

AMENDMENTS TO HOUSE BILL NO. 1555

Sponsor: REPRESENTATIVE DELOZIER

Printer's No. 3006

1 Amend Bill, page 1, lines 1 through 14, by striking out all
2 of said lines and inserting

3 Amending Title 42 (Judiciary and Judicial Procedure) of the
4 Pennsylvania Consolidated Statutes, in sentencing, further
5 providing for modification or revocation of order of
6 probation and providing for law enforcement reinvestment
7 grants.

8 Amend Bill, page 12, lines 6 through 30; page 13, lines 1
9 through 30; page 14, lines 1 through 6; by striking out all of
10 said lines on said pages and inserting

11 Section 1. Section 9771(c) of Title 42 of the Pennsylvania
12 Consolidated Statutes is amended and the section is amended by
13 adding subsections to read:

14 Amend Bill, page 14, line 10, by inserting after "PROBATION"
15 , may not impose a brief sanction under section 9771.1
16 (relating to court-imposed sanctions for violating probation)
17 and may not revoke an order of probation

18 Amend Bill, page 14, line 12, by inserting after "PAY"
19 the fines or costs

20 Amend Bill, page 15, lines 7 and 8, by striking out "AND
21 CANNOT BE SAFELY" in line 7 and all of line 8 and inserting
22 , and there exists no other less restrictive means to
23 divert the defendant safely from incarceration.

24 Amend Bill, page 15, lines 10 and 11, by striking out "THE
25 DEFENDANT CANNOT BE SAFELY DIVERTED FROM" in line 10 and all of
26 line 11 and inserting

27 there exists no other less restrictive means to
28 divert the defendant safely from incarceration.

1 Amend Bill, page 15, lines 15 and 16, by striking out "THE
2 DEFENDANT CANNOT BE SAFELY DIVERTED FROM" in line 15 and all of
3 line 16 and inserting

4 there exists no other less restrictive means to
5 divert the defendant safely from incarceration.

6 Amend Bill, page 16, by inserting between lines 5 and 6

7 (vi) The time limitations contained in this
8 paragraph shall not apply to the extent an additional
9 term of total confinement is necessary to allow a
10 defendant to be evaluated for or to participate in:

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

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

15 Amend Bill, page 16, lines 7 through 13, by striking out
16 "POSSESSION OR USE OF PRESCRIBED MEDICATIONS.--A COURT" in line
17 7, all of lines 8 through 12 and "(F)" in line 13

18 Amend Bill, page 17, by inserting between lines 20 and 21

19 (vii) For at least 12 consecutive calendar months,
20 maintains at least 80 hours per month of employment or
21 community service on behalf of a nonprofit organization
22 or civic or government agency registered in the
23 Commonwealth and tax exempt under section 501(c)(3) of
24 the Internal Revenue Code of 1986 (Public Law 99-514, 26
25 U.S.C. § 501(c)(3)).

26 Amend Bill, page 17, line 21, by striking out "(VII)" and
27 inserting

28 (viii)

29 Amend Bill, page 18, line 3, by striking out "(VII)" and
30 inserting

31 (viii)

32 Amend Bill, page 18, lines 19 through 25, by striking out
33 "THE DEFENDANT:" in line 19 and all of lines 20 through 25 and
34 inserting

35 :
36 (i) A court determines by a preponderance of the
37 evidence that the defendant committed one of the

1 following technical violations within the 18 months
2 immediately preceding the defendant's probation review
3 conference:

4 (A) A technical violation that was sexual in
5 nature.

6 (B) A technical violation that involved
7 assaultive behavior or included a credible threat to
8 cause bodily injury to another.

9 (C) A technical violation that involved
10 possession or control of a weapon.

11 (D) The defendant absconded.

12 (E) A technical violation that involved an
13 identifiable threat to public safety.

14 (F) A technical violation that involved an
15 intentional and unexcused failure to adhere to
16 recommended programming or conditions on more than
17 three occasions.

18 (ii) A court determines by a preponderance of the
19 evidence that the defendant committed any other technical
20 violation not enumerated in subparagraph (i) within the
21 nine months immediately preceding the defendant's
22 probation review conference.

23 (iii) The defendant was convicted of a misdemeanor
24 or felony offense committed while either incarcerated or
25 serving probation.

26 Amend Bill, page 19, line 18, by striking out the period
27 after "OWED" and inserting

28 or the court determines, considering the defendant's
29 resources, income and family, legal or other obligations,
30 that the defendant has made and will continue to make a good
31 faith effort to pay the restitution owed.

32 Amend Bill, page 20, by inserting between lines 2 and 3

33 (10.1) The following apply:

34 (i) If a defendant is ineligible for a scheduled
35 review conference as a result of a technical violation
36 enumerated in paragraph (8)(i), then if all other
37 conditions are satisfied, a probation review conference
38 shall be held 18 months after the date that the
39 enumerated technical violation occurred.

40 (ii) If the defendant is ineligible for a scheduled
41 review conference as a result of a technical violation
42 that is the subject of paragraph (8)(ii), then if all
43 other conditions are satisfied, a probation review
44 conference shall be held nine months after the date that
45 the technical violation occurred.

46 Amend Bill, page 20, line 15, by inserting after "SHALL"

1 limit or

2 Amend Bill, page 20, line 17, by inserting after "TERM"

3 or conditions

4 Amend Bill, page 20, line 17, by inserting after "SUBSECTION"

5 (a) or

6 Amend Bill, page 20, line 18, by striking out "(G)" and

7 inserting

8 (f)

9 Amend Bill, page 20, line 30; pages 21 through 23, lines 1
10 through 30; page 24, lines 1 through 23; by striking out all of
11 said lines on said pages and inserting

12 Section 2. Title 42 is amended by adding a section to read:
13 § 9771.2. Law enforcement reinvestment grants.

14 (a) Savings assessment.--For fiscal year 2021-2022 and every
15 fiscal year thereafter, the Office of the Budget shall calculate
16 the amount of savings to the Department of Corrections in the
17 prior fiscal year. The calculation shall consist of savings from
18 the implementation of limitations on confinement and mandatory
19 probation review conferences under section 9771 (relating to
20 modification or revocation of order of probation).

21 (b) Deposit.--For fiscal year 2021-2022 and each fiscal year
22 thereafter, an amount not to exceed 100% of the amount
23 calculated to be savings in the prior fiscal year shall be
24 transferred to an account to be established in the Commonwealth
25 Finance Authority to reimburse municipalities the cost of
26 tuition and ordinary and necessary living and travel expenses
27 incurred by their police officers while attending certified
28 municipal basic training schools under 53 Pa.C.S. § 2170
29 (relating to reimbursement of expenses).

30 (c) Guidelines.--The Commonwealth Finance Authority shall
31 adopt guidelines for the approval of grant applications under
32 this section and shall ensure that grants are used to supplement
33 and not supplant existing funding.

34 Section 3. This act shall apply as follows:

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

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

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

44 Section 5. Courts shall ensure that the probation of all

1 defendants sentenced or resentenced prior to the effective date
2 of this section are reviewed to determine whether the defendants
3 should be considered for early termination of probation or
4 modification of the terms and conditions of probation. The
5 review shall occur at the later of two years after the effective
6 date of this section or:

7 (1) the date that the individual has completed three
8 years of probation following a misdemeanor conviction or five
9 years of probation following a felony conviction; or

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

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

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

22 For each case under review, the defendant and the Commonwealth
23 shall have the opportunity, in advance of a decision, to provide
24 written comments to the court. Courts may by local rule adopt
25 procedures as they deem appropriate to accomplish the reviews.

26 Section 6. When a court, either as a result of a petition or
27 as a result of its review under section 5 of this act, seeks to
28 determine whether a defendant sentenced or resentenced prior to
29 the effective date of this section should be considered for
30 early termination of probation or modification of the terms and
31 conditions of probation, the court shall ensure that due
32 consideration is given to whether the defendant has successfully
33 satisfied the conditions contained in 42 Pa.C.S. § 9771(e)(3)
34 (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix).

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

37 (1) The defendant committed one of the following
38 technical violations within the 18 months immediately
39 preceding the review:

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

41 (ii) A technical violation that involved assaultive
42 behavior or included a credible threat to cause bodily
43 injury to another.

44 (iii) A technical violation that involved possession
45 or control of a weapon.

46 (iv) The defendant absconded.

47 (v) A technical violation that involved an
48 identifiable threat to public safety.

49 (vi) A technical violation that involved an
50 intentional and unexcused failure to adhere to
51 recommended programming or conditions on more than three

1 occasions.

2 (2) The defendant committed any other technical
3 violation not enumerated in paragraph (1) within the nine
4 months immediately preceding the review.

5 (3) The defendant was convicted of a misdemeanor or
6 felony offense committed while either incarcerated or serving
7 probation.

8 (4) The defendant was convicted of an offense listed
9 under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
10 sexual offenders) or I (relating to continued registration of
11 sexual offenders).

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

13 (6) The defendant was convicted of an offense under 18
14 Pa.C.S. § 2701 (relating to simple assault) or 2709.1
15 (relating to stalking) against a family or household member.
16 Section 8. This act shall take effect January 1, 2021.