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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 879 Session of  
2021

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INTRODUCED BY ROAE, KEEFER, KNOWLES, SMITH, ROTHMAN, ZIMMERMAN  
AND MOUL, MARCH 11, 2021

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REFERRED TO COMMITTEE ON JUDICIARY, MARCH 11, 2021

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in sentencing, providing  
3 for sentences for certain offenses involving theft from  
4 government or government-funded entities.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

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

9 § 9720.9. Sentences for certain offenses involving theft from  
10 government or government-funded entities.

11 (a) Mandatory sentence.--A person who is convicted of an  
12 offense involving theft from a government or government-funded  
13 entity shall be sentenced to a minimum sentence of:

14 (1) at least one day of total confinement for each  
15 \$1,000 of cash or property unlawfully taken, received,  
16 retained or disposed of from the government; or

17 (2) at least one day of total confinement for each  
18 \$1,000 of cash or property unlawfully taken, received,  
19 retained or disposed of from the government-funded entity, if

1 the offense occurred during a calendar year in which the  
2 government-funded entity received funds or in-kind services  
3 from a government. The dollar amount of cash or property  
4 calculated under this paragraph shall be limited to the  
5 dollar amount of funds or in-kind services received from the  
6 government during the calendar year.

7 (b) Proof at sentencing.--Any provision of this section that  
8 requires imposition of a mandatory minimum sentence shall  
9 constitute an element enhancing the underlying offense. An  
10 enhancing element must be proven beyond a reasonable doubt at  
11 trial on the underlying offense and must be submitted to the  
12 fact-finder for deliberation together with the underlying  
13 offense. If the fact-finder finds the defendant guilty of the  
14 underlying offense, the fact-finder shall then also decide  
15 whether an enhancing element has been proven.

16 (c) Authority of court in sentencing.--There shall be no  
17 authority in any court to impose on an offender to which this  
18 section is applicable any lesser sentence than provided for in  
19 subsection (a) or to place the offender on probation or to  
20 suspend sentence. Nothing in this section shall prevent the  
21 sentencing court from imposing a sentence greater than that  
22 provided in this section. Sentencing guidelines promulgated by  
23 the Pennsylvania Commission on Sentencing shall not supersede  
24 the mandatory sentences provided in this section.

25 (d) Appeal by Commonwealth.--If the fact-finder finds an  
26 enhancing element and a sentencing court imposes a sentence  
27 below the mandatory minimum sentence, the Commonwealth shall  
28 have the right to appellate review of the sentence. If the  
29 appellate court finds that the mandatory sentencing provision  
30 was applicable, the court shall vacate the sentence and remand

1 for resentencing in accordance with that provision.

2 (e) Definitions.--As used in this section, the following  
3 words and phrases shall have the meanings given to them in this  
4 subsection unless the context clearly indicates otherwise:

5 "Government." As defined in 18 Pa.C.S. § 3901 (relating to  
6 definitions).

7 "Government-funded entity." An entity that receives payment  
8 of funds or in-kind services from a government.

9 "Offense involving theft from government or government-funded  
10 entity." An offense under 18 Pa.C.S. Ch. 39 (relating to theft  
11 and related offenses) committed against a government or  
12 government-funded entity.

13 Section 2. This act shall take effect in 60 days.