

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 916 Session of 2019

INTRODUCED BY STEPHENS, MURT, CALTAGIRONE, MILLARD, DeLUCA, MENTZER, PYLE, BERNSTINE, ROTHMAN, NEILSON, WARREN, HERSHEY, WEBSTER AND T. DAVIS, MARCH 20, 2019

SENATOR K. WARD, TRANSPORTATION, IN SENATE, AS AMENDED, NOVEMBER 17, 2020

AN ACT

1 ~~Amending Title 75 (Vehicles) of the Pennsylvania Consolidated~~ <--
2 ~~Statutes, in general provisions, further providing for~~
3 ~~definitions; and, in driving after imbibing alcohol or~~
4 ~~utilizing drugs, providing for evaluation for substance~~
5 ~~monitoring.~~

6 AMENDING TITLE 75 (VEHICLES) OF THE PENNSYLVANIA CONSOLIDATED <--
7 STATUTES, IN GENERAL PROVISIONS, FURTHER PROVIDING FOR
8 DEFINITIONS; IN LICENSING OF DRIVERS, FURTHER PROVIDING FOR
9 SUSPENSION OF OPERATING PRIVILEGE, FOR THE OFFENSE OF DRIVING
10 WHILE OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AND FOR
11 IGNITION INTERLOCK LIMITED LICENSE AND PROVIDING FOR RELIEF
12 FROM ADMINISTRATIVE SUSPENSION PROGRAM; AND, IN DRIVING AFTER
13 IMBIBING ALCOHOL OR UTILIZING DRUGS, FURTHER PROVIDING FOR
14 GRADING, FOR PENALTIES, FOR IGNITION INTERLOCK, FOR PRIOR
15 OFFENSES, FOR ACCELERATED REHABILITATIVE DISPOSITION, FOR
16 DRUG AND ALCOHOL ASSESSMENTS AND FOR MANDATORY SENTENCING AND
17 PROVIDING FOR SUBSTANCE MONITORING PROGRAM.

18 THIS ACT MAY BE REFERRED TO AS DEANA'S LAW.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 ~~Section 1. Section 102 of Title 75 of the Pennsylvania~~ <--
22 ~~Consolidated Statutes is amended by adding definitions to read:~~
23 ~~§ 102. Definitions.~~

24 ~~Subject to additional definitions contained in subsequent~~

1 ~~provisions of this title which are applicable to specific~~
2 ~~provisions of this title, the following words and phrases when~~
3 ~~used in this title shall have, unless the context clearly~~
4 ~~indicates otherwise, the meanings given to them in this section:~~

5 * * *

6 "Continuous alcohol monitoring device." A monitoring device
7 or instrument that:

8 (1) is attached to the individual;

9 (2) is designed to automatically test the alcohol
10 content in an individual by contact with the skin of the
11 individual at least once per one half hour regardless of the
12 location on the individual;

13 (3) detects the presence of alcohol; and

14 (4) detects an attempt to tamper with, obstruct or
15 remove the device or instrument.

16 * * *

17 "Remote breath testing device." An unsupervised mobile
18 breath testing device that:

19 (1) is not affixed to a motor vehicle;

20 (2) has the ability to confirm the identity and location
21 of the individual; and

22 (3) detects the presence of alcohol.

23 * * *

24 "Substance monitoring program." The required use of or
25 participation in one or more of the following for no less than
26 90 days as a condition of bail:

27 (1) A continuous alcohol monitoring device, remote
28 breath testing device or any other alcohol monitoring
29 technology or device.

30 (2) Random drug testing or any other controlled

1 ~~substance monitoring technology or device.~~

2 * * *

3 Section 2. Title 75 is amended by adding a section to read:

4 ~~§ 3818. Evaluation for substance monitoring.~~

5 ~~(a) Evaluation required. In all of the following~~
6 ~~circumstances an individual shall be evaluated by a court to~~
7 ~~determine whether, at the court's discretion, the individual may~~
8 ~~be ordered to participate in a substance monitoring program:~~

9 ~~(1) While adjudication of a violation of section 3802~~
10 ~~(relating to driving under influence of alcohol or controlled~~
11 ~~substance) is pending for an individual who has one or more~~
12 ~~prior convictions for an offense under section 3802 within 10~~
13 ~~years of the current offense.~~

14 ~~(2) While adjudication of two or more violations of~~
15 ~~section 3802 is concurrently pending for an individual.~~

16 ~~(b) Determination and costs to be paid. If the court~~
17 ~~requires an individual to participate in a substance monitoring~~
18 ~~program after an evaluation is administered under subsection~~
19 ~~(a), the individual shall pay for all costs associated with the~~
20 ~~substance monitoring program, including administrative and~~
21 ~~operating costs or costs associated with any required devices or~~
22 ~~technologies. The court may authorize the county to finance~~
23 ~~costs associated with the substance monitoring program if the~~
24 ~~court, at any time, determines the individual lacks the~~
25 ~~financial ability to pay all or part of costs associated with a~~
26 ~~substance monitoring program.~~

27 ~~(c) Financial inquiry. A court determination under~~
28 ~~subsection (b) shall be based on an appropriate inquiry into the~~
29 ~~financial circumstances of the individual required to~~
30 ~~participate in a substance monitoring program and an affidavit~~

1 ~~or certificate, signed by that individual, demonstrating~~
2 ~~financial inability to pay all or part of the costs associated~~
3 ~~with the substance monitoring program.~~

4 ~~(d) Prohibitions. An individual required to participate in~~
5 ~~a substance monitoring program is prohibited from all of the~~
6 ~~following for the duration of the substance monitoring program:~~

7 ~~(1) Imbibing alcohol, using controlled substances or~~
8 ~~both as determined by the court.~~

9 ~~(2) Tampering with any devices or technologies~~
10 ~~associated with the substance monitoring program.~~

11 ~~(3) Failing to comply with any other requirements~~
12 ~~ordered by the court as part of the substance monitoring~~
13 ~~program.~~

14 ~~(e) Construction. Nothing in this section shall be~~
15 ~~construed to prohibit a court from performing a substance~~
16 ~~monitoring program evaluation on an individual pending~~
17 ~~adjudication for a single violation of section 3802 with no~~
18 ~~previous convictions for an offense under section 3802 within~~
19 ~~the previous 10 years.~~

20 ~~Section 3. This act shall take effect in 60 days.~~

21 SECTION 1. SECTION 102 OF TITLE 75 OF THE PENNSYLVANIA <--
22 CONSOLIDATED STATUTES IS AMENDED BY ADDING DEFINITIONS TO READ:
23 § 102. DEFINITIONS.

24 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
25 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC
26 PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN
27 USED IN THIS TITLE SHALL HAVE, UNLESS THE CONTEXT CLEARLY
28 INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

29 * * *

30 "CONTINUOUS ALCOHOL MONITORING DEVICE." A MONITORING DEVICE

1 OR INSTRUMENT THAT:

2 (1) IS ATTACHED TO AN INDIVIDUAL;

3 (2) IS DESIGNED TO AUTOMATICALLY AND FREQUENTLY TEST THE
4 PRESENCE OF ALCOHOL IN THE INDIVIDUAL REGARDLESS OF THE
5 METHOD BY WHICH THE DEVICE OR INSTRUMENT IS ATTACHED TO THE
6 INDIVIDUAL;

7 (3) DETECTS THE PRESENCE OF ALCOHOL; AND

8 (4) DETECTS AN ATTEMPT TO TAMPER WITH, OBSTRUCT OR
9 REMOVE THE DEVICE OR INSTRUMENT.

10 * * *

11 "REMOTE BREATH TESTING DEVICE." AN UNSUPERVISED MOBILE
12 BREATH TESTING DEVICE THAT:

13 (1) IS NOT AFFIXED TO A MOTOR VEHICLE;

14 (2) HAS THE ABILITY TO CONFIRM THE IDENTITY AND LOCATION
15 OF AN INDIVIDUAL; AND

16 (3) DETECTS THE PRESENCE OF ALCOHOL.

17 * * *

18 "SUBSTANCE MONITORING PROGRAM." THE COURT-ORDERED USE OF OR
19 PARTICIPATION IN ANY ONE OR BOTH OF THE FOLLOWING AS A CONDITION
20 OF BAIL, PROBATION OR PAROLE CONSISTENT WITH SECTION 3818
21 (RELATING TO SUBSTANCE MONITORING PROGRAM):

22 (1) A CONTINUOUS ALCOHOL MONITORING DEVICE, REMOTE
23 BREATH TESTING DEVICE OR ANY OTHER ALCOHOL MONITORING
24 TECHNOLOGY OR DEVICE, AS DETERMINED BY THE COURT.

25 (2) RANDOM DRUG TESTING OR ANY OTHER CONTROLLED
26 SUBSTANCE MONITORING TECHNOLOGY OR DEVICE, AS DETERMINED BY
27 THE COURT.

28 * * *

29 SECTION 2. SECTION 1532(D) OF TITLE 75 IS AMENDED AND
30 SUBSECTION (B) IS AMENDED BY ADDING A PARAGRAPH TO READ:

1 § 1532. SUSPENSION OF OPERATING PRIVILEGE.

2 * * *

3 (B) SUSPENSION.--

4 * * *

5 (6) BEGINNING AS SOON AS PRACTICABLE, BUT NO LATER THAN
6 10 MONTHS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, THE
7 DEPARTMENT SHALL UPDATE DRIVER RECORDS AS FOLLOWS:

8 (I) IF A DRIVER RECORD SHOWS ON THE EFFECTIVE DATE
9 OF THIS PARAGRAPH AN ACTIVE SANCTION IMPOSED BY THE
10 DEPARTMENT FOR A CONVICTION OF ANY OFFENSE UNDER A
11 FEDERAL, STATE OR OTHER STATE'S CONTROLLED SUBSTANCE
12 LAWS, EXCEPT FOR AN OFFENSE UNDER SECTION 1532(A), THE
13 DRIVER RECORD WILL BE CHANGED TO INDICATE THE ACTIVE
14 DEPARTMENTAL SANCTION HAS ENDED. THE FOLLOWING SHALL
15 APPLY:

16 (A) IF THE ENDING OF THE ACTIVE DEPARTMENTAL
17 SANCTION MEANS A DRIVER'S OPERATING PRIVILEGE IS
18 ELIGIBLE FOR RESTORATION, NO POINTS WILL BE PLACED ON
19 THE DRIVER RECORD AS REQUIRED BY SECTION 1545
20 (RELATING TO RESTORATION OF OPERATING PRIVILEGE) AND
21 NO RESTORATION FEE SHALL BE IMPOSED AS REQUIRED BY
22 SECTION 1960 (RELATING TO REINSTATEMENT OF OPERATING
23 PRIVILEGE OR VEHICLE REGISTRATION).

24 (B) IF A DRIVER RECORD SHOWS A PENDING
25 DEPARTMENTAL SANCTION AFTER THE ACTIVE SANCTION
26 IMPOSED BY THE DEPARTMENT FOR A CONVICTION OF ANY
27 OFFENSE UNDER A FEDERAL, STATE OR OTHER STATE'S
28 CONTROLLED SUBSTANCE LAWS, EXCEPT FOR AN OFFENSE
29 UNDER SECTION 1532(A), THE EFFECTIVE DATES OF THE
30 PENDING DEPARTMENTAL SANCTION WILL BE ADJUSTED AS IF

1 THE ACTIVE SANCTION ENDED UNDER THIS SUBSECTION HAD
2 BEEN RESCINDED FROM THE RECORD.

3 (II) IF A DRIVER RECORD SHOWS ON THE EFFECTIVE DATE
4 OF THIS PARAGRAPH A PENDING SANCTION IMPOSED BY THE
5 DEPARTMENT FOR A CONVICTION OF ANY OFFENSE UNDER A
6 FEDERAL, STATE OR OTHER STATE'S CONTROLLED SUBSTANCE
7 LAWS, EXCEPT FOR AN OFFENSE UNDER SECTION 1532(A), THE
8 DRIVER RECORD WILL BE CHANGED TO INDICATE THAT THE
9 PENDING SANCTION WILL NOT BE IMPOSED. THE EFFECTIVE DATES
10 FOR A DEPARTMENTAL SANCTION TO BE IMPOSED AFTER A
11 CONVICTION OF ANY OFFENSE UNDER A FEDERAL, STATE OR OTHER
12 STATE'S CONTROLLED SUBSTANCE LAWS WILL BE ADJUSTED AS IF
13 THE CONTROLLED SUBSTANCE-RELATED DEPARTMENTAL SANCTION
14 HAD BEEN RESCINDED FROM THE RECORD.

15 (III) IF A DRIVER RECORD SHOWS ON THE EFFECTIVE DATE
16 OF THIS PARAGRAPH AN ACTIVE SUSPENSION IMPOSED UNDER
17 FORMER SUBSECTION (D), THE DRIVER RECORD WILL BE CHANGED
18 TO INDICATE THE SUSPENSION HAS ENDED. THE FOLLOWING SHALL
19 APPLY:

20 (A) IF THE ENDING OF THE SUSPENSION MEANS THE
21 DRIVER'S OPERATING PRIVILEGE IS ELIGIBLE FOR
22 RESTORATION, NO RESTORATION FEE SHALL BE IMPOSED AS
23 REQUIRED BY SECTION 1960.

24 (B) IF THE DRIVER RECORD SHOWS ANY PENDING
25 DEPARTMENTAL SANCTION AFTER THE SUSPENSION IMPOSED
26 UNDER FORMER SUBSECTION (D), THE EFFECTIVE DATES OF
27 ANY SUCH PENDING DEPARTMENTAL SANCTION WILL BE
28 ADJUSTED AS IF THE SUSPENSION ENDED UNDER THIS
29 SECTION HAD BEEN RESCINDED FROM THE RECORD.

30 (IV) IF THE DRIVER RECORD SHOWS ON THE EFFECTIVE

1 DATE OF THIS PARAGRAPH A PENDING SUSPENSION IMPOSED UNDER
2 FORMER SUBSECTION (D), THE DRIVER RECORD WILL BE CHANGED
3 TO INDICATE THE SUSPENSION WILL NOT BE IMPOSED. THE
4 EFFECTIVE DATES FOR ANY DEPARTMENTAL SANCTIONS TO BE
5 IMPOSED AFTER THE PENDING SUSPENSION UNDER FORMER
6 SUBSECTION (D) WILL BE ADJUSTED AS IF THE PENDING
7 SUSPENSION HAD BEEN RESCINDED FROM THE RECORD.

8 * * *

9 [(D) ADDITIONAL SUSPENSION.--THE DEPARTMENT SHALL SUSPEND
10 THE OPERATING PRIVILEGE OF ANY PERSON UPON RECEIVING A CERTIFIED
11 RECORD OF THE DRIVER'S CONVICTION, ADJUDICATION OF DELINQUENCY
12 OR ADMISSION INTO A PREADJUDICATION PROGRAM FOR A VIOLATION
13 UNDER 18 PA.C.S. § 6307 (RELATING TO MISREPRESENTATION OF AGE TO
14 SECURE LIQUOR OR MALT OR BREWED BEVERAGES), 6308 (RELATING TO
15 PURCHASE, CONSUMPTION, POSSESSION OR TRANSPORTATION OF LIQUOR OR
16 MALT OR BREWED BEVERAGES) OR 6310.3 (RELATING TO CARRYING A
17 FALSE IDENTIFICATION CARD). THE DURATION OF THE SUSPENSION SHALL
18 BE AS FOLLOWS:

19 (1) FOR A FIRST OFFENSE, THE DEPARTMENT SHALL IMPOSE A
20 SUSPENSION FOR A PERIOD OF 90 DAYS.

21 (2) FOR A SECOND OFFENSE, THE DEPARTMENT SHALL IMPOSE A
22 SUSPENSION FOR A PERIOD OF ONE YEAR.

23 (3) FOR A THIRD AND SUBSEQUENT OFFENSE, THE DEPARTMENT
24 SHALL IMPOSE A SUSPENSION FOR A PERIOD OF TWO YEARS. ANY
25 MULTIPLE SUSPENSIONS IMPOSED SHALL BE SERVED CONSECUTIVELY.
26 COURTS MAY CERTIFY THE CONVICTION, ADJUDICATION OF
27 DELINQUENCY OR ADMISSION INTO THE PREADJUDICATION PROGRAM ON THE
28 SAME FORM USED TO SUBMIT THE ORDER OF SUSPENSION REQUIRED UNDER
29 THE PROVISIONS OF 18 PA.C.S. § 6310.4 (RELATING TO RESTRICTION
30 OF OPERATING PRIVILEGES). WHEREVER PRACTICABLE, THE SUSPENSION

1 IMPOSED UNDER THIS SECTION SHALL BE MADE CONCURRENT WITH THE
2 SUSPENSION IMPOSED UNDER THE PROVISIONS OF 18 PA.C.S. § 6310.4.
3 ALL OFFENSES COMMITTED ON OR AFTER MAY 23, 1988, SHALL BE
4 INCLUDED IN CONSIDERING WHETHER AN OFFENSE IS A FIRST, SECOND,
5 THIRD OR SUBSEQUENT OFFENSE.]

6 SECTION 2.1. SECTIONS 1543(B)(1.1)(I) AND 1556(B)(1) AND (2)
7 OF TITLE 75 ARE AMENDED TO READ:

8 § 1543. DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR
9 REVOKED.

10 * * *

11 (B) CERTAIN OFFENSES.--

12 * * *

13 (1.1) (I) A PERSON WHO HAS AN AMOUNT OF ALCOHOL BY
14 WEIGHT IN HIS BLOOD THAT IS EQUAL TO OR GREATER THAN .02%
15 AT THE TIME OF TESTING OR WHO AT THE TIME OF TESTING HAS
16 IN HIS BLOOD ANY AMOUNT OF A SCHEDULE I OR NONPRESCRIBED
17 SCHEDULE II OR III CONTROLLED SUBSTANCE, AS DEFINED IN
18 THE ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
19 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
20 ITS METABOLITE OR [WHO REFUSES TESTING OF BLOOD OR
21 BREATH] WHO REFUSES TESTING OF BREATH UNDER SECTION 1547
22 (RELATING TO CHEMICAL TESTING TO DETERMINE AMOUNT OF
23 ALCOHOL OR CONTROLLED SUBSTANCE) OR CHEMICAL TESTING OF
24 BLOOD PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR
25 ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE
26 UNITED STATES AND THE CONSTITUTION OF PENNSYLVANIA, AND
27 WHO DRIVES A MOTOR VEHICLE ON ANY HIGHWAY OR TRAFFICWAY
28 OF THIS COMMONWEALTH AT A TIME WHEN THE PERSON'S
29 OPERATING PRIVILEGE IS SUSPENDED OR REVOKED AS A
30 CONDITION OF ACCEPTANCE OF ACCELERATED REHABILITATIVE

1 DISPOSITION FOR A VIOLATION OF SECTION 3802 OR FORMER
2 SECTION 3731 OR BECAUSE OF A VIOLATION OF SECTION 1547(B)
3 (1) OR 3802 OR FORMER SECTION 3731 OR IS SUSPENDED UNDER
4 SECTION 1581 FOR AN OFFENSE SUBSTANTIALLY SIMILAR TO A
5 VIOLATION OF SECTION 3802 OR FORMER SECTION 3731 SHALL,
6 UPON A FIRST CONVICTION, BE GUILTY OF A SUMMARY OFFENSE
7 AND SHALL BE SENTENCED TO PAY A FINE OF \$1,000 AND TO
8 UNDERGO IMPRISONMENT FOR A PERIOD OF NOT LESS THAN 90
9 DAYS.

10 * * *

11 § 1556. IGNITION INTERLOCK LIMITED LICENSE.

12 * * *

13 (B) PETITION.--

14 (1) AN APPLICANT FOR AN IGNITION INTERLOCK LIMITED
15 LICENSE SHALL FILE A PETITION WITH THE DEPARTMENT, BY
16 CERTIFIED MAIL, ON A FORM PRESCRIBED BY THE DEPARTMENT[, AND
17 SHALL INCLUDE PROOF THAT AN APPROVED IGNITION INTERLOCK
18 SYSTEM, AS DEFINED IN SECTION 3801, HAS BEEN INSTALLED IN ONE
19 OR MORE MOTOR VEHICLES THAT THE APPLICANT SEEKS PERMISSION TO
20 OPERATE]. THE PETITION SHALL INCLUDE PROOF OF FINANCIAL
21 RESPONSIBILITY COVERING EACH VEHICLE THE APPLICANT REQUESTS
22 TO BE PERMITTED TO OPERATE. UPON APPROVAL OF THE PETITION,
23 THE IGNITION INTERLOCK SYSTEM SHALL BE INSTALLED IN ANY MOTOR
24 VEHICLE TO BE OPERATED BY THE APPLICANT, AND PROOF OF
25 INSTALLATION SHALL BE PROVIDED BY THE IGNITION INTERLOCK
26 DEVICE VENDOR.

27 (2) [THE PETITION SHALL ALSO INCLUDE PROOF OF FINANCIAL
28 RESPONSIBILITY COVERING EACH VEHICLE THE APPLICANT REQUESTS
29 TO BE PERMITTED TO OPERATE.] THE DEPARTMENT SHALL PROMULGATE
30 REGULATIONS TO REQUIRE ADDITIONAL INFORMATION AS WELL AS

1 ADDITIONAL EVIDENCE TO VERIFY THE INFORMATION CONTAINED IN
2 THE PETITION.

3 * * *

4 SECTION 2.2. CHAPTER 15 OF TITLE 75 IS AMENDED BY ADDING A
5 SUBCHAPTER TO READ:

6 SUBCHAPTER E

7 RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM

8 SEC.

9 1591. DEFINITIONS.

10 1592. RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM.

11 1593. PROGRAM REQUIREMENTS.

12 1594. USE OF REVENUE.

13 1595. PROCEEDINGS RELATING TO VIOLATIONS BARRED.

14 § 1591. DEFINITIONS.

15 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
16 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
17 CONTEXT CLEARLY INDICATES OTHERWISE:

18 "COURT." THE ISSUING AUTHORITY OR COURT OF COMPETENT
19 JURISDICTION WHICH NOTIFIED THE DEPARTMENT OF AN INDIVIDUAL'S
20 FAILURE TO RESPOND THAT RESULTED IN THE INDEFINITE SUSPENSION OF
21 THAT INDIVIDUAL'S OPERATING PRIVILEGE UNDER SECTION 1533
22 (RELATING TO SUSPENSION OF OPERATING PRIVILEGE FOR FAILURE TO
23 RESPOND TO CITATION).

24 "PROGRAM." THE RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM
25 ESTABLISHED UNDER SECTION 1592 (RELATING TO RELIEF FROM
26 ADMINISTRATIVE SUSPENSION PROGRAM).

27 § 1592. RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM.

28 (A) ESTABLISHMENT.--THE DEPARTMENT, IN CONSULTATION WITH THE
29 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS, SHALL ESTABLISH
30 THE RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM THAT SHALL

1 BEGIN ON THE EFFECTIVE DATE OF THIS SECTION AND END 12 MONTHS
2 AFTER THE EFFECTIVE DATE OF THIS SECTION.

3 (B) PURPOSES.--THE PROGRAM SHALL PERMIT THE DEPARTMENT TO
4 RESTORE THE OPERATING PRIVILEGES OF ELIGIBLE INDIVIDUALS FROM
5 SUSPENSIONS IMPOSED UNDER SECTIONS 1533(A), (B) OR (D) (RELATING
6 TO SUSPENSION OF OPERATING PRIVILEGE FOR FAILURE TO RESPOND TO
7 CITATION), 1543(A) (RELATING TO DRIVING WHILE OPERATING
8 PRIVILEGE IS SUSPENDED OR REVOKED) AND 1544(A) (RELATING TO
9 ADDITIONAL PERIOD OF REVOCATION OR SUSPENSION).

10 (C) DUTIES.--THE DEPARTMENT, IN CONSULTATION WITH THE
11 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS, SHALL:

12 (1) REVIEW THE APPLICATIONS FILED FOR RELIEF UNDER THE
13 PROGRAM AND MAKE A DETERMINATION AS TO THE APPLICANT'S
14 ELIGIBILITY FOR RELIEF WITHIN 30 DAYS OF RECEIPT OF THE
15 APPLICATION AND ALL OTHER REQUIRED ITEMS.

16 (2) DETERMINE IF AN APPLICANT HAS SATISFIED ALL COURT-
17 ORDERED OBLIGATIONS WHICH RESULTED IN A SUSPENSION OF THE
18 APPLICANT'S OPERATING PRIVILEGE UNDER SECTION 1533(A), (B) OR
19 (D).

20 (3) DETERMINE IF AN APPLICANT WAS CONVICTED OF ONE OR
21 MORE VIOLATIONS UNDER SECTION 1543(A) THAT OCCURRED ONLY AS
22 THE RESULT OF A SUSPENSION IMPOSED UNDER THE AUTHORITY OF
23 SECTION 1533 OR 6146 (RELATING TO ENFORCEMENT AGREEMENTS) AND
24 IS CURRENTLY SERVING OR WILL SERVE AN OPERATING PRIVILEGE
25 SUSPENSION FOR A SECTION 1543(A) CONVICTION.

26 (4) DETERMINE WHETHER THE GRANTING OF RELIEF UNDER THE
27 PROGRAM WOULD RESULT IN IMMEDIATE RESTORATION OF THE
28 APPLICANT'S OPERATING PRIVILEGE.

29 (5) PRIORITIZE THE PROCESSING OF APPLICATIONS FOR WHICH
30 THE GRANTING OF RELIEF WILL RESULT IN AN IMMEDIATE

1 RESTORATION OF THE APPLICANT'S OPERATING PRIVILEGE.

2 (6) UPDATE ELIGIBLE APPLICANTS' DRIVER'S RECORDS AND
3 RESTORE THE OPERATING PRIVILEGE OF APPLICANTS AS PERMITTED
4 UNDER THIS TITLE.

5 (D) ELIGIBILITY.--THE PROGRAM SHALL BE AVAILABLE TO AN
6 INDIVIDUAL WHO MEETS THE FOLLOWING CRITERIA:

7 (1) THE INDIVIDUAL'S OPERATING PRIVILEGE HAS BEEN
8 INDEFINITELY SUSPENDED UNDER SECTION 1533(A), (B) OR (D)
9 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION.

10 (2) THE DEPARTMENT'S RECORDS SHOW THAT THE INDIVIDUAL'S
11 OPERATING PRIVILEGE WILL BE OR IS SUSPENDED FOR A CONVICTION
12 UNDER SECTION 1543(A) ONLY AS A RESULT OF A SUSPENSION
13 IMPOSED UNDER THE AUTHORITY OF SECTION 1533 OR 6146 PRIOR TO
14 THE EFFECTIVE DATE OF THIS SECTION.

15 (3) THE INDIVIDUAL HAS SERVED ANY OPERATING PRIVILEGE
16 SUSPENSION REQUIRED BY THE UNDERLYING OFFENSE WHICH RESULTED
17 IN VIOLATION OF SECTION 1533(A), (B) OR (D).

18 (4) THE INDIVIDUAL HAS SUBMITTED A COMPLETED APPLICATION
19 FOR RELIEF TO THE DEPARTMENT ON A FORM PRESCRIBED BY THE
20 DEPARTMENT. THE FOLLOWING ITEMS MUST ALSO BE SUBMITTED WITH
21 THE APPLICATION:

22 (I) THE RESTORATION FEE; AND

23 (II) PROOF OF FINANCIAL RESPONSIBILITY; OR

24 (III) IN THE CASE OF AN INDIVIDUAL WHO DOES NOT OWN
25 A MOTOR VEHICLE CURRENTLY REGISTERED IN THIS
26 COMMONWEALTH, A SIGNED STATEMENT CERTIFYING THAT THE
27 INDIVIDUAL DOES NOT OWN A MOTOR VEHICLE CURRENTLY
28 REGISTERED IN THIS COMMONWEALTH.

29 (E) PROHIBITIONS.--AN INDIVIDUAL SHALL BE PROHIBITED FROM
30 RECEIVING RELIEF UNDER THE PROGRAM FOR CONVICTIONS OF VIOLATIONS

1 COMMITTED AFTER THE EFFECTIVE DATE OF THIS SUBSECTION.

2 (F) REINSTATEMENT.--THE DEPARTMENT SHALL AMEND ELIGIBLE
3 INDIVIDUALS' DRIVER'S RECORDS TO SHOW THEY SATISFIED ALL COURT-
4 ORDERED OBLIGATIONS WHICH RESULTED IN A SUSPENSION OF THE
5 INDIVIDUAL'S OPERATING PRIVILEGE UNDER SECTION 1533. THE
6 DEPARTMENT SHALL AMEND ELIGIBLE INDIVIDUALS' DRIVER'S RECORDS TO
7 SHOW THAT SUSPENSIONS IMPOSED FOR RELEVANT CONVICTIONS UNDER
8 SECTION 1543(A) WILL END OR WILL NOT BE IMPOSED. ANY ADD-ON
9 SUSPENSIONS IMPOSED UNDER SECTION 1544(A) FOR VIOLATIONS THAT
10 OCCURRED AT THE SAME TIME AS A RELEVANT VIOLATION OF SECTION
11 1543(A) SHALL BE RESCINDED FROM ELIGIBLE INDIVIDUALS' DRIVER'S
12 RECORDS. THE DEPARTMENT SHALL NOT BE REQUIRED TO REINSTATE THE
13 OPERATING PRIVILEGE OF AN INDIVIDUAL UNDER THIS SUBCHAPTER IF
14 THE DEPARTMENT IS AUTHORIZED UNDER THIS TITLE TO SUSPEND THE
15 OPERATING PRIVILEGE OF THE INDIVIDUAL FOR OTHER VIOLATIONS OF
16 THIS TITLE. UPON RESTORATION FROM SUSPENSION UNDER THIS PROGRAM,
17 ELIGIBLE INDIVIDUALS' DRIVER'S RECORDS SHALL SHOW FIVE POINTS.

18 (G) COMPLIANCE.--THE DEPARTMENT MAY NOT BE REQUIRED TO
19 RESTORE THE OPERATING PRIVILEGE OF AN INDIVIDUAL UNDER THIS
20 SUBCHAPTER UNTIL THE INDIVIDUAL HAS COMPLIED WITH SECTION 1593
21 (RELATING TO PROGRAM REQUIREMENTS).

22 § 1593. PROGRAM REQUIREMENTS.

23 (A) FORM.--AN INDIVIDUAL WHO SEEKS TO PARTICIPATE IN THE
24 PROGRAM SHALL RESPOND TO THE COURT PURSUANT TO THE INSTRUCTIONS
25 IN A RESTORATION REQUIREMENTS LETTER WHICH SHALL BE PROVIDED BY
26 THE DEPARTMENT.

27 (B) SATISFACTION OF PAYMENTS OWED.--THE INDIVIDUAL IS
28 REQUIRED TO PAY 100% OF THE ORIGINAL PENALTY AND ANY OTHER
29 COURT-ORDERED OBLIGATIONS IMPOSED UNDER THE APPLICABLE LAWS OF
30 THIS COMMONWEALTH.

1 (C) REQUIREMENTS.--IN ADDITION TO THE REQUIREMENTS UNDER
2 SECTION 1960 (RELATING TO REINSTATEMENT OF OPERATING PRIVILEGE
3 OR VEHICLE REGISTRATION), AN INDIVIDUAL APPLYING FOR THE PROGRAM
4 SHALL PERFORM ONE OF THE FOLLOWING:

5 (1) PAY ALL COURT-ORDERED OBLIGATIONS IMMEDIATELY OR IN
6 A SINGLE REMITTANCE.

7 (2) IF AN INDIVIDUAL IS UNABLE TO PAY ALL OBLIGATIONS
8 UNDER SUBPARAGRAPH (I), THE INDIVIDUAL SHALL EITHER:

9 (I) PAY IN INSTALLMENTS ALL COURT-ORDERED
10 OBLIGATIONS AFTER A HEARING CONDUCTED BY THE ISSUING
11 AUTHORITY TO DETERMINE THE INDIVIDUAL'S ABILITY TO PAY
12 AND THE ISSUANCE OF AN ORDER PROVIDING FOR INSTALLMENT
13 PAYMENTS; OR

14 (II) NOTWITHSTANDING 42 PA.C.S. § 1520(A) (RELATING
15 TO ADJUDICATION ALTERNATIVE PROGRAM), COMPLETE A COURT-
16 ORDERED PUBLIC SERVICE OR OTHER ADJUDICATION ALTERNATIVE
17 PROGRAM UNDER 42 PA.C.S. § 1520(B).

18 (D) PROOF OF FINANCIAL RESPONSIBILITY.--NOTWITHSTANDING
19 SECTION 1783 (RELATING TO PROOF OF FINANCIAL RESPONSIBILITY
20 BEFORE RESTORING OPERATING PRIVILEGE OR REGISTRATION), BEFORE
21 RESTORING AN OPERATING PRIVILEGE, THE DEPARTMENT SHALL REQUIRE
22 AN INDIVIDUAL PARTICIPATING IN THE PROGRAM TO PROVIDE THE
23 DEPARTMENT WITH:

24 (1) PROOF OF FINANCIAL RESPONSIBILITY; OR

25 (2) IN THE CASE OF AN INDIVIDUAL WHO DOES NOT OWN A
26 MOTOR VEHICLE CURRENTLY REGISTERED IN THIS COMMONWEALTH, A
27 SIGNED STATEMENT CERTIFYING THAT THE INDIVIDUAL DOES NOT OWN
28 A MOTOR VEHICLE CURRENTLY REGISTERED IN THIS COMMONWEALTH.

29 (E) CERTIFICATION.--THE COURT SHALL CERTIFY TO THE
30 DEPARTMENT THAT AN INDIVIDUAL IS ELIGIBLE FOR RELIEF UNDER THE

1 PROGRAM BECAUSE:

2 (1) AN INDIVIDUAL HAS SATISFIED THE AMOUNTS OWED TO THE
3 COURT; OR

4 (2) AN INDIVIDUAL HAS COMPLETED OR SATISFIED ALL COURT-
5 ORDERED PUBLIC SERVICE REQUIREMENTS OR OTHER ALTERNATIVE
6 ADJUDICATION PROGRAMS.

7 § 1594. USE OF REVENUE.

8 ALL REVENUE RECEIVED BY THE COURT UNDER THE PROGRAM SHALL BE
9 DISTRIBUTED IN ACCORDANCE WITH LAW.

10 § 1595. PROCEEDINGS RELATING TO VIOLATIONS BARRED.

11 PARTICIPATION IN THE PROGRAM IS CONDITIONED UPON THE
12 INDIVIDUAL'S AGREEMENT NOT TO PROTEST OR PURSUE AN
13 ADMINISTRATIVE OR JUDICIAL PROCEEDING AGAINST THE DEPARTMENT FOR
14 THE SANCTIONS IT IMPOSED ON THE INDIVIDUAL'S OPERATING PRIVILEGE
15 UNDER SECTION 1533 (RELATING TO SUSPENSION OF OPERATING
16 PRIVILEGE FOR FAILURE TO RESPOND TO CITATION), 1543 (RELATING TO
17 DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR REVOKED), 1544
18 (RELATING TO ADDITIONAL PERIOD OF REVOCATION OR SUSPENSION) OR
19 6146 (RELATING TO ENFORCEMENT AGREEMENTS) AS ADDRESSED BY THE
20 PROGRAM.

21 SECTION 3. SECTION 3803(B) (3) AND (4.1) OF TITLE 75 ARE
22 AMENDED TO READ:

23 § 3803. GRADING.

24 * * *

25 (B) OTHER OFFENSES.--

26 * * *

27 (3) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1) WHERE
28 THERE WAS AN ACCIDENT RESULTING IN BODILY INJURY, SERIOUS
29 BODILY INJURY OR DEATH OF ANY PERSON OR IN DAMAGE TO A
30 VEHICLE OR OTHER PROPERTY, OR WHO VIOLATES SECTION 3802(B),

1 (E) OR (F) AND WHO HAS TWO PRIOR OFFENSES COMMITS A
2 [MISDEMEANOR OF THE FIRST] FELONY OF THE THIRD DEGREE.

3 * * *

4 (4.1) AN INDIVIDUAL WHO VIOLATES SECTION 3802(A) (1)
5 WHERE THE INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL
6 TESTING PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR
7 ANY OTHER BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED
8 STATES AND THE CONSTITUTION OF PENNSYLVANIA, OR WHO VIOLATES
9 SECTION 3802(C) OR (D) [AND WHO] COMMITTS:

10 (I) A FELONY OF THE THIRD DEGREE IF THE INDIVIDUAL
11 HAS TWO [OR MORE] PRIOR OFFENSES [COMMITTS A FELONY OF THE
12 THIRD DEGREE].

13 (II) A FELONY OF THE SECOND DEGREE IF THE INDIVIDUAL
14 HAS THREE OR MORE PRIOR OFFENSES.

15 * * *

16 SECTION 4. SECTIONS 3804(E) (2) (II) AND 3805(C) OF TITLE 75
17 ARE AMENDED AND THE SECTIONS ARE AMENDED BY ADDING SUBSECTIONS
18 TO READ:

19 § 3804. PENALTIES.

20 * * *

21 (C.2) CONSECUTIVE SENTENCE.--A SENTENCE IMPOSED UPON AN
22 INDIVIDUAL UNDER THIS SECTION WHO HAS TWO OR MORE PRIOR OFFENSES
23 SHALL BE SERVED CONSECUTIVELY TO ANY OTHER SENTENCE THE
24 INDIVIDUAL IS SERVING AND TO ANY OTHER SENTENCE BEING THEN
25 IMPOSED BY THE COURT, EXCEPT FOR THOSE WITH WHICH THE OFFENSE
26 MUST MERGE AS A MATTER OF LAW.

27 (C.3) SENTENCING ENHANCEMENT.--THE PENNSYLVANIA COMMISSION
28 ON SENTENCING, UNDER 42 PA.C.S. § 2154 (RELATING TO ADOPTION OF
29 GUIDELINES FOR SENTENCING), SHALL PROVIDE FOR A SENTENCING
30 ENHANCEMENT FOR A VIOLATION OF SECTION 3802(A) (1) WHERE THE

1 INDIVIDUAL REFUSED TESTING OF BREATH OR CHEMICAL TESTING
2 PURSUANT TO A VALID SEARCH WARRANT, COURT ORDER OR ANY OTHER
3 BASIS PERMISSIBLE BY THE CONSTITUTION OF THE UNITED STATES AND
4 THE CONSTITUTION OF PENNSYLVANIA OR FOR A VIOLATION OF SECTION
5 3802(C) OR (D) AND WHERE THE INDIVIDUAL HAS FOUR OR MORE PRIOR
6 OFFENSES.

7 * * *

8 (E) SUSPENSION OF OPERATING PRIVILEGES UPON CONVICTION.--

9 * * *

10 (2) SUSPENSION UNDER PARAGRAPH (1) SHALL BE IN
11 ACCORDANCE WITH THE FOLLOWING:

12 * * *

13 (II) 18 MONTHS FOR A MISDEMEANOR OF THE FIRST DEGREE
14 OR FELONY [OF THE THIRD DEGREE] UNDER THIS CHAPTER.

15 * * *

16 § 3805. IGNITION INTERLOCK.

17 * * *

18 (C) ISSUANCE OF UNRESTRICTED LICENSE.-- [ONE YEAR FROM THE
19 DATE OF ISSUANCE OF AN IGNITION INTERLOCK RESTRICTED LICENSE
20 UNDER THIS SECTION, IF] IF OTHERWISE ELIGIBLE, A PERSON MAY BE
21 ISSUED A REPLACEMENT LICENSE UNDER SECTION 1951(D) THAT DOES NOT
22 CONTAIN THE IGNITION INTERLOCK SYSTEM RESTRICTION. THE
23 DEPARTMENT SHALL NOT ISSUE AN UNRESTRICTED LICENSE UNTIL A
24 PERSON HAS PRESENTED ALL OF THE FOLLOWING:

25 (1) PROOF THAT THE PERSON HAS COMPLETED THE IGNITION
26 INTERLOCK RESTRICTED LICENSE PERIOD UNDER [THIS SECTION]
27 SUBSECTION (C.1).

28 (2) CERTIFICATION BY THE VENDOR THAT PROVIDED THE
29 IGNITION INTERLOCK DEVICE THAT THE PERSON HAS COMPLIED WITH
30 SUBSECTION (H.2).

1 (C.1) RESTRICTED LICENSE PERIOD.--AN INDIVIDUAL MAY BE
2 ISSUED AN UNRESTRICTED LICENSE UNDER SUBSECTION (C) AFTER A
3 PERIOD OF TIME AS FOLLOWS:

4 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), ONE YEAR
5 FROM THE DATE OF ISSUANCE OF THE IGNITION INTERLOCK
6 RESTRICTED LICENSE.

7 (2) TWO YEARS FROM THE DATE OF ISSUANCE OF THE IGNITION
8 INTERLOCK RESTRICTED LICENSE IN THE CASE OF AN INDIVIDUAL
9 CONVICTED OF AN OFFENSE UNDER SECTION 3802 WHO HAS TWO OR
10 MORE PRIOR OFFENSES.

11 * * *

12 (H.3) NOTICE TO DEPARTMENT.--IF A VIOLATION UNDER SUBSECTION
13 (H.2) (1), (2) OR (3) OCCURS IN THE TWO CONSECUTIVE MONTHS PRIOR
14 TO THE DATE ENTERED ON THE CERTIFICATE, THE VENDOR SHALL NOTIFY
15 THE DEPARTMENT AS TO THE VIOLATION ON A FORM DESIGNATED BY THE
16 DEPARTMENT, AND THE DEPARTMENT SHALL NOTIFY THE PERSON OF THE
17 VIOLATION AND THAT IGNITION INTERLOCK DEVICE USAGE SHALL
18 CONTINUE UNTIL NO VIOLATIONS HAVE OCCURRED WITHIN A 60-DAY
19 PERIOD.

20 * * *

21 SECTION 5. SECTION 3806(B) (1) OF TITLE 75 IS AMENDED TO
22 READ:

23 § 3806. PRIOR OFFENSES.

24 * * *

25 (B) TIMING.--

26 (1) FOR PURPOSES OF SECTIONS 1553(D.2) (RELATING TO
27 OCCUPATIONAL LIMITED LICENSE), 1556 (RELATING TO IGNITION
28 INTERLOCK LIMITED LICENSE), 3803 (RELATING TO GRADING), 3804
29 (RELATING TO PENALTIES) [AND], 3805 (RELATING TO IGNITION
30 INTERLOCK), 3815 (RELATING TO MANDATORY SENTENCING) AND 3818

1 (RELATING TO SUBSTANCE MONITORING PROGRAM), THE PRIOR OFFENSE
2 MUST HAVE OCCURRED:

3 (I) WITHIN 10 YEARS PRIOR TO THE DATE OF THE OFFENSE
4 FOR WHICH THE DEFENDANT IS BEING SENTENCED; OR

5 (II) ON OR AFTER THE DATE OF THE OFFENSE FOR WHICH
6 THE DEFENDANT IS BEING SENTENCED.

7 * * *

8 SECTION 6. SECTION 3807(B)(4) OF TITLE 75 IS AMENDED AND
9 SUBSECTION (A) IS AMENDED BY ADDING A PARAGRAPH TO READ:

10 § 3807. ACCELERATED REHABILITATIVE DISPOSITION.

11 (A) ELIGIBILITY.--

12 * * *

13 (2.1) NOTWITHSTANDING THE PROCEDURES FOR ACCELERATED
14 REHABILITATIVE DISPOSITION FOR OTHER CRIMES, THE ATTORNEY FOR
15 THE COMMONWEALTH SHALL NOT SUBMIT A CHARGE BROUGHT UNDER THIS
16 CHAPTER FOR ACCELERATED REHABILITATIVE DISPOSITION UNLESS
17 ALL OF THE FOLLOWING APPLY:

18 (I) THE DEFENDANT ADMITS THAT THE COMMONWEALTH'S
19 EVIDENCE WOULD PROVE THE ELEMENTS BEYOND A REASONABLE
20 DOUBT UNDER SECTION 3802.

21 (II) THE DEFENDANT AGREES THAT THE DEFENDANT'S
22 ADMISSION MAY BE USED AS A PRIOR CONVICTION FOR THE
23 PURPOSE OF INCREASING THE GRADING AND PENALTY OF ANY
24 SUBSEQUENT OFFENSE UNDER THIS TITLE.

25 (III) THE DEFENDANT KNOWINGLY AND VOLUNTARILY WAIVES
26 THE DEFENDANT'S RIGHT TO CHALLENGE THE USE OF THE
27 ACCELERATED REHABILITATIVE DISPOSITION AS A PRIOR
28 CONVICTION FOR THE PURPOSE OF ENHANCING THE GRADING AND
29 SENTENCING OF ANY SUBSEQUENT OFFENSE UNDER THIS TITLE.

30 (B) EVALUATION AND TREATMENT.--

1 * * *

2 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER
3 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR
4 ALL OF THE FOLLOWING:

5 (I) LENGTH OF STAY.

6 (II) LEVELS OF CARE.

7 (III) FOLLOW-UP CARE AND MONITORING.

8 (IV) THE USE OF MEDICATION-ASSISTED TREATMENT IN
9 CONJUNCTION WITH BEHAVIORAL THERAPIES IF THE TREATMENT IS
10 CLINICALLY APPROPRIATE.

11 * * *

12 SECTION 7. SECTION 3814(4) OF TITLE 75 IS AMENDED TO READ:

13 § 3814. DRUG AND ALCOHOL ASSESSMENTS.

14 IF A DEFENDANT IS CONVICTED OR PLEADS GUILTY OR NO CONTEST TO
15 A VIOLATION OF SECTION 3802 (RELATING TO DRIVING UNDER INFLUENCE
16 OF ALCOHOL OR CONTROLLED SUBSTANCE), THE FOLLOWING APPLY PRIOR
17 TO SENTENCING:

18 * * *

19 (4) THE ASSESSMENT UNDER PARAGRAPH (2) SHALL CONSIDER
20 ISSUES OF PUBLIC SAFETY AND SHALL INCLUDE RECOMMENDATIONS FOR
21 ALL OF THE FOLLOWING:

22 (I) LENGTH OF STAY.

23 (II) LEVELS OF CARE.

24 (III) FOLLOW-UP CARE AND MONITORING.

25 (IV) THE USE OF MEDICATION-ASSISTED TREATMENT IN
26 CONJUNCTION WITH BEHAVIORAL THERAPIES IF THE TREATMENT IS
27 CLINICALLY APPROPRIATE.

28 SECTION 8. SECTION 3815(B)(2) OF TITLE 75 IS AMENDED AND THE
29 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

30 § 3815. MANDATORY SENTENCING.

1 * * *

2 (B) PAROLE.--

3 * * *

4 (2) THE FOLLOWING SHALL BE CONDITIONS OF PAROLE:

5 (I) IF THE OFFENDER IS NOT DETERMINED UNDER THE
6 PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO
7 ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST REFRAIN
8 FROM:

9 (A) THE USE OF ILLEGAL CONTROLLED SUBSTANCES;

10 AND

11 (B) THE ABUSE OF PRESCRIPTION DRUGS, OVER-THE-
12 COUNTER DRUGS OR ANY OTHER SUBSTANCES.

13 (II) IF THE OFFENDER IS DETERMINED UNDER THE
14 PROCEDURES SET FORTH IN SECTION 3814 TO BE ADDICTED TO
15 ALCOHOL OR ANOTHER SUBSTANCE, THE OFFENDER MUST DO ALL OF
16 THE FOLLOWING:

17 (A) REFRAIN FROM:

18 (I) THE USE OF ALCOHOL OR ILLEGAL CONTROLLED
19 SUBSTANCES; AND

20 (II) THE ABUSE OF PRESCRIPTION DRUGS, OVER-
21 THE-COUNTER DRUGS OR ANY OTHER SUBSTANCES.

22 (B) PARTICIPATE IN AND COOPERATE WITH DRUG AND
23 ALCOHOL ADDICTION TREATMENT UNDER SUBSECTION (C).

24 (III) IN ADDITION TO ANY OTHER CONDITION OR
25 RESTRICTION IMPOSED, AN INDIVIDUAL WHO VIOLATES SECTION
26 3802 AND WHO HAS ONE OR MORE PRIOR OFFENSES MAY BE
27 ORDERED BY THE COURT TO PARTICIPATE IN A SUBSTANCE
28 MONITORING PROGRAM UNDER SECTION 3818 (RELATING TO
29 SUBSTANCE MONITORING PROGRAM).

30 (B.1) PROBATION.--IN ADDITION TO ANY OTHER CONDITION OR

1 RESTRICTION IMPOSED, AN INDIVIDUAL WHO VIOLATES SECTION 3802 AND
2 WHO HAS ONE OR MORE PRIOR OFFENSES MAY BE ORDERED BY THE COURT
3 TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AS A CONDITION
4 OF PROBATION UNDER SECTION 3818.

5 * * *

6 SECTION 9. TITLE 75 IS AMENDED BY ADDING A SECTION TO READ:
7 § 3818. SUBSTANCE MONITORING PROGRAM.

8 (A) EVALUATION REQUIRED.--THE FOLLOWING SHALL APPLY:

9 (1) IN ALL OF THE FOLLOWING CIRCUMSTANCES, IN ADDITION
10 TO ANY OTHER CONDITION OR RESTRICTION IMPOSED, AN INDIVIDUAL
11 SHALL BE EVALUATED BY A COURT TO DETERMINE WHETHER, AT THE
12 COURT'S DISCRETION, THE INDIVIDUAL MAY BE ORDERED TO
13 PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM:

14 (I) WHILE ADJUDICATION OF A VIOLATION OF SECTION
15 3802 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR
16 CONTROLLED SUBSTANCE) IS PENDING FOR AN INDIVIDUAL WHO
17 HAS ONE OR MORE PRIOR OFFENSES.

18 (II) WHILE ADJUDICATION OF TWO OR MORE VIOLATIONS OF
19 SECTION 3802 ARE CONCURRENTLY PENDING FOR AN INDIVIDUAL.

20 (III) AS A CONDITION OF PROBATION OR PAROLE WHERE
21 THE INDIVIDUAL VIOLATES SECTION 3802 AND HAS ONE OR MORE
22 PRIOR OFFENSES.

23 (2) THE COURT MAY USE THE ASSESSMENT FROM SECTION 3814
24 (RELATING TO DRUG AND ALCOHOL ASSESSMENTS) TO SATISFY THIS
25 REQUIREMENT UNDER PARAGRAPH (1).

26 (B) MONITORING DEVICES AND TECHNOLOGIES.--

27 (1) A SUBSTANCE MONITORING PROGRAM SHALL INCLUDE A
28 REQUIREMENT THAT THE INDIVIDUAL USE OR PARTICIPATE IN ONE OR
29 BOTH OF THE FOLLOWING, AS DETERMINED BY THE COURT:

30 (I) A CONTINUOUS ALCOHOL MONITORING DEVICE, REMOTE

1 BREATH TESTING DEVICE OR ANY OTHER SIMILAR ALCOHOL
2 MONITORING TECHNOLOGY OR DEVICE, OTHER THAN AN IGNITION
3 INTERLOCK SYSTEM, AS DETERMINED BY THE COURT.

4 (II) RANDOM DRUG TESTING OR ANY OTHER CONTROLLED
5 SUBSTANCE MONITORING TECHNOLOGY OR DEVICE AS DETERMINED
6 BY THE COURT.

7 (2) WHEN DETERMINING THE DEVICES OR TECHNOLOGIES TO BE
8 USED UNDER PARAGRAPH (1), THE COURT SHALL CONSIDER:

9 (I) THE INDIVIDUAL'S PRIOR OFFENSES;

10 (II) THE INDIVIDUAL'S MOST RECENT VIOLATION OF
11 SECTION 3802;

12 (III) ANY PENDING ADJUDICATION OF THE INDIVIDUAL FOR
13 A VIOLATION OF SECTION 3802;

14 (IV) IN CONSULTATION WITH THE COUNTY, THE MONITORING
15 DEVICES AND TECHNOLOGIES AVAILABLE TO OR UTILIZED BY THE
16 COUNTY; AND

17 (V) ANY OTHER FACTOR DEEMED APPROPRIATE BY THE
18 COURT.

19 (C) DETERMINATION AND COSTS TO BE PAID.--IF THE COURT ORDERS
20 AN INDIVIDUAL TO PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM,
21 THE INDIVIDUAL SHALL PAY FOR COSTS ASSOCIATED WITH THE
22 INDIVIDUAL'S PARTICIPATION IN THE SUBSTANCE MONITORING PROGRAM,
23 INCLUDING COSTS ASSOCIATED WITH ANY REQUIRED DEVICE OR
24 TECHNOLOGY.

25 (D) PROHIBITIONS.--AN INDIVIDUAL ORDERED TO PARTICIPATE IN A
26 SUBSTANCE MONITORING PROGRAM IS PROHIBITED FROM ALL OF THE
27 FOLLOWING FOR THE DURATION OF THE SUBSTANCE MONITORING PROGRAM:

28 (1) IMBIBING ALCOHOL, USING CONTROLLED SUBSTANCES, OR
29 BOTH, AS DETERMINED BY THE COURT.

30 (2) TAMPERING WITH ANY DEVICE OR TECHNOLOGY ASSOCIATED

1 WITH THE SUBSTANCE MONITORING PROGRAM.

2 (3) FAILING TO COMPLY WITH ANY OTHER REQUIREMENT ORDERED
3 BY THE COURT AS PART OF THE SUBSTANCE MONITORING PROGRAM.

4 (E) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
5 CONSTRUED TO PROHIBIT A COURT FROM:

6 (1) ORDERING AN INDIVIDUAL PENDING ADJUDICATION FOR A
7 SINGLE VIOLATION OF SECTION 3802 WITH NO PRIOR OFFENSES TO
8 PARTICIPATE IN A SUBSTANCE MONITORING PROGRAM AS A CONDITION
9 OF BAIL.

10 (2) ORDERING AN INDIVIDUAL CONVICTED OF A VIOLATION OF
11 SECTION 3802 WHO HAS NO PRIOR OFFENSES TO PARTICIPATE IN A
12 SUBSTANCE MONITORING PROGRAM AS A CONDITION OF PROBATION OR
13 PAROLE.

14 SECTION 10. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

15 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
16 IMMEDIATELY:

17 (I) THE AMENDMENT OF 75 PA.C.S. § 1543(B)(1.1)(I).

18 (II) THE ADDITION OF 75 PA.C.S. § 3807(A)(2.1).

19 (III) THIS SECTION.

20 (2) THE AMENDMENT OR ADDITION OF 75 PA.C.S. § 1532(B)(6)
21 AND (D) SHALL TAKE EFFECT IN 60 DAYS.

22 (3) THE AMENDMENT OR ADDITION OF 75 PA.C.S. § 3805(C)
23 AND (C.1) SHALL TAKE EFFECT IN 90 DAYS.

24 (4) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN EIGHT
25 MONTHS:

26 (I) THE AMENDMENT OF 75 PA.C.S. § 1556(B)(1) AND

27 (2).

28 (II) THE ADDITION OF 75 PA.C.S. § 3805(H.3).

29 (5) THE ADDITION OF 75 PA.C.S. CH. 15 SUBCH. E SHALL
30 TAKE EFFECT IN 10 MONTHS.

1 (6) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 120
2 DAYS.