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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 913 Session of  
2021

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INTRODUCED BY BAKER, BARTOLOTTA, A. WILLIAMS, SANTARSIERO,  
MARTIN, HAYWOOD, KANE, STEFANO, FONTANA, MENSCH, BOSCOLA,  
CAPPELLETTI, STREET, COLLETT, TARTAGLIONE AND COMMITTA,  
OCTOBER 18, 2021

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REFERRED TO JUDICIARY, OCTOBER 18, 2021

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in sentencing, further  
3 providing for conditions of probation and for modification or  
4 revocation of order of probation.

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

7 Section 1. Section 9763(b) of Title 42 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 9763. Conditions of probation.

10 \* \* \*

11 (b) Conditions generally.--The court may attach any of the  
12 following conditions upon the defendant as it deems necessary:

13 (1) To meet family responsibilities[.], including  
14 consideration of child care responsibilities and limitations,  
15 other than the child care responsibilities and limitations  
16 contained in 23 Pa.C.S. Ch. 43 (relating to support matters  
17 generally) which shall be governed exclusively by the  
18 provisions of that chapter.

1           (2) To be devoted to a specific occupation, employment  
2 or education, study or vocational training initiative.

3           (3) To participate in a public or nonprofit community  
4 service program.

5           (4) To undergo individual or family counseling.

6           (5) To undergo available medical or psychiatric  
7 treatment or to enter and remain in a specified institution,  
8 when required for that purpose.

9           (6) To attend educational or vocational training  
10 programs.

11          (7) To attend or reside in a rehabilitative facility or  
12 other intermediate punishment program.

13          (8) (Deleted by amendment).

14          (9) To not possess a firearm or other dangerous weapon  
15 unless granted written permission.

16          (10) To make restitution of the fruits of the crime or  
17 to make reparations, in an affordable amount and on a  
18 schedule that the defendant can afford to pay, for the loss  
19 or damage caused by the crime.

20          (11) To be subject to intensive supervision while  
21 remaining within the jurisdiction of the court and to notify  
22 the court or designated person of any change in address or  
23 employment. The court must permit the defendant to  
24 temporarily leave the jurisdiction of the court unless the  
25 court finds a specific, identifiable and foreseeable reason  
26 that leaving the court's jurisdiction would likely result in  
27 the defendant absconding, causing harm to himself or others  
28 or committing a crime. Any movement of a defendant outside of  
29 the court's jurisdiction must comply with the applicable  
30 requirements of the Interstate Compact for Adult Offender

1 Supervision and the applicable provisions of the Adam Walsh  
2 Child Protection and Safety Act of 2006 (Public Law 109-248,  
3 120 Stat. 587) as adopted in this Commonwealth.

4 (12) To report as directed to the court or the  
5 designated person and to permit the designated person to  
6 visit the defendant's home.

7 (13) To pay a fine.

8 (14) To participate in drug or alcohol screening and  
9 treatment programs, including outpatient programs.

10 (15) To do other things reasonably related to  
11 rehabilitation.

12 \* \* \*

13 Section 2. Section 9771(c) of Title 42 is amended and the  
14 section is amended by adding subsections to read:

15 § 9771. Modification or revocation of order of probation.

16 \* \* \*

17 (b.1) Nonpayment of fines or costs.--Notwithstanding  
18 subsection (b), the court may not extend the period of  
19 probation, may not impose a brief sanction under section 9771.1  
20 (relating to court-imposed sanctions for violating probation)  
21 and may not revoke an order of probation solely due to  
22 nonpayment of fines or costs unless the court finds, with  
23 respect to the payment of fines, the defendant is financially  
24 able to pay the fines and has willfully refused to do so.

25 (c) Limitation on sentence of total confinement.--[The court  
26 shall not impose a sentence of total confinement upon revocation  
27 unless it finds that:

28 (1) the defendant has been convicted of another crime;

29 or

30 (2) the conduct of the defendant indicates that it is

1 likely that he will commit another crime if he is not  
2 imprisoned; or

3 (3) such a sentence is essential to vindicate the  
4 authority of the court.] The following apply:

5 (1) Except as provided in paragraph (2), the court may  
6 not impose a sentence of total confinement upon revocation  
7 unless the court finds that the defendant has been convicted  
8 of another crime.

9 (2) A court may impose a determinate sentence of total  
10 confinement upon revocation if the court finds by a  
11 preponderance of the evidence that the defendant committed a  
12 technical violation and any of the following apply:

13 (i) The technical violation was sexual in nature.

14 (ii) The technical violation involved assaultive  
15 behavior or included a credible threat to cause bodily  
16 injury to another.

17 (iii) The technical violation involved possession or  
18 control of a weapon.

19 (iv) The defendant absconded and cannot be safely  
20 diverted from total confinement through less restrictive  
21 means.

22 (v) There exists an identifiable threat to public  
23 safety, and the defendant cannot be safely diverted from  
24 total confinement through less restrictive means.

25 (vi) The technical violation involved an intentional  
26 and unexcused failure to adhere to recommended  
27 programming or conditions on more than three occasions,  
28 and the defendant cannot be safely diverted from total  
29 confinement through less restrictive means.

30 (3) If a court imposes a sentence of total confinement

1 upon revocation for a condition under paragraph (2), the  
2 defendant shall be sentenced as follows:

3 (i) For a first technical violation, a maximum  
4 period of 14 days.

5 (ii) For a second technical violation, a maximum  
6 period of 30 days.

7 (iii) For a third or subsequent technical violation,  
8 the court may impose any sentencing alternatives  
9 available at the time of initial sentencing.

10 (iv) For a sentence of total confinement upon  
11 revocation for a condition under paragraph (2)(i), (ii),  
12 (iii) or (v), the court may add up to an additional 30  
13 days for a first technical violation or up to an  
14 additional 45 days for a second technical violation.

15 (v) The court shall consider allowing the term of  
16 incarceration to be served on weekends or other nonwork  
17 days for employed probationers who have committed a first  
18 or second technical violation.

19 (vi) The time limitations contained in this  
20 paragraph shall not apply to the extent that an  
21 additional term of total confinement is necessary to  
22 allow a defendant to either be evaluated for or to  
23 participate in:

24 (A) a court-ordered drug, alcohol or mental  
25 health treatment program; or

26 (B) a problem-solving court provided for in  
27 section 916 (relating to problem-solving courts).

28 \* \* \*

29 (e) Probation review conference.--

30 (1) (i) Subject to subsections (2.1) and (2.2) and

1 except as otherwise provided by this section, a defendant  
2 shall be eligible for an initial probation review  
3 conference after the defendant has completed three years  
4 of probation following a misdemeanor conviction or five  
5 years of probation following a felony conviction.

6 (ii) If the sentence or sentences imposed arise out  
7 of the conviction for multiple offenses and:

8 (A) The sentence or sentences imposed are all  
9 misdemeanors and are based on the same conduct or  
10 arise from the same criminal episode, the defendant  
11 shall be eligible for a probation review conference  
12 at the initial completion of three years of probation  
13 by the defendant.

14 (B) The sentence or sentences imposed include a  
15 felony and are based on the same conduct or arise  
16 from the same criminal episode, the defendant shall  
17 be eligible for a probation review conference at the  
18 initial completion of five years of probation by the  
19 defendant.

20 (2) Subject to paragraphs (2.1) and (2.2) and unless  
21 waived under subsection (d), the court shall hold a probation  
22 review conference no later than 60 days from the date the  
23 defendant is eligible. If a defendant's probation review  
24 conference has not commenced within the time frames specified  
25 in this subsection, the defendant's attorney, or the  
26 defendant if unrepresented, may file a motion demanding a  
27 probation review conference within five business days.

28 (2.1) Not later than 30 days prior to the date a  
29 defendant is otherwise entitled to a probation review  
30 conference pursuant to this section, the probation office

1 responsible for the supervision of the defendant shall  
2 complete and submit a probation status report to the  
3 defendant, the court, the Commonwealth and any victim  
4 registered with either the Pennsylvania Office of Victim  
5 Advocate or a county victim witness program. The probation  
6 status report shall contain the following:

7 (i) The date the probation office believes the  
8 defendant is eligible for a probation review conference.

9 (ii) A statement as to whether:

10 (A) Any of the factors or violations specified  
11 in paragraph (8) (i) (A), (B), (C), (D), (E) and (F)  
12 have occurred.

13 (B) The defendant has committed any other  
14 technical violation within the six months prior to  
15 the probation status report.

16 (C) The defendant was convicted of a misdemeanor  
17 or felony while either incarcerated or serving  
18 probation.

19 (D) The defendant has completed all treatment of  
20 any other program required as a condition of  
21 probation.

22 (E) The defendant has paid all restitution owed  
23 by the defendant.

24 (iii) A description of the defendant's progress on  
25 probation and a recommendation that:

26 (A) the defendant's probation be terminated at  
27 or before the date the probation office believes the  
28 defendant is eligible for a probation review  
29 conference;

30 (B) the defendant should continue on probation

1 as previously ordered; or

2 (C) the defendant should continue on probation  
3 under different, reduced or increased terms and  
4 conditions.

5 (2.2) The parties entitled to the probation status  
6 report pursuant to paragraph (2.1) shall have 30 days to  
7 object or otherwise respond to the probation status report.  
8 If any party objects to all or any component of the probation  
9 status report, the court shall hold a probation review  
10 conference as otherwise provided by this subsection and shall  
11 notify the defendant, the Commonwealth and any victim  
12 registered with either the Pennsylvania Office of Victim  
13 Advocate or a county victim witness program of the date of  
14 the probation review conference. If none of the parties  
15 entitled to the probation status report pursuant to paragraph  
16 (2.1) object to the recommendation contained in the report  
17 within 30 days, upon evidence satisfactory to the court that  
18 the probation status report was sent to each party entitled  
19 to receive it, the probation review conference shall be  
20 deemed waived and the court shall so notify the defendant,  
21 the Commonwealth and any victim registered with either the  
22 Pennsylvania Office of Victim Advocate or a county victim  
23 witness program and shall enter an order memorializing the  
24 recommendation contained in the probation status report. The  
25 court may enter the order even if the defendant's probation,  
26 sentence or plea of guilty was the result of an agreement  
27 between the Commonwealth and the defendant.

28 (3) A defendant serving probation following either a  
29 felony conviction or misdemeanor conviction shall be eligible  
30 for an initial probation review conference six months prior



1 to the date that the defendant would otherwise be eligible  
2 under paragraph (1) if the defendant successfully satisfies  
3 any of the following conditions while serving the term of  
4 probation:

5 (i) Earns a high school diploma or certificate of  
6 high school equivalency.

7 (ii) Earns an associate degree from an accredited  
8 university, college, seminary college, community college  
9 or two-year college.

10 (iii) Earns a bachelor's degree from an accredited  
11 university, college or seminary college.

12 (iv) Earns a master's or other graduate degree from  
13 an accredited university, college or seminary college.

14 (v) Obtains a vocational or occupational license,  
15 certificate, registration or permit.

16 (vi) Completes a certified vocational, certified  
17 technical or certified career education or training  
18 program.

19 (vii) Any other condition approved by the court at  
20 the time of sentencing that substantially assists the  
21 defendant in leading a law-abiding life or furthers the  
22 rehabilitative needs of the defendant.

23 (4) A defendant serving probation following a felony  
24 conviction shall be eligible for an initial probation review  
25 conference up to a total of six months prior to the date that  
26 the defendant would otherwise be eligible under paragraph (3)  
27 if the defendant satisfies an additional condition specified  
28 in paragraph (3) while serving the term of probation.

29 (5) A defendant sentenced to probation following either  
30 a felony conviction or a misdemeanor conviction shall be

1 eligible for an initial probation review conference prior to  
2 the date otherwise eligible under paragraphs (1), (3) or (4)  
3 as follows:

4 (i) Two months earlier for every six consecutive  
5 calendar months served on probation without a violation.  
6 Such six-calendar-month period shall be referred to as  
7 the "non-violation period." No two non-violation periods  
8 may contain the same calendar month in the same calendar  
9 year.

10 (ii) Two months earlier for every six consecutive  
11 calendar months in which the defendant maintains at least  
12 80 hours per month of employment. Such six-calendar-month  
13 period shall be referred to as the "employment period."  
14 No two employment periods may contain the same calendar  
15 month in the same calendar year.

16 (iii) Two months earlier for every six consecutive  
17 calendar months in which the defendant performs at least  
18 80 hours per month of community service on behalf of a  
19 Pennsylvania registered 501(c)(3) nonprofit organization  
20 or civic or governmental agency. Such six-calendar-month  
21 period shall be referred to as the "community service  
22 period." No two community service periods may contain the  
23 same calendar month in the same calendar year.

24 (iv) In no event shall the total reduction in time  
25 calculated pursuant to this paragraph exceed six months.

26 (6) To qualify a defendant for an accelerated initial  
27 probation review conference under paragraph (3), (4) or (5),  
28 any condition under paragraph (3)(v), (vi) or (vii) an  
29 employer referenced under paragraph (5)(ii) or a nonprofit  
30 organization or civic or governmental agency referenced under

1 paragraph (5) (iii) must be approved by the Pennsylvania  
2 Commission on Crime and Delinquency or any advisory committee  
3 of that commission designated to provide approval.

4 (7) A defendant sentenced to a period of probation  
5 consecutive to a period of incarceration in a State  
6 correctional institution shall be eligible for an initial  
7 probation review conference 12 months prior to the date that  
8 a defendant would otherwise be eligible for a probation  
9 review conference under paragraph (1) if the defendant  
10 completed the final 12 months of State parole supervision  
11 without violating the terms and conditions of the defendant's  
12 parole. This paragraph shall not apply to a defendant who  
13 serves fewer than 12 months on State parole supervision.

14 (8) Notwithstanding paragraphs (1) and (11), no  
15 defendant shall be eligible for a probation review conference  
16 if:

17 (i) A court determines by a preponderance of the  
18 evidence that the defendant committed one of the  
19 following technical violations within the nine months  
20 immediately preceding the defendant's probation review  
21 conference:

22 (A) A technical violation that was sexual in  
23 nature.

24 (B) A technical violation that involved  
25 assaultive behavior or included a credible threat to  
26 cause bodily injury to another.

27 (C) A technical violation that involved  
28 possession or control of a weapon.

29 (D) The defendant absconded.

30 (E) A technical violation that involved an

1 identifiable threat to public safety.

2 (F) A technical violation that involved an  
3 intentional and unexcused failure to adhere to  
4 recommended programming or conditions on more than  
5 three occasions.

6 (ii) A court determines by a preponderance of the  
7 evidence that the defendant committed any other technical  
8 violation not enumerated in subparagraph (i) within the  
9 six months immediately preceding the defendant's  
10 probation review conference.

11 (iii) The defendant was convicted of a misdemeanor  
12 or felony offense committed while either incarcerated or  
13 serving probation.

14 (8.1) If the defendant is ineligible for a scheduled  
15 review conference as a result of a technical violation  
16 enumerated in paragraph (8)(i), then, if all other conditions  
17 are satisfied, a probation review conference will be held  
18 nine months after the date that the enumerated technical  
19 violation occurred. If the defendant is ineligible for a  
20 scheduled review conference as a result of a technical  
21 violation which is the subject of paragraph (8)(ii), then, if  
22 all other conditions are satisfied, a probation review  
23 conference will be held six months after the date that the  
24 technical violation occurred.

25 (9) Following the probation review conference, the court  
26 shall terminate probation unless the court finds by a  
27 preponderance of the evidence any of the following:

28 (i) The conduct of the defendant on probation  
29 creates an identifiable threat to public safety,  
30 including consideration of whether the defendant is the

1 subject of an active protection from abuse order under 23  
2 Pa.C.S. Ch. 61 or an active protection from intimidation  
3 order under 18 Pa.C.S. Ch. 49 Subch. B.

4 (ii) The defendant has not successfully completed  
5 all treatment or other programs required as a condition  
6 of probation, and termination of probation would either  
7 prevent the defendant from continuing in the court-  
8 mandated treatment or programming that the court  
9 determines is still necessary to aid in the defendant's  
10 rehabilitation or would create a substantial likelihood  
11 that the defendant would discontinue the treatment or  
12 programs.

13 (iii) The defendant has failed to pay the total  
14 restitution owed by the defendant.

15 (9.1) The court may terminate probation pursuant to  
16 paragraph (9) even if the defendant's probation, sentence or  
17 plea of guilty was the result of an agreement between the  
18 Commonwealth and 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 either the defendant 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 conference or to  
16 termination of probation pursuant to paragraphs (2.1) and  
17 (2.2) if any of the following has occurred:

18           (i) The defendant was convicted of an offense listed  
19 under Chapter 97 Subchapter H (relating to registration  
20 of sexual offenders) or I (relating to continued  
21 registration of sexual offenders).

22           (ii) The defendant was convicted of a crime of  
23 violence.

24           (iii) The defendant was convicted of an offense  
25 under 18 Pa.C.S. § 2701 (relating to simple assault) or  
26 2709.1 (relating to stalking) against any of the  
27 defendant's family or household members.

28           (13) Nothing in this subsection shall be construed to:

29           (i) Prevent a defendant from petitioning a court for  
30 early termination of probation or modification of the

1 terms and conditions of probation as otherwise permitted  
2 by law.

3 (ii) Prohibit the court, in its discretion, from  
4 eliminating or decreasing the term of probation under  
5 subsection (d).

6 (iii) Diminish the court's power to:

7 (A) otherwise, at any time, terminate continued  
8 supervision or lessen the conditions upon which an  
9 order of probation has been imposed;

10 (B) create or administer a process or program  
11 which seeks to terminate continued supervision or  
12 lessen the conditions upon which an order of  
13 probation has been imposed; or

14 (C) seek information from the Commonwealth,  
15 defendant, victim, county probation officer or any  
16 other individual or entity to assist in these  
17 processes or programs.

18 (f) Definitions.--As used in this section, the following  
19 words and phrases shall have the meanings given to them in this  
20 subsection unless the context clearly indicates otherwise:

21 "Crime of violence." As defined in section 9714(g) (relating  
22 to sentences for second and subsequent offenses).

23 "Family or household members." As defined in 23 Pa.C.S. §  
24 6102(a) (relating to definitions).

25 "Technical violation." A violation of the terms and  
26 conditions of a defendant's sentence, other than by the  
27 commission of a new crime of which the defendant is convicted or  
28 found guilty by a judge or jury or to which the defendant pleads  
29 guilty or nolo contendere in a court of record.

30 Section 3. This act shall apply as follows:

1           (1) This act shall apply to individuals sentenced or  
2           resentenced on or after the effective date of this section.

3           (2) Except for the addition of 42 Pa.C.S. § 9771(e),  
4           this act shall apply to individuals sentenced or resentenced  
5           prior to the effective date of this section.

6           Section 4. Nothing in this act shall be construed to prevent  
7           a defendant from petitioning a court for early termination of  
8           probation or modification of the terms and conditions of  
9           probation as otherwise permitted by law.

10          Section 5. Courts shall ensure that the probation of all  
11          individuals sentenced or resentenced prior to the effective date  
12          of this section are reviewed to determine whether the  
13          individuals should be considered for early termination of  
14          probation or modification of the terms and conditions of  
15          probation. The review shall occur at the later of two years  
16          after the effective date of this section or:

17               (1) the date that the individual has completed three  
18               years of probation following a misdemeanor conviction or five  
19               years of probation following a felony conviction; or

20               (2) if the sentence or sentences imposed arise out of  
21               the conviction of multiple offenses and:

22                       (i) The sentence or sentences imposed are all  
23                       misdemeanors and are based on the same conduct or arise  
24                       from the same criminal episode, the defendant shall be  
25                       eligible for a probation review conference at the initial  
26                       completion of three years of probation by the defendant.

27                       (ii) The sentence or sentences imposed include a  
28                       felony and are based on the same conduct or arise from  
29                       the same criminal episode, the defendant shall be  
30                       eligible for a probation review conference at the initial



1 completion of five years of probation by the defendant.  
2 For each case under review, the defendant and the Commonwealth  
3 shall have the opportunity, in advance of a decision, to provide  
4 written comments to the court. Courts may by local rule adopt  
5 such procedures as they deem appropriate to accomplish the  
6 reviews.

7 Section 6. When a court, either as a result of a petition or  
8 as a result of its review under section 5 of this act, seeks to  
9 determine whether an individual sentenced or resentenced prior  
10 to the effective date of this section should be considered for  
11 early termination of probation or modification of the terms and  
12 conditions of probation, the court shall ensure that due  
13 consideration is given to whether the individual has  
14 successfully satisfied the conditions contained in 42 Pa.C.S. §  
15 9771(e) (3) or (e) (4) or has engaged in behavior that would have  
16 otherwise made the individual eligible for the reductions in  
17 time specified in 42 Pa.C.S. § 9771(e) (5).

18 Section 7. Section 5 of this act shall not apply and the  
19 defendant shall not be entitled to a probation review if:

20 (1) The defendant committed one of the following  
21 technical violations within the nine months immediately  
22 preceding the defendant's probation review conference:

23 (i) A technical violation that was sexual in nature.

24 (ii) A technical violation that involved assaultive  
25 behavior or included a credible threat to cause bodily  
26 injury to another.

27 (iii) A technical violation that involved possession  
28 or control of a weapon.

29 (iv) The defendant absconded.

30 (v) A technical violation that involved an

1 identifiable threat to public safety.

2 (vi) A technical violation which involved an  
3 intentional and unexcused failure to adhere to  
4 recommended programming or conditions on more than three  
5 occasions.

6 (2) The defendant committed any other technical  
7 violation not enumerated in paragraph (1) within the six  
8 months immediately preceding the defendant's probation review  
9 conference.

10 (3) The defendant was convicted of a misdemeanor or  
11 felony offense committed while either incarcerated or serving  
12 probation.

13 (4) The defendant was convicted of an offense listed  
14 under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
15 sexual offenders) or I (relating to continued registration of  
16 sexual offenders).

17 (5) The defendant was convicted of a crime of violence.

18 (6) The defendant was convicted of an offense under 18  
19 Pa.C.S. § 2701 (relating to simple assault) or 2709.1  
20 (relating to stalking) against any of the defendant's family  
21 or household members.

22 Section 8. This act shall take effect January 1, 2022.