

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 838 Session of 2023

INTRODUCED BY BAKER, BARTOLOTTA, A. WILLIAMS, HAYWOOD, KANE, DILLON, SANTARSIERO, STEFANO, ROTHMAN, COSTA, BREWSTER, STREET AND CAPPELLETTI, JUNE 21, 2023

SENATOR BAKER, JUDICIARY, AS AMENDED, JUNE 22, 2023

AN ACT

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

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

8 Section 1. Section 9754(b) of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 9754. Order of probation.

11 * * *

12 (b) Conditions generally.--The court shall attach reasonable
13 conditions authorized by section 9763 (relating to conditions of
14 probation) [as it deems necessary to ensure or assist the
15 defendant in leading a law-abiding life].

16 * * *

17 Section 2. Section 9763(b) (1), (2) and (11) of Title 42 are
18 amended to read:

19 § 9763. Conditions of probation.

1 * * *

2 (b) Conditions generally.--[The court may attach any of the
3 following conditions upon the defendant as it deems necessary:]
4 Conditions shall be assessed and ordered based on individualized
5 circumstances. Following an individualized assessment of the
6 defendant, including the defendant's history and the underlying
7 crime or crimes committed, the court shall attach only those
8 conditions that the court deems necessary and the least
9 restrictive means available to promote the defendant's
10 rehabilitation and protection of the public, including any of
11 the following:

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

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

20 * * *

21 (11) To [be subject to intensive supervision while
22 remaining within the jurisdiction of the court and to] notify
23 the court or designated person of any change in address or
24 employment[.] within 72 hours, unless the defendant provides
25 sufficient proof of extenuating circumstances to explain the
26 delay.

27 * * *

28 Section 3. Section 9771(a), (b) and (c) of Title 42 are
29 amended and the section is amended by adding a subsection to
30 read:

1 § 9771. Modification or revocation of order of probation.

2 (a) General rule.--The court has inherent power to at any
3 time terminate continued supervision, lessen the conditions upon
4 which an order of probation has been imposed or increase the
5 conditions under which an order of probation has been imposed
6 upon a finding by clear and convincing evidence that a person
7 presents an identifiable threat to public safety.

8 (b) Revocation.--The court may increase the conditions,
9 impose a brief sanction under section 9771.1 (relating to court-
10 imposed sanctions for violating probation) or revoke an order of
11 probation upon proof of the violation of specified conditions of
12 the probation. [Upon] Subject to the limitations of subsections
13 (b.1) and (c), upon revocation the sentencing alternatives
14 available to the court shall be the same as were available at
15 the time of initial sentencing, due consideration being given to
16 the time spent serving the order of probation. The attorney for
17 the Commonwealth may file notice at any time prior to
18 resentencing of the Commonwealth's intention to proceed under an
19 applicable provision of law requiring a mandatory minimum
20 sentence.

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

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

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

2 or

3 (2) the conduct of the defendant indicates that it is
4 likely that he will commit another crime if he is not
5 imprisoned; or

6 (3) such a sentence is essential to vindicate the
7 authority of the court.] There is a presumption against total
8 confinement for technical violations of probation. The
9 following shall apply:

10 (1) The court may impose a sentence of total confinement
11 upon revocation only if:

12 (i) the defendant has been convicted of another
13 crime;

14 (ii) the court finds by clear and convincing
15 evidence that the defendant committed a technical
16 violation that involves an identifiable threat to public
17 safety and the defendant cannot be safely diverted from
18 total confinement through less restrictive means; or

19 (iii) the court finds by a preponderance of the
20 evidence that the defendant committed a technical
21 violation and any of the following apply:

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

24 (B) The technical violation involved assaultive
25 behavior or included a credible threat to cause
26 bodily injury to another, including acts committed
27 against a family or household member.

28 (C) The technical violation involved possession
29 or control of a firearm or dangerous weapon.

30 (D) The technical violation involved the

1 manufacture, sale, delivery or possession with the
2 intent to manufacture, sell or deliver, a controlled
3 substance or other drug regulated under the act of
4 April 14, 1972 (P.L.233, No.64), known as The
5 Controlled Substance, Drug, Device and Cosmetic Act.

6 (E) The defendant absconded and cannot be safely
7 diverted from total confinement through less
8 restrictive means.

9 (F) The technical violation involved an
10 intentional and unexcused failure to adhere to
11 recommended programming or conditions on three or
12 more separate occasions and the defendant cannot be
13 safely diverted from total confinement through less
14 restrictive means. For purposes of this clause,
15 multiple technical violations stemming from the same
16 episode of events shall not constitute separate
17 technical violations.

18 (2) If a court imposes a sentence of total confinement
19 following a revocation, the basis of which is for one or more
20 technical violations under paragraph (1)(ii) or (iii), the
21 defendant shall be sentenced as follows:

22 (i) For a first technical violation, a maximum
23 period of 14 days.

24 (ii) For a second technical violation, a maximum
25 period of 30 days.

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

29 (iv) 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 (v) The time limitations contained in this paragraph
4 shall not apply to the extent that a reasonable term of
5 additional total confinement, not to exceed 30 days, is
6 necessary to allow a defendant to either be evaluated for
7 or to participate 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 (3) Nothing in this section shall prevent the adoption
13 of a program under section 9771.1.

14 * * *

15 Section 4. Title 42 is amended by adding a section to read:
16 § 9774.1. Probation review conference.

17 (a) General rule.--Except as otherwise provided in this
18 section, the court shall hold a probation review conference no
19 later than 60 days from the date the defendant is eligible. If a
20 defendant's probation review conference has not commenced within
21 the time frames specified in this subsection, the defendant's
22 attorney, or the defendant if unrepresented, may file a motion
23 demanding a probation review conference within five business
24 days.

25 (b) Eligibility for review conference.--Except as otherwise
26 provided in this section, a defendant shall be eligible for an
27 initial probation review conference as follows:

28 (1) If the offense for which a sentence of probation was
29 imposed was a misdemeanor, the defendant shall be eligible
30 for an initial probation review conference after completing

1 two years of probation or 50% of the probation sentence,
2 whichever is sooner.

3 (2) If the offense for which a sentence of probation was
4 imposed was a felony, a defendant shall be eligible for an
5 initial probation review conference after completing four
6 years of probation or 50% of the probation sentence,
7 whichever is sooner.

8 (3) If the sentence or sentences imposed arose out of
9 convictions for multiple offenses which the court ordered to
10 be served consecutively and:

11 (i) The offenses for which the sentence or sentences
12 were imposed are misdemeanors based on the same conduct
13 or arising from the same criminal episode, the defendant
14 shall be eligible for a probation review conference after
15 completing two years of probation or 50% of the aggregate
16 probation sentence, whichever is sooner.

17 (ii) The offenses for which the sentence or
18 sentences were imposed included a felony and are based on
19 the same conduct or arise from the same criminal episode,
20 the defendant shall be eligible for a probation review
21 conference after completing four years of probation or
22 50% of the aggregate probation sentence, whichever is
23 sooner.

24 (iii) The offenses for which the sentence or
25 sentences were imposed are based on separate conduct and
26 arose from separate criminal episodes, the defendant
27 shall be eligible for a probation review conference after
28 completing four years of probation or 50% of the
29 aggregate probation sentence, whichever is sooner.

30 (4) A defendant sentenced to a period of probation

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

10 (5) Notwithstanding any other provisions of this
11 section, a defendant shall not be eligible to receive an
12 initial probation review conference less than 12 months from
13 the original date of sentencing.

14 (c) Accelerated early review conference.--

15 (1) Subject to the limitations in subsection (b) (5), a
16 defendant serving probation that was imposed for a
17 misdemeanor or felony offense shall be eligible for an
18 initial probation review conference six months prior to the
19 date that the defendant would otherwise be eligible under
20 subsection (b) if the defendant successfully satisfies any of
21 the following conditions while serving the term of probation:

22 (i) Earns a high school diploma or certificate of
23 high school equivalency.

24 (ii) Earns an associate degree from an accredited
25 university, college, seminary college, community college
26 or two-year college.

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

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

1 (v) Obtains a vocational or occupational license,
2 certificate, registration or permit.

3 (vi) Completes a certified vocational, certified
4 technical or certified career education or training
5 program.

6 (vii) Any other condition approved by the court at
7 the time of sentencing that substantially assists the
8 defendant in leading a law-abiding life or furthers the
9 rehabilitative needs of the defendant.

10 (2) Subject to the limitations in subsection (b) (5), a
11 defendant serving probation that was imposed for a felony
12 offense shall be eligible for an initial probation review
13 conference up to a total of six months prior to the date that
14 the defendant would otherwise be eligible under paragraph (1)
15 if the defendant satisfies an additional condition specified
16 in paragraph (1) while serving the term of probation.

17 (3) To qualify a defendant for an accelerated initial
18 probation review conference under paragraphs (1) and (2), any
19 condition under paragraph (1) (v), (vi) or (vii) must be
20 approved by the Pennsylvania Commission on Crime and
21 Delinquency or an advisory committee of that commission
22 designated to provide approval.

23 (d) Probation status report.--No later than 30 days prior to
24 the date the defendant is otherwise entitled to a probation
25 review conference under subsection (b) or (c), the probation
26 office responsible for the supervision of the defendant shall
27 complete and submit a probation status report to the defendant,
28 the court, the Commonwealth and any victim registered with
29 either the Pennsylvania Office of Victim Advocate or a county
30 victim witness program. The probation status report shall

1 contain the following:

2 (1) The date the probation office believes the defendant
3 is eligible for a probation review conference.

4 (2) A statement as to whether:

5 (i) Any of the factors or violations specified in
6 subsection (g)(1)(ii) and (iii) have occurred.

7 (ii) The defendant has committed any other technical
8 violation within the six months prior to the probation
9 status report.

10 (iii) The defendant was convicted of a misdemeanor
11 or felony while either incarcerated or serving probation.

12 (iv) The defendant has completed all treatment of
13 any other program required as a condition of probation.

14 (v) The defendant has paid all restitution owed to
15 the victim.

16 (3) A description of the defendant's progress on
17 probation and a recommendation that:

18 (i) the defendant's probation be terminated at or
19 before the date the probation office believes the
20 defendant is eligible for a probation review conference;

21 (ii) the defendant should continue on probation as
22 previously ordered; or

23 (iii) the defendant should continue on probation
24 under different, reduced or increased terms and
25 conditions.

26 (e) Objections to status report.--A person entitled to the
27 probation status report under subsection (d) shall have 30 days
28 from the date of the status report to object or otherwise
29 respond to the probation status report. The following shall
30 apply:

1 (1) If a party objects to all or any component of the
2 probation status report, the court shall hold a probation
3 review conference as otherwise provided by this subsection
4 and shall notify the defendant, the Commonwealth and any
5 victim registered with either the Pennsylvania Office of
6 Victim Advocate or a county victim witness program of the
7 date of the probation review conference.

8 (2) If none of the parties entitled to the probation
9 status report object to the recommendation contained in the
10 report within 30 days, upon evidence satisfactory to the
11 court that the probation status report was sent to each party
12 entitled to receive the probation status report, the
13 probation review conference shall be deemed waived. The court
14 shall enter an order memorializing the recommendation
15 contained in the probation status report and so notify the
16 defendant, the Commonwealth and any victim registered with
17 either the Pennsylvania Office of Victim Advocate or a county
18 victim witness program. The court may enter the order even if
19 the defendant's probation, sentence or plea of guilty was the
20 result of an agreement between the Commonwealth and the
21 defendant.

22 (f) Termination of probation.--

23 (1) Except as provided in subsection (g), immediately
24 following the probation review conference, the court shall
25 terminate probation unless the court finds:

26 (i) by clear and convincing evidence that the
27 conduct of the defendant while on probation created an
28 identifiable threat to public safety, including
29 consideration of whether the defendant is the subject of
30 an active protection from abuse order under 23 Pa.C.S.

1 Ch. 61 (relating to protection from abuse) or an active
2 protection from intimidation order under 18 Pa.C.S. Ch.
3 49 Subch. B. (relating to victim and witness
4 intimidation);

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

14 (iii) by a preponderance of the evidence that the
15 defendant has failed to pay the total restitution owed by
16 the defendant and the court finds that the defendant is <--
17 financially able to pay restitution.

18 (2) The court may terminate probation under paragraph
19 (1) even if the defendant's probation, sentence or plea of
20 guilty was the result of an agreement between the
21 Commonwealth and the defendant.

22 (3) If the court does not terminate probation at a
23 probation review conference, the defendant shall receive
24 written notice of the court's order detailing the court's
25 findings. The defendant shall be eligible for a subsequent
26 probation review conference no later than 12 months after the
27 date of the most recent probation review conference.

28 (g) Prohibitions on early termination.--

29 (1) A defendant shall not have the defendant's probation
30 terminated under this section if:

1 (i) the defendant was convicted of a misdemeanor of
2 the first degree, misdemeanor of the second degree or
3 felony offense of any degree committed while either
4 incarcerated or serving probation;

5 (ii) the court finds by clear and convincing
6 evidence that the defendant committed a technical
7 violation within the six months immediately preceding the
8 defendant's probation review conference that involved an
9 identifiable threat to public safety; or

10 (iii) a court determines at the probation review
11 conference by a preponderance of the evidence that the
12 defendant committed one of the following technical
13 violations within the six months immediately preceding
14 the defendant's probation review conference:

15 (A) A technical violation that was sexual in
16 nature.

17 (B) A technical violation that involved
18 assaultive behavior or included a credible threat to
19 cause bodily injury to another, including acts
20 committed against a family or household member.

21 (C) A technical violation that involved
22 possession or control of a firearm or dangerous
23 weapon.

24 (D) The technical violation involved the
25 manufacture, sale, delivery or possession with the
26 intent to manufacture, sell or deliver, a controlled
27 substance or other drug regulated under the act of
28 April 14, 1972 (P.L.233, No.64), known as The
29 Controlled Substance, Drug, Device and Cosmetic Act.

30 (E) The defendant absconded.

1 (F) A technical violation that involved an
2 intentional and unexcused failure to adhere to
3 recommended programming or conditions on three or
4 more separate occasions. For purposes of this clause,
5 multiple technical violations stemming from the same
6 episode of events shall not constitute separate
7 technical violations.

8 (2) If the defendant is ineligible for termination of
9 probation as a result of a technical violation enumerated in
10 paragraph (1)(ii) or (iii) occurring within the six months
11 immediately preceding the probation review conference and if
12 all other conditions are satisfied, a probation review
13 conference shall be held six months after the date that the
14 enumerated technical violation occurred.

15 (h) Failure to pay restitution.--

16 (1) If the court does not terminate probation at a
17 probation review conference solely because of the defendant's
18 failure to pay restitution in full, the court shall order
19 that the defendant be placed on administrative probation for
20 the remaining balance of the defendant's probation sentence
21 if:

22 (i) the defendant has paid at least 50% of the
23 restitution owed; or

24 (ii) the court determines, considering the
25 defendant's resources, income and family, legal or other
26 obligations, that the defendant has made a good faith
27 effort to pay.

28 (2) The provisions of section 9771(c) (relating to
29 modification or revocation of order of probation) shall apply
30 to individuals placed on administrative probation pursuant to

1 this subsection.

2 (3) Nothing in this section shall be construed to
3 interfere with a victim's right to pursue private remedies in
4 accordance with 18 Pa.C.S. § 1106(g) (relating to restitution
5 for injuries to person or property).

6 (i) Applicability.--This section shall not apply and the
7 defendant shall not be entitled to a probation review conference
8 or to early termination of probation under this section if the
9 defendant has ever been convicted of OFFENSE FOR WHICH THE <--
10 DEFENDANT WAS SENTENCED TO PROBATION WAS ONE OF THE FOLLOWING:

11 (1) an offense under 18 Pa.C.S. Ch. 25 (relating to
12 criminal homicide);

13 (2) a crime of violence;

14 (3) an offense listed under Subchapter H (relating to
15 registration of sexual offenders) or I (relating to continued
16 registration of sexual offenders) of Chapter 97;

17 (4) an offense under 18 Pa.C.S. § 2701 (relating to
18 simple assault) when committed against a family or household
19 member; or

20 (5) an offense under 18 Pa.C.S. § 2709.1 (relating to
21 stalking).

22 (j) Other remedies preserved.--Nothing in this section shall
23 be construed to:

24 (1) prevent a defendant from petitioning a court for
25 early termination of probation or modification of the terms
26 and conditions of probation as otherwise permitted by law;

27 (2) prohibit the court, in its discretion, from
28 eliminating or decreasing the term of probation under section
29 9771(d); or

30 (3) diminish the court's power to:

1 (i) otherwise, at any time, terminate continued
2 supervision or lessen the conditions upon which an order
3 of probation has been imposed;

4 (ii) create or administer a process or program which
5 seeks to terminate continued supervision or lessen the
6 conditions upon which an order of probation has been
7 imposed; or

8 (iii) seek information from the Commonwealth,
9 defendant, victim, county probation officer or any other
10 individual or entity to assist in these processes or
11 programs.

12 (k) Definitions.--As used in this section, the following
13 words and phrases shall have the meanings given to them in this
14 subsection unless the context clearly indicates otherwise:

15 "Administrative probation." A term of imposed probation
16 that:

17 (1) Requires a defendant to make supervision contact at
18 least one time and no more than four times per year.

19 (2) Requires a defendant to notify the court or the
20 designated person of any change in address or employment
21 within a reasonable period of time.

22 (3) Requires a defendant to pay the remaining
23 restitution, as ordered by the court on a schedule or payment
24 plan that the defendant can afford to pay.

25 (4) Does not require the defendant to pay monthly
26 probation administration fees or any additional costs for the
27 continuation of supervision on administrative probation.

28 (5) Does not impose any other condition of probation.

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

1 "Dangerous weapon." Any of the following:

2 (1) A "weapon" as defined in 18 Pa.C.S. § 907 (relating
3 to possessing instruments of crime); or

4 (2) An "offensive weapon" as defined in 18 Pa.C.S. § 908
5 (relating to prohibited offensive weapons).

6 "Family or household members." As defined in 23 Pa.C.S. §
7 6102(a) (relating to definitions).

8 "Firearm." As defined in 18 Pa.C.S. § 908.

9 "Technical violation." A violation of the specific terms and
10 conditions of a defendant's probation, other than by the
11 commission of a new crime of which the defendant is convicted or
12 found guilty by a judge or jury or to which the defendant pleads
13 guilty or nolo contendere in a court of record.

14 Section 5. This act shall apply as follows:

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

17 (2) Except for the addition of 42 Pa.C.S. § 9774.1, this
18 act shall apply to individuals sentenced or resentenced prior
19 to the effective date of this section.

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

24 Section 7. The following apply:

25 (1) The following apply to post-sentencing reviews:

26 (i) Subject to paragraph (2), the courts shall
27 ensure that the probation of all individuals sentenced or
28 resentenced prior to the effective date of this section
29 are reviewed to determine whether the individuals should
30 be considered for early termination of probation or

1 modification of the terms and conditions of probation.
2 The review shall occur at the later of one year after the
3 effective date of this section or:

4 (A) For a probation sentence on a misdemeanor
5 conviction, the date the defendant has completed two
6 years of probation.

7 (B) For a felony conviction, the date the
8 defendant has completed four years of probation.

9 (C) For a probation sentence based on a
10 conviction involving multiple offenses arising out of
11 the same criminal episode:

12 (I) the date the defendant has completed two
13 years of probation if all the offenses resulting
14 in the sentence were misdemeanors; or

15 (II) the date the defendant has completed
16 four years of probation if one of the offenses
17 resulting in the sentence included a felony.

18 (ii) For each case under review, the defendant and
19 the Commonwealth shall have the opportunity, in advance
20 of a decision, to provide written comments to the court.
21 Courts may by local rule adopt such procedures as they
22 deem appropriate to accomplish the reviews.

23 (2) (i) This section shall not apply if:

24 (A) The defendant committed one of the following
25 technical violations within the six months
26 immediately preceding the defendant's probation
27 review conference:

28 (I) A technical violation that was sexual in
29 nature.

30 (II) A technical violation that involved

1 assaultive behavior or included a credible threat
2 to cause bodily injury to another, including
3 incidents involving domestic violence.

4 (III) A technical violation that involved
5 possession or control of a firearm or dangerous
6 weapon.

7 (IV) The technical violation involved the
8 manufacture, sale, delivery or possession with
9 the intent to manufacture, sell or deliver, a
10 controlled substance or other drug regulated
11 under the act of April 14, 1972 (P.L.233, No.64),
12 known as The Controlled Substance, Drug, Device
13 and Cosmetic Act.

14 (V) The defendant absconded.

15 (VI) A technical violation which involved an
16 intentional and unexcused failure to adhere to
17 recommended programming or conditions on three or
18 more separate occasions. For the purposes of this
19 clause, multiple technical violations stemming
20 from the same episode of events shall not
21 constitute separate technical violations.

22 (VII) A technical violation that involved an
23 identifiable threat to public safety.

24 (ii) The defendant was convicted of a misdemeanor of
25 the first degree, misdemeanor of the second degree or
26 felony offense committed while either incarcerated or
27 serving probation.

28 (iii) The defendant was convicted of an offense
29 listed under 42 Pa.C.S. Ch. 97 Subch. H (relating to
30 registration of sexual offenders) or I (relating to

1 continued registration of sexual offenders).

2 (iv) The defendant was convicted of a crime of
3 violence.

4 (v) The defendant was convicted of an offense under
5 18 Pa.C.S. § 2701 (relating to simple assault) or 2709.1
6 (relating to stalking) against any of the defendant's
7 family or household members.

8 Section 8. When a court, either as a result of a petition or
9 as a result of its review under section 7 of this act, seeks to
10 determine whether an individual sentenced or resentenced prior
11 to the effective date of this section should be considered for
12 early termination of probation or modification of the terms and
13 conditions of probation, the court shall ensure that due
14 consideration is given to whether the individual has
15 successfully satisfied the conditions contained in 42 Pa.C.S. §
16 9774.1(c) (1) or (2).

17 Section 9. This act shall take effect in 180 days.