OR  
23 ARISE FROM THE SAME CRIMINAL EPISODE, THE DEFENDANT  
24 SHALL BE ELIGIBLE FOR A PROBATION REVIEW CONFERENCE  
25 AT THE INITIAL COMPLETION OF THREE YEARS OF PROBATION  
26 BY THE DEFENDANT.

27 (B) THE SENTENCE OR SENTENCES IMPOSED INCLUDE A  
28 FELONY AND ARE BASED ON THE SAME CONDUCT OR ARISE  
29 FROM THE SAME CRIMINAL EPISODE, THE DEFENDANT SHALL  
30 BE ELIGIBLE FOR A PROBATION REVIEW CONFERENCE AT THE

1           INITIAL COMPLETION OF FIVE YEARS OF PROBATION BY THE  
2           DEFENDANT.

3           (2) UNLESS WAIVED UNDER SUBSECTION (D), THE COURT SHALL  
4           HOLD A PROBATION REVIEW CONFERENCE NO LATER THAN 60 DAYS FROM  
5           THE DATE THE DEFENDANT IS ELIGIBLE. IF A DEFENDANT'S  
6           PROBATION REVIEW CONFERENCE HAS NOT COMMENCED WITHIN THE TIME  
7           FRAMES SPECIFIED IN THIS SUBSECTION, THE DEFENDANT'S  
8           ATTORNEY, OR THE DEFENDANT IF UNREPRESENTED, MAY FILE A  
9           MOTION DEMANDING A PROBATION REVIEW CONFERENCE WITHIN FIVE  
10          BUSINESS DAYS.

11          (3) A DEFENDANT SERVING PROBATION FOLLOWING EITHER A  
12          FELONY CONVICTION OR MISDEMEANOR CONVICTION SHALL BE ELIGIBLE  
13          FOR AN INITIAL PROBATION REVIEW CONFERENCE SIX MONTHS PRIOR  
14          TO THE DATE THAT THE DEFENDANT WOULD OTHERWISE BE ELIGIBLE  
15          UNDER PARAGRAPH (1) IF THE DEFENDANT SUCCESSFULLY SATISFIES  
16          ANY OF THE FOLLOWING CONDITIONS WHILE SERVING THE TERM OF  
17          PROBATION:

18            (I) EARNS A HIGH SCHOOL DIPLOMA OR CERTIFICATE OF  
19            HIGH SCHOOL EQUIVALENCY.

20            (II) EARNS AN ASSOCIATE DEGREE FROM AN ACCREDITED  
21            UNIVERSITY, COLLEGE, SEMINARY COLLEGE, COMMUNITY COLLEGE  
22            OR TWO-YEAR COLLEGE.

23            (III) EARNS A BACHELOR'S DEGREE FROM AN ACCREDITED  
24            UNIVERSITY, COLLEGE OR SEMINARY COLLEGE.

25            (IV) EARNS A MASTER'S OR OTHER GRADUATE DEGREE FROM  
26            AN ACCREDITED UNIVERSITY, COLLEGE OR SEMINARY COLLEGE.

27            (V) OBTAINS A VOCATIONAL OR OCCUPATIONAL LICENSE,  
28            CERTIFICATE, REGISTRATION OR PERMIT.

29            (VI) COMPLETES A CERTIFIED VOCATIONAL, CERTIFIED  
30            TECHNICAL OR CERTIFIED CAREER EDUCATION OR TRAINING

1           PROGRAM.

2           (VII) ANY OTHER CONDITION APPROVED BY THE COURT AT  
3           THE TIME OF SENTENCING THAT SUBSTANTIALLY ASSISTS THE  
4           DEFENDANT IN LEADING A LAW-ABIDING LIFE OR FURTHERS THE  
5           REHABILITATIVE NEEDS OF THE DEFENDANT.

6           (4) A DEFENDANT SERVING PROBATION FOLLOWING A FELONY  
7           CONVICTION SHALL BE ELIGIBLE FOR AN INITIAL PROBATION REVIEW  
8           CONFERENCE UP TO A TOTAL OF SIX MONTHS PRIOR TO THE DATE THAT  
9           THE DEFENDANT WOULD OTHERWISE BE ELIGIBLE UNDER PARAGRAPH (3)  
10          IF THE DEFENDANT SATISFIES AN ADDITIONAL CONDITION SPECIFIED  
11          IN PARAGRAPH (3) WHILE SERVING THE TERM OF PROBATION.

12          (5) A DEFENDANT SENTENCED TO PROBATION FOLLOWING EITHER  
13          A FELONY CONVICTION OR A MISDEMEANOR CONVICTION SHALL BE  
14          ELIGIBLE FOR AN INITIAL PROBATION REVIEW CONFERENCE PRIOR TO  
15          THE DATE OTHERWISE ELIGIBLE UNDER PARAGRAPHS (1), (3) OR (4)  
16          AS FOLLOWS:

17               (I) TWO MONTHS EARLIER FOR EVERY SIX CONSECUTIVE  
18               CALENDAR MONTHS SERVED ON PROBATION WITHOUT A VIOLATION.  
19               SUCH SIX-CALENDAR-MONTH-PERIOD SHALL BE REFERRED TO AS  
20               THE "NON-VIOLATION PERIOD." NO TWO NON-VIOLATION PERIODS  
21               MAY CONTAIN THE SAME CALENDAR MONTH IN THE SAME CALENDAR  
22               YEAR.

23               (II) TWO MONTHS EARLIER FOR EVERY SIX CONSECUTIVE  
24               CALENDAR MONTHS IN WHICH THE DEFENDANT MAINTAINS AT LEAST  
25               80 HOURS PER MONTH OF EMPLOYMENT. SUCH SIX-CALENDAR-  
26               MONTH-PERIOD SHALL BE REFERRED TO AS THE "EMPLOYMENT  
27               PERIOD." NO TWO EMPLOYMENT PERIODS MAY CONTAIN THE SAME  
28               CALENDAR MONTH IN THE SAME CALENDAR YEAR.

29               (III) TWO MONTHS EARLIER FOR EVERY SIX CONSECUTIVE  
30               CALENDAR MONTHS IN WHICH THE DEFENDANT PERFORMS AT LEAST

1           80 HOURS PER MONTH OF COMMUNITY SERVICE ON BEHALF OF A  
2           PENNSYLVANIA REGISTERED 501(C)(3) NONPROFIT ORGANIZATION  
3           OR CIVIC OR GOVERNMENTAL AGENCY. SUCH SIX-CALENDAR-MONTH-  
4           PERIOD SHALL BE REFERRED TO AS THE "COMMUNITY SERVICE  
5           PERIOD." NO TWO COMMUNITY SERVICE PERIODS MAY CONTAIN THE  
6           SAME CALENDAR MONTH IN THE SAME CALENDAR YEAR.

7           (IV) IN NO EVENT SHALL THE TOTAL REDUCTION IN TIME  
8           CALCULATED PURSUANT TO THIS PARAGRAPH EXCEED SIX MONTHS.

9           (6) TO QUALIFY A DEFENDANT FOR AN ACCELERATED INITIAL  
10          PROBATION REVIEW CONFERENCE UNDER PARAGRAPH (3), (4) OR (5),  
11          ANY CONDITION UNDER PARAGRAPH (3) (V), (VI) OR (VII) AN  
12          EMPLOYER REFERENCED UNDER PARAGRAPH (5) (II) OR A NONPROFIT  
13          ORGANIZATION OR CIVIC OR GOVERNMENTAL AGENCY REFERENCED UNDER  
14          PARAGRAPH (5) (III) MUST BE APPROVED BY THE PENNSYLVANIA  
15          COMMISSION ON CRIME AND DELINQUENCY OR ANY ADVISORY COMMITTEE  
16          OF THAT COMMISSION DESIGNATED TO PROVIDE APPROVAL.

17          (7) A DEFENDANT SENTENCED TO A PERIOD OF PROBATION  
18          CONSECUTIVE TO A PERIOD OF INCARCERATION IN A STATE  
19          CORRECTIONAL INSTITUTION SHALL BE ELIGIBLE FOR AN INITIAL  
20          PROBATION REVIEW CONFERENCE 12 MONTHS PRIOR TO THE DATE THAT  
21          A DEFENDANT WOULD OTHERWISE BE ELIGIBLE FOR A PROBATION  
22          REVIEW CONFERENCE UNDER PARAGRAPH (1) IF THE DEFENDANT  
23          COMPLETED THE FINAL 12 MONTHS OF STATE PAROLE SUPERVISION  
24          WITHOUT VIOLATING THE TERMS AND CONDITIONS OF THE DEFENDANT'S  
25          PAROLE. THIS PARAGRAPH SHALL NOT APPLY TO A DEFENDANT WHO  
26          SERVES FEWER THAN 12 MONTHS ON STATE PAROLE SUPERVISION.

27          (8) NOTWITHSTANDING PARAGRAPHS (1) AND (11), NO  
28          DEFENDANT SHALL BE ELIGIBLE FOR A PROBATION REVIEW CONFERENCE  
29          IF:

30                (I) A COURT DETERMINES BY A PREPONDERANCE OF THE

1 EVIDENCE THAT THE DEFENDANT COMMITTED ONE OF THE  
2 FOLLOWING TECHNICAL VIOLATIONS WITHIN THE NINE MONTHS  
3 IMMEDIATELY PRECEDING THE DEFENDANT'S PROBATION REVIEW  
4 CONFERENCE:

5 (A) A TECHNICAL VIOLATION THAT WAS SEXUAL IN  
6 NATURE.

7 (B) A TECHNICAL VIOLATION THAT INVOLVED  
8 ASSAULTIVE BEHAVIOR OR INCLUDED A CREDIBLE THREAT TO  
9 CAUSE BODILY INJURY TO ANOTHER.

10 (C) A TECHNICAL VIOLATION THAT INVOLVED  
11 POSSESSION OR CONTROL OF A WEAPON.

12 (D) THE DEFENDANT ABSCONDED.

13 (E) A TECHNICAL VIOLATION THAT INVOLVED AN  
14 IDENTIFIABLE THREAT TO PUBLIC SAFETY.

15 (F) A TECHNICAL VIOLATION THAT INVOLVED AN  
16 INTENTIONAL AND UNEXCUSED FAILURE TO ADHERE TO  
17 RECOMMENDED PROGRAMMING OR CONDITIONS ON MORE THAN  
18 THREE OCCASIONS.

19 (II) A COURT DETERMINES BY A PREPONDERANCE OF THE  
20 EVIDENCE THAT THE DEFENDANT COMMITTED ANY OTHER TECHNICAL  
21 VIOLATION NOT ENUMERATED IN SUBPARAGRAPH (I) WITHIN THE  
22 SIX MONTHS IMMEDIATELY PRECEDING THE DEFENDANT'S  
23 PROBATION REVIEW CONFERENCE.

24 (III) THE DEFENDANT WAS CONVICTED OF A MISDEMEANOR  
25 OR FELONY OFFENSE COMMITTED WHILE EITHER INCARCERATED OR  
26 SERVING PROBATION.

27 (9) FOLLOWING THE PROBATION REVIEW CONFERENCE, THE COURT  
28 SHALL TERMINATE PROBATION UNLESS THE COURT FINDS BY A  
29 PREPONDERANCE OF THE EVIDENCE ANY OF THE FOLLOWING:

30 (I) THE CONDUCT OF THE DEFENDANT ON PROBATION



1 CREATES AN IDENTIFIABLE THREAT TO PUBLIC SAFETY,  
2 INCLUDING CONSIDERATION OF WHETHER THE DEFENDANT IS THE  
3 SUBJECT OF AN ACTIVE PROTECTION FROM ABUSE ORDER UNDER 23  
4 PA.C.S. CH. 61 (RELATING TO PROTECTION FROM ABUSE) OR AN  
5 ACTIVE PROTECTION FROM INTIMIDATION ORDER UNDER 18  
6 PA.C.S. CH. 49 SUBCH. B (RELATING TO VICTIM AND WITNESS  
7 INTIMIDATION).

8 (II) THE DEFENDANT HAS NOT SUCCESSFULLY COMPLETED  
9 ALL TREATMENT OR OTHER PROGRAMS REQUIRED AS A CONDITION  
10 OF PROBATION AND TERMINATION OF PROBATION WOULD EITHER  
11 PREVENT THE DEFENDANT FROM CONTINUING IN THE COURT-  
12 MANDATED TREATMENT OR PROGRAMMING THAT THE COURT  
13 DETERMINES IS STILL NECESSARY TO AID IN THE DEFENDANT'S  
14 REHABILITATION OR WOULD CREATE A SUBSTANTIAL LIKELIHOOD  
15 THAT THE DEFENDANT WOULD DISCONTINUE THE TREATMENT OR  
16 PROGRAMS.

17 (III) THE DEFENDANT HAS FAILED TO PAY THE TOTAL  
18 RESTITUTION OWED BY THE DEFENDANT.

19 (10) IF THE COURT DOES NOT TERMINATE PROBATION AT A  
20 PROBATION REVIEW CONFERENCE SOLELY BECAUSE OF THE DEFENDANT'S  
21 FAILURE TO PAY RESTITUTION IN FULL, THE COURT SHALL ORDER  
22 THAT THE DEFENDANT BE PLACED ON ADMINISTRATIVE PROBATION IF  
23 THE DEFENDANT EITHER HAS PAID AT LEAST 50% OF THE RESTITUTION  
24 OWED OR THE COURT DETERMINES, CONSIDERING THE DEFENDANT'S  
25 RESOURCES, INCOME AND FAMILY, LEGAL OR OTHER OBLIGATIONS,  
26 THAT THE DEFENDANT HAS MADE A GOOD FAITH EFFORT TO PAY. FOR  
27 PURPOSES OF THIS PARAGRAPH, "ADMINISTRATIVE PROBATION" SHALL  
28 BE DEFINED AS PROBATION IMPOSED UNDER THIS PARAGRAPH THAT:

29 (I) REQUIRES A DEFENDANT TO MAKE SUPERVISION CONTACT  
30 AT LEAST ONE TIME PER YEAR.

1           (II) REQUIRES A DEFENDANT TO PROVIDE UPDATED CONTACT  
2           INFORMATION UPON A CHANGE IN RESIDENCE OR EMPLOYMENT.

3           (III) REQUIRES A DEFENDANT TO PAY THE REMAINING  
4           RESTITUTION OWED, AS ORDERED BY THE COURT ON A SCHEDULE  
5           THAT THE DEFENDANT CAN AFFORD TO PAY.

6           (IV) DOES NOT IMPOSE ANY OTHER CONDITION OF  
7           PROBATION.

8           (11) IF THE COURT DOES NOT TERMINATE PROBATION AT A  
9           PROBATION REVIEW CONFERENCE, THE DEFENDANT SHALL RECEIVE  
10          WRITTEN NOTICE OF THE COURT'S ORDER DETAILING ITS FINDINGS.  
11          THE DEFENDANT SHALL BE ELIGIBLE FOR A SUBSEQUENT PROBATION  
12          REVIEW CONFERENCE NO LATER THAN 12 MONTHS AFTER THE DATE OF  
13          THE MOST RECENT PROBATION REVIEW CONFERENCE.

14          (12) THIS SUBSECTION SHALL NOT APPLY AND THE DEFENDANT  
15          SHALL NOT BE ENTITLED TO A PROBATION REVIEW IF ANY OF THE  
16          FOLLOWING HAS OCCURRED:

17           (I) THE DEFENDANT WAS CONVICTED OF AN OFFENSE LISTED  
18           UNDER SUBCHAPTER H (RELATING TO REGISTRATION OF SEXUAL  
19           OFFENDERS) OR I (RELATING TO CONTINUED REGISTRATION OF  
20           SEXUAL OFFENDERS) OF CHAPTER 97.

21           (II) THE DEFENDANT WAS CONVICTED OF A CRIME OF  
22           VIOLENCE.

23           (III) THE DEFENDANT WAS CONVICTED OF AN OFFENSE  
24           UNDER 18 PA.C.S. § 2701 (RELATING TO SIMPLE ASSAULT) OR  
25           2709.1 (RELATING TO STALKING) AGAINST A FAMILY OR  
26           HOUSEHOLD MEMBER.

27          (13) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO:

28           (I) PREVENT A DEFENDANT FROM PETITIONING A COURT FOR  
29           EARLY TERMINATION OF PROBATION OR MODIFICATION OF THE  
30           TERMS AND CONDITIONS OF PROBATION AS OTHERWISE PERMITTED

1           BY LAW.

2           (II) PROHIBIT THE COURT, IN ITS DISCRETION, FROM  
3           ELIMINATING OR DECREASING THE TERM OF PROBATION UNDER  
4           SUBSECTION (D).

5           (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
6           WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
7           SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

8           "CRIME OF VIOLENCE." AS DEFINED IN SECTION 9714(G) (RELATING  
9           TO SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES).

10          "FAMILY OR HOUSEHOLD MEMBERS." AS DEFINED IN 23 PA.C.S. §  
11          6102(A) (RELATING TO DEFINITIONS).

12          "TECHNICAL VIOLATION." A VIOLATION OF THE TERMS AND  
13          CONDITIONS OF A DEFENDANT'S SENTENCE, OTHER THAN BY THE  
14          COMMISSION OF A NEW CRIME OF WHICH THE DEFENDANT IS CONVICTED OR  
15          FOUND GUILTY BY A JUDGE OR JURY OR TO WHICH THE DEFENDANT PLEADS  
16          GUILTY OR NOLO CONTENDERE IN A COURT OF RECORD.

17          SECTION 3. THIS ACT SHALL APPLY AS FOLLOWS:

18           (1) THIS ACT SHALL APPLY TO INDIVIDUALS SENTENCED OR  
19           RESENTENCED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

20           (2) EXCEPT FOR THE ADDITION OF 42 PA.C.S. § 9771(E),  
21           THIS ACT SHALL APPLY TO INDIVIDUALS SENTENCED OR RESENTENCED  
22           PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

23          SECTION 4. NOTHING IN THIS ACT SHALL BE CONSTRUED TO PREVENT  
24          A DEFENDANT FROM PETITIONING A COURT FOR EARLY TERMINATION OF  
25          PROBATION OR MODIFICATION OF THE TERMS AND CONDITIONS OF  
26          PROBATION AS OTHERWISE PERMITTED BY LAW.

27          SECTION 5. COURTS SHALL ENSURE THAT THE PROBATION OF ALL  
28          INDIVIDUALS SENTENCED OR RESENTENCED PRIOR TO THE EFFECTIVE DATE  
29          OF THIS SECTION ARE REVIEWED TO DETERMINE WHETHER THE  
30          INDIVIDUALS SHOULD BE CONSIDERED FOR EARLY TERMINATION OF

1 PROBATION OR MODIFICATION OF THE TERMS AND CONDITIONS OF  
2 PROBATION. THE REVIEW SHALL OCCUR AT THE LATER OF TWO YEARS  
3 AFTER THE EFFECTIVE DATE OF THIS SECTION OR:

4 (1) THE DATE THE INDIVIDUAL HAS COMPLETED THREE YEARS OF  
5 PROBATION FOLLOWING A MISDEMEANOR CONVICTION OR FIVE YEARS OF  
6 PROBATION FOLLOWING A FELONY CONVICTION; OR

7 (2) IF THE SENTENCE OR SENTENCES IMPOSED ARISE OUT OF  
8 THE CONVICTION OF MULTIPLE OFFENSES AND:

9 (I) THE SENTENCE OR SENTENCES IMPOSED ARE ALL  
10 MISDEMEANORS AND ARE BASED ON THE SAME CONDUCT OR ARISE  
11 FROM THE SAME CRIMINAL EPISODE, THE DEFENDANT SHALL BE  
12 ELIGIBLE FOR A PROBATION REVIEW CONFERENCE AT THE INITIAL  
13 COMPLETION OF THREE YEARS OF PROBATION BY THE DEFENDANT.

14 (II) THE SENTENCE OR SENTENCES IMPOSED INCLUDE A  
15 FELONY AND ARE BASED ON THE SAME CONDUCT OR ARISE FROM  
16 THE SAME CRIMINAL EPISODE, THE DEFENDANT SHALL BE  
17 ELIGIBLE FOR A PROBATION REVIEW CONFERENCE AT THE INITIAL  
18 COMPLETION OF FIVE YEARS OF PROBATION BY THE DEFENDANT.

19 FOR EACH CASE UNDER REVIEW, THE DEFENDANT AND THE COMMONWEALTH  
20 SHALL HAVE THE OPPORTUNITY, IN ADVANCE OF A DECISION, TO PROVIDE  
21 WRITTEN COMMENTS TO THE COURT. COURTS MAY BY LOCAL RULE ADOPT  
22 SUCH PROCEDURES AS THEY DEEM APPROPRIATE TO ACCOMPLISH THE  
23 REVIEWS.

24 SECTION 6. WHEN A COURT, EITHER AS A RESULT OF A PETITION OR  
25 AS A RESULT OF ITS REVIEW UNDER SECTION 5 OF THIS ACT, SEEKS TO  
26 DETERMINE WHETHER AN INDIVIDUAL SENTENCED OR RESENTENCED PRIOR  
27 TO THE EFFECTIVE DATE OF THIS SECTION SHOULD BE CONSIDERED FOR  
28 EARLY TERMINATION OF PROBATION OR MODIFICATION OF THE TERMS AND  
29 CONDITIONS OF PROBATION, THE COURT SHALL ENSURE THAT DUE  
30 CONSIDERATION IS GIVEN TO WHETHER THE INDIVIDUAL HAS

1 SUCCESSFULLY SATISFIED THE CONDITIONS CONTAINED IN 42 PA.C.S. §  
2 9771(E) (3) (I), (II), (III), (IV), (V), (VI) AND (VII) OR HAS  
3 ENGAGED IN BEHAVIOR THAT WOULD HAVE OTHERWISE MADE THE  
4 INDIVIDUAL ELIGIBLE FOR THE REDUCTIONS IN TIME SPECIFIED IN 42  
5 PA.C.S. § 9771(E) (5), (I), (II) AND (III).

6 SECTION 7. SECTION 5 OF THIS ACT SHALL NOT APPLY AND THE  
7 DEFENDANT SHALL NOT BE ENTITLED TO A PROBATION REVIEW IF:

8 (1) THE DEFENDANT COMMITTED ONE OF THE FOLLOWING  
9 TECHNICAL VIOLATIONS WITHIN THE NINE MONTHS IMMEDIATELY  
10 PRECEDING THE DEFENDANT'S PROBATION REVIEW CONFERENCE:

11 (I) A TECHNICAL VIOLATION THAT WAS SEXUAL IN NATURE.

12 (II) A TECHNICAL VIOLATION THAT INVOLVED ASSAULTIVE  
13 BEHAVIOR OR INCLUDED A CREDIBLE THREAT TO CAUSE BODILY  
14 INJURY TO ANOTHER.

15 (III) A TECHNICAL VIOLATION THAT INVOLVED POSSESSION  
16 OR CONTROL OF A WEAPON.

17 (IV) THE DEFENDANT ABSCONDED.

18 (V) A TECHNICAL VIOLATION THAT INVOLVED AN  
19 IDENTIFIABLE THREAT TO PUBLIC SAFETY.

20 (VI) A TECHNICAL VIOLATION WHICH INVOLVED AN  
21 INTENTIONAL AND UNEXCUSED FAILURE TO ADHERE TO  
22 RECOMMENDED PROGRAMMING OR CONDITIONS ON MORE THAN THREE  
23 OCCASIONS.

24 (2) THE DEFENDANT COMMITTED ANY OTHER TECHNICAL  
25 VIOLATION NOT ENUMERATED IN PARAGRAPH (1) WITHIN THE SIX  
26 MONTHS IMMEDIATELY PRECEDING THE DEFENDANT'S PROBATION REVIEW  
27 CONFERENCE.

28 (3) THE DEFENDANT WAS CONVICTED OF A MISDEMEANOR OR  
29 FELONY OFFENSE COMMITTED WHILE EITHER INCARCERATED OR SERVING  
30 PROBATION.

1           (4) THE DEFENDANT WAS CONVICTED OF AN OFFENSE LISTED  
2 UNDER 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF  
3 SEXUAL OFFENDERS) OR I (RELATING TO CONTINUED REGISTRATION OF  
4 SEXUAL OFFENDERS) .

5           (5) THE DEFENDANT WAS CONVICTED OF A CRIME OF VIOLENCE.

6           (6) THE DEFENDANT WAS CONVICTED OF AN OFFENSE UNDER 18  
7 PA.C.S. § 2701 (RELATING TO SIMPLE ASSAULT) OR 2709.1  
8 (RELATING TO STALKING) AGAINST A FAMILY OR HOUSEHOLD MEMBER.  
9 SECTION 8. THIS ACT SHALL TAKE EFFECT JANUARY 1, 2021.