

---

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

---

AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, DECEMBER 12, 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

1 amended to read:

2 § 9763. Conditions of probation.

3 \* \* \*

4 (b) Conditions generally.--[The court may attach any of the  
5 following conditions upon the defendant as it deems necessary:]

6 Conditions shall be assessed and ordered based on individualized  
7 circumstances. Following an individualized assessment of the  
8 defendant, including the defendant's history and the underlying  
9 crime or crimes committed, the court shall attach only those  
10 conditions that the court deems necessary and the least  
11 restrictive means available to promote the defendant's  
12 rehabilitation and protection of the public, including any of  
13 the following:

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

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

22 \* \* \*

23 (11) To [be subject to intensive supervision while  
24 remaining within the jurisdiction of the court and to] notify  
25 the court or designated person of any change in address or  
26 employment[.] ~~within 72 hours, unless the defendant provides~~ <--  
27 ~~sufficient proof of extenuating circumstances to explain the~~  
28 ~~delay.~~ WITHIN 15 DAYS, UNLESS THE DEFENDANT PROVIDES <--  
29 SUFFICIENT PROOF OF EXTENUATING CIRCUMSTANCES TO EXPLAIN THE  
30 DELAY.

1 \* \* \*

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

5 § 9771. Modification or revocation of order of probation.

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

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

25 (b.1) Nonpayment of fines or costs.--Notwithstanding  
26 subsection (b), the court may not extend the period of  
27 probation, may not impose a brief sanction under section 9771.1  
28 and may not revoke an order of probation solely due to  
29 nonpayment of fines or costs unless the court finds, with  
30 respect to the payment of fines, the defendant is financially

1 able to pay the fines and has willfully refused to do so.

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

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

6 or

7 (2) the conduct of the defendant indicates that it is  
8 likely that he will commit another crime if he is not  
9 imprisoned; or

10 (3) such a sentence is essential to vindicate the  
11 authority of the court.] There is a presumption against total  
12 confinement for technical violations of probation. The  
13 following shall apply:

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

16 (i) the defendant has been convicted of another  
17 crime;

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

23 (iii) the court finds by a preponderance of the  
24 evidence that the defendant committed a technical  
25 violation and any of the following apply:

26 (A) The technical violation was sexual in  
27 nature.

28 (B) The technical violation involved assaultive  
29 behavior or included a credible threat to cause  
30 bodily injury to another, including acts committed

1 against a family or household member.

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

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

10 (E) The defendant absconded and cannot be safely  
11 diverted from total confinement through less  
12 restrictive means.

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

22 (2) If a court imposes a sentence of total confinement  
23 following a revocation, the basis of which is for one or more  
24 technical violations under paragraph (1)(ii) or (iii), the  
25 COURT SHALL CONSIDER THE EMPLOYMENT STATUS OF THE DEFENDANT. <--  
26 THE defendant shall be sentenced as follows:

27 (i) For a first technical violation, a maximum  
28 period of 14 days.

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

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

4           ~~(iv) The court shall consider allowing the term of~~ <--  
5 ~~incarceration to be served on weekends or other nonwork~~  
6 ~~days for employed probationers who have committed a first~~  
7 ~~or second technical violation.~~

8           ~~(v) (IV) The time limitations contained in this~~ <--  
9 ~~paragraph shall not apply to the extent that a reasonable~~  
10 ~~term of additional total confinement, not to exceed 30~~  
11 ~~days, is necessary to allow a defendant to either be~~  
12 ~~evaluated for or to participate in:~~

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

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

17           (3) Nothing in this section shall prevent the adoption  
18 of a program under section 9771.1.

19           \* \* \*

20           Section 4. Title 42 is amended by adding a section to read:  
21 § 9774.1. Probation review conference.

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

30           (b) Eligibility for review conference.--Except as otherwise

1 provided in this section, a defendant shall be eligible for an  
2 initial probation review conference as follows:

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

8 (2) If the offense for which a sentence of probation was  
9 imposed was a felony, a defendant shall be eligible for an  
10 initial probation review conference after completing four  
11 years of probation or 50% of the probation sentence,  
12 whichever is sooner.

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

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

22 (ii) The offenses for which the sentence or  
23 sentences were imposed included a felony and are based on  
24 the same conduct or arise from the same criminal episode,  
25 the defendant shall be eligible for a probation review  
26 conference after completing four years of probation or  
27 50% of the aggregate probation sentence, whichever is  
28 sooner.

29 (iii) The offenses for which the sentence or  
30 sentences were imposed are based on separate conduct and

1 arose from separate criminal episodes, the defendant  
2 shall be eligible for a probation review conference after  
3 completing four years of probation or 50% of the  
4 aggregate probation sentence, whichever is sooner.

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

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

19 (c) Accelerated early review conference.--

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

27 (i) Earns a high school diploma or certificate of  
28 high school equivalency.

29 (ii) Earns an associate degree from an accredited  
30 university, college, seminary college, community college



1 or two-year college.

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

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

6 (v) Obtains a vocational or occupational license,  
7 certificate, registration or permit.

8 (vi) Completes a certified vocational, certified  
9 technical or certified career education or training  
10 program.

11 (vii) Any other condition approved by the court at  
12 the time of sentencing that substantially assists the  
13 defendant in leading a law-abiding life or furthers the  
14 rehabilitative needs of the defendant.

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

22 (3) To qualify a defendant for an accelerated initial  
23 probation review conference under paragraphs (1) and (2), any  
24 condition under paragraph (1) (v), (vi) or (vii) must be  
25 approved by the Pennsylvania Commission on Crime and <--  
26 Delinquency or an advisory committee of that commission  
27 designated to provide approval PROBATION OFFICER OFFICE <--  
28 RESPONSIBLE FOR THE SUPERVISION OF THE DEFENDANT, IN <--  
29 ACCORDANCE WITH STANDARDS DEVELOPED BY THE PENNSYLVANIA  
30 COMMISSION ON CRIME AND DELINQUENCY. THE PENNSYLVANIA

1 COMMISSION ON CRIME AND DELINQUENCY SHALL DEVELOP STANDARDS  
2 PURSUANT TO THIS PARAGRAPH.

3 (d) Probation status report.--No later than 30 days prior to  
4 the date the defendant is otherwise entitled to a probation  
5 review conference under subsection (b) or (c), the probation  
6 office responsible for the supervision of the defendant shall  
7 complete and submit a probation status report to the defendant,  
8 THE DEFENDANT'S LAST COUNSEL OF RECORD, the court, ~~AND, the~~ <--  
9 Commonwealth and any victim registered with either the <--  
10 Pennsylvania Office of Victim Advocate or a county victim  
11 witness program AND ANY VICTIM REGISTERED WITH EITHER THE <--  
12 PENNSYLVANIA OFFICE OF VICTIM ADVOCATE OR A COUNTY VICTIM  
13 WITNESS PROGRAM. The probation status report shall contain the  
14 following:

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

17 (2) A statement as to whether:

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

20 (ii) The defendant has committed any other technical  
21 violation within the six months prior to the probation  
22 status report.

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

25 (iv) The defendant has completed all treatment ~~of~~ OR <--  
26 any other program required as a condition of probation.

27 (v) The defendant has paid all restitution owed to  
28 the victim.

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

1 (i) the defendant's probation be terminated at or  
2 before the date the probation office believes the  
3 defendant is eligible for a probation review conference;

4 (ii) the defendant should continue on probation as  
5 previously ordered; or

6 (iii) the defendant should continue on probation  
7 under different, reduced or increased terms and  
8 conditions.

9 (e) Objections to status report.--A person entitled to the <--  
10 probation status report under subsection (d) THE COMMONWEALTH <--  
11 AND THE DEFENDANT shall have 30 days from the date of the status  
12 report to object or otherwise respond to the probation status  
13 report. A VICTIM SHALL HAVE 30 DAYS FROM THE DATE OF THE STATUS <--  
14 REPORT TO PROVIDE INPUT OR OTHERWISE RESPOND TO THE PROBATION  
15 STATUS REPORT. The following shall apply:

16 (1) If a party objects to all or any component of the  
17 probation status report, the court shall hold a probation  
18 review conference as otherwise provided by this subsection  
19 and shall notify the defendant, the Commonwealth and any  
20 victim registered with either the Pennsylvania Office of  
21 Victim Advocate or a county victim witness program of the  
22 date of the probation review conference.

23 (2) If none of the parties entitled to the probation  
24 status report object to the recommendation contained in the  
25 report within 30 days, upon evidence satisfactory to the  
26 court that the probation status report was sent to each party  
27 entitled to receive the probation status report, the  
28 probation review conference shall be deemed waived. The court  
29 shall enter an order memorializing the recommendation  
30 contained in the probation status report and so notify the

1 defendant, the Commonwealth and any victim registered with  
2 either the Pennsylvania Office of Victim Advocate or a county  
3 victim witness program. The court may enter the order even if  
4 the defendant's probation, sentence or plea of guilty was the  
5 result of an agreement between the Commonwealth and the  
6 defendant.

7 (f) Termination of probation.--

8 (1) Except as provided in subsection (g), immediately  
9 following the probation review conference, the court shall  
10 terminate probation unless the court finds:

11 (i) by clear and convincing evidence that the  
12 conduct of the defendant while on probation created an  
13 identifiable threat to public safety, including  
14 consideration of whether the defendant is the subject of  
15 an active protection from abuse order under 23 Pa.C.S.  
16 Ch. 61 (relating to protection from abuse) or an active  
17 protection from intimidation order under 18 Pa.C.S. Ch.  
18 49 Subch. B. (relating to victim and witness  
19 intimidation);

20 (ii) by a preponderance of the evidence that the  
21 defendant has not successfully completed all treatment or  
22 other programs required as a condition of probation, and  
23 termination of probation would either prevent the  
24 defendant from continuing in the court-mandated treatment  
25 or programming that the court determines is still  
26 necessary to aid in the defendant's rehabilitation or  
27 would create a substantial likelihood that the defendant  
28 would discontinue the treatment or programs; or

29 (iii) by a preponderance of the evidence that the  
30 defendant has failed to pay the total restitution owed by

1           the defendant.

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

6           (3) If the court does not terminate probation at a  
7 probation review conference, the defendant shall receive  
8 written notice of the court's order detailing the court's  
9 findings. The defendant shall be eligible for a subsequent  
10 probation review conference no later than 12 months after the  
11 date of the most recent probation review conference.

12 (g) Prohibitions on early termination.--

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

15           (i) the defendant was convicted of a misdemeanor of  
16 the first degree, misdemeanor of the second degree or  
17 felony offense of any degree committed while either  
18 incarcerated or serving probation;

19           (ii) the court finds by clear and convincing  
20 evidence that the defendant committed a technical  
21 violation within the six months immediately preceding the  
22 defendant's probation review conference that involved an  
23 identifiable threat to public safety; or

24           (iii) a court determines at the probation review  
25 conference by a preponderance of the evidence that the  
26 defendant committed one of the following technical  
27 violations within the six months immediately preceding  
28 the defendant's probation review conference:

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

1           (B) A technical violation that involved  
2           assaultive behavior or included a credible threat to  
3           cause bodily injury to another, including acts  
4           committed against a family or household member.

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

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

14           (E) The defendant absconded.

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

22           (2) If the defendant is ineligible for termination of  
23           probation as a result of a technical violation enumerated in  
24           paragraph (1)(ii) or (iii) occurring within the six months  
25           immediately preceding the probation review conference and if  
26           all other conditions are satisfied, a probation review  
27           conference shall be held six months after the date that the  
28           enumerated technical violation occurred.

29           (h) Failure to pay restitution.--

30           (1) If the court does not terminate probation at a

1 probation review conference solely because of the defendant's  
2 failure to pay restitution in full, the court shall order  
3 that the defendant be placed on administrative probation for  
4 the remaining balance of the defendant's probation sentence A <--  
5 PERIOD NOT TO EXCEED THE DEFENDANT'S REMAINING BALANCE AT THE  
6 TIME ADMINISTRATIVE PROBATION IS ASSIGNED if: THE REMAINING <--  
7 BALANCE OF THE DEFENDANT'S PROBATION SENTENCE IF:

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

10 (ii) the court determines, considering the  
11 defendant's resources, income and family, legal or other  
12 obligations, that the defendant has made a good faith  
13 effort to pay.

14 (2) The provisions of section 9771(c) (relating to  
15 modification or revocation of order of probation) shall apply  
16 to individuals placed on administrative probation pursuant to  
17 this subsection.

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

22 (i) Applicability.--This section shall not apply and the  
23 defendant shall not be entitled to a probation review conference  
24 or to early termination of probation under this section if the  
25 offense for which the defendant was sentenced to probation was  
26 one of the following:

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

29 (2) a crime of violence;

30 (3) an offense listed under Subchapter H (relating to

1 registration of sexual offenders) or I (relating to continued  
2 registration of sexual offenders) of Chapter 97;

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

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

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

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

13 (2) prohibit the court, in its discretion, from  
14 eliminating or decreasing the term of probation under section  
15 9771(d); or

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

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

20 (ii) create or administer a process or program which  
21 seeks to terminate continued supervision or lessen the  
22 conditions upon which an order of probation has been  
23 imposed; or

24 (iii) seek information from the Commonwealth,  
25 defendant, victim, county probation officer or any other  
26 individual or entity to assist in these processes or  
27 programs.

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



1 "Administrative probation." A term of imposed probation  
2 that:

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

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

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

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

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

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

17 "Dangerous weapon." Any of the following:

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

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

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

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

25 "Technical violation." A violation of the specific terms and  
26 conditions of a defendant's probation, 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 5. 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. § 9774.1, this  
4 act shall apply to individuals sentenced or resentenced prior  
5 to the effective date of this section.

6 Section 6. 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 7. The following apply:

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

12 (i) Subject to paragraph (2), the courts shall  
13 ensure that the probation of all individuals sentenced or  
14 resentenced prior to the effective date of this section  
15 are reviewed to determine whether the individuals should  
16 be considered for early termination of probation or  
17 modification of the terms and conditions of probation.  
18 The review shall occur at the later of one year after the  
19 effective date of this section or:

20 (A) For a probation sentence on a misdemeanor  
21 conviction, the date the defendant has completed two  
22 years of probation.

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

25 (C) For a probation sentence based on a  
26 conviction involving multiple offenses arising out of  
27 the same criminal episode:

28 (I) the date the defendant has completed two  
29 years of probation if all the offenses resulting  
30 in the sentence were misdemeanors; or

1 (II) the date the defendant has completed  
2 four years of probation if one of the offenses  
3 resulting in the sentence included a felony.

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

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

10 (A) The defendant committed one of the following  
11 technical violations within the six months  
12 immediately preceding the defendant's probation  
13 review conference:

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

16 (ii) A technical violation that involved  
17 assaultive behavior or included a credible threat  
18 to cause bodily injury to another, including  
19 incidents involving domestic violence.

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

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

30 (v) The defendant absconded.

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

8 (vii) A technical violation that involved an  
9 identifiable threat to public safety.

10 (ii) The defendant was convicted of a misdemeanor of  
11 the first degree, misdemeanor of the second degree or  
12 felony offense committed while either incarcerated or  
13 serving probation.

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

18 (iv) The defendant was convicted of a crime of  
19 violence.

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

24 Section 8. When a court, either as a result of a petition or  
25 as a result of its review under section 7 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 9774.1(c) (1) or (2).

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