

AMENDMENTS TO HOUSE BILL NO. 916

Sponsor: SENATOR K. WARD

Printer's No. 2582

1 Amend Bill, page 1, lines 1 through 6, by striking out all of
2 said lines and inserting

3 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
4 Statutes, in general provisions, further providing for
5 definitions; in licensing of drivers, further providing for
6 suspension of operating privilege, for the offense of driving
7 while operating privilege is suspended or revoked and for
8 ignition interlock limited license and providing for Relief
9 from Administrative Suspension Program; and, in driving after
10 imbibing alcohol or utilizing drugs, further providing for
11 penalties, for ignition interlock, for prior offenses, for
12 Accelerated Rehabilitative Disposition, for drug and alcohol
13 assessments and for mandatory sentencing and providing for
14 substance monitoring program.
15 This act may be referred to as Deana's Law.

16 Amend Bill, page 1, lines 11 through 19; pages 2 through 5,
17 lines 1 through 30; page 6, lines 1 through 8; by striking out
18 all of said lines on said pages and inserting

19 Section 1. Section 102 of Title 75 of the Pennsylvania
20 Consolidated Statutes is amended by adding definitions to read:
21 § 102. Definitions.

22 Subject to additional definitions contained in subsequent
23 provisions of this title which are applicable to specific
24 provisions of this title, the following words and phrases when
25 used in this title shall have, unless the context clearly
26 indicates otherwise, the meanings given to them in this section:

27 * * *

28 "Continuous alcohol monitoring device." A monitoring device
29 or instrument that:

30 (1) is attached to an individual;

31 (2) is designed to automatically and frequently test the
32 presence of alcohol in the individual regardless of the
33 method by which the device or instrument is attached to the
34 individual;

35 (3) detects the presence of alcohol; and

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

3 * * *

4 "Remote breath testing device." An unsupervised mobile
5 breath testing device that:

- 6 (1) is not affixed to a motor vehicle;
7 (2) has the ability to confirm the identity and location
8 of an individual; and
9 (3) detects the presence of alcohol.

10 * * *

11 "Substance monitoring program." The court-ordered use of or
12 participation in any one or both of the following as a condition
13 of bail, probation or parole consistent with section 3818
14 (relating to substance monitoring program):

- 15 (1) A continuous alcohol monitoring device, remote
16 breath testing device or any other alcohol monitoring
17 technology or device, as determined by the court.
18 (2) Random drug testing or any other controlled
19 substance monitoring technology or device, as determined by
20 the court.

21 * * *

22 Section 2. Section 1532(d) of Title 75 is amended and
23 subsection (b) is amended by adding a paragraph to read:
24 § 1532. Suspension of operating privilege.

25 * * *

26 (b) Suspension.--

27 * * *

28 (6) Beginning as soon as practicable, but no later than
29 10 months after the effective date of this paragraph, the
30 department shall update driver records as follows:

31 (i) If a driver record shows on the effective date
32 of this paragraph an active sanction imposed by the
33 department for a conviction of any offense under a
34 Federal, State or other state's controlled substance
35 laws, except for an offense under section 1532(a), the
36 driver record will be changed to indicate the active
37 departmental sanction has ended. The following shall
38 apply:

39 (A) If the ending of the active departmental
40 sanction means a driver's operating privilege is
41 eligible for restoration, no points will be placed on
42 the driver record as required by section 1545
43 (relating to restoration of operating privilege) and
44 no restoration fee shall be imposed as required by
45 section 1960 (relating to reinstatement of operating
46 privilege or vehicle registration).

47 (B) If a driver record shows a pending
48 departmental sanction after the active sanction
49 imposed by the department for a conviction of any
50 offense under a Federal, State or other state's
51 controlled substance laws, except for an offense

1 under section 1532(a), the effective dates of the
2 pending departmental sanction will be adjusted as if
3 the active sanction ended under this subsection had
4 been rescinded from the record.

5 (ii) If a driver record shows on the effective date
6 of this paragraph a pending sanction imposed by the
7 department for a conviction of any offense under a
8 Federal, State or other state's controlled substance
9 laws, except for an offense under section 1532(a), the
10 driver record will be changed to indicate that the
11 pending sanction will not be imposed. The effective dates
12 for a departmental sanction to be imposed after a
13 conviction of any offense under a Federal, State or other
14 state's controlled substance laws will be adjusted as if
15 the controlled substance-related departmental sanction
16 had been rescinded from the record.

17 (iii) If a driver record shows on the effective date
18 of this paragraph an active suspension imposed under
19 former subsection (d), the driver record will be changed
20 to indicate the suspension has ended. The following shall
21 apply:

22 (A) If the ending of the suspension means the
23 driver's operating privilege is eligible for
24 restoration, no restoration fee shall be imposed as
25 required by section 1960.

26 (B) If the driver record shows any pending
27 departmental sanction after the suspension imposed
28 under former subsection (d), the effective dates of
29 any such pending departmental sanction will be
30 adjusted as if the suspension ended under this
31 section had been rescinded from the record.

32 (iv) If the driver record shows on the effective
33 date of this paragraph a pending suspension imposed under
34 former subsection (d), the driver record will be changed
35 to indicate the suspension will not be imposed. The
36 effective dates for any departmental sanctions to be
37 imposed after the pending suspension under former
38 subsection (d) will be adjusted as if the pending
39 suspension had been rescinded from the record.

40 * * *

41 [(d) Additional suspension.--The department shall suspend
42 the operating privilege of any person upon receiving a certified
43 record of the driver's conviction, adjudication of delinquency
44 or admission into a preadjudication program for a violation
45 under 18 Pa.C.S. § 6307 (relating to misrepresentation of age to
46 secure liquor or malt or brewed beverages), 6308 (relating to
47 purchase, consumption, possession or transportation of liquor or
48 malt or brewed beverages) or 6310.3 (relating to carrying a
49 false identification card). The duration of the suspension shall
50 be as follows:

51 (1) For a first offense, the department shall impose a

1 suspension for a period of 90 days.

2 (2) For a second offense, the department shall impose a
3 suspension for a period of one year.

4 (3) For a third and subsequent offense, the department
5 shall impose a suspension for a period of two years. Any
6 multiple suspensions imposed shall be served consecutively.

7 Courts may certify the conviction, adjudication of
8 delinquency or admission into the preadjudication program on the
9 same form used to submit the order of suspension required under
10 the provisions of 18 Pa.C.S. § 6310.4 (relating to restriction
11 of operating privileges). Wherever practicable, the suspension
12 imposed under this section shall be made concurrent with the
13 suspension imposed under the provisions of 18 Pa.C.S. § 6310.4.
14 All offenses committed on or after May 23, 1988, shall be
15 included in considering whether an offense is a first, second,
16 third or subsequent offense.]

17 Section 2.1. Sections 1543(b)(1.1)(i) and 1556(b)(1) and (2)
18 of Title 75 are amended to read:

19 § 1543. Driving while operating privilege is suspended or
20 revoked.

21 * * *

22 (b) Certain offenses.--

23 * * *

24 (1.1) (i) A person who has an amount of alcohol by
25 weight in his blood that is equal to or greater than .02%
26 at the time of testing or who at the time of testing has
27 in his blood any amount of a Schedule I or nonprescribed
28 Schedule II or III controlled substance, as defined in
29 the act of April 14, 1972 (P.L.233, No.64), known as The
30 Controlled Substance, Drug, Device and Cosmetic Act, or
31 its metabolite or [who refuses testing of blood or
32 breath] who refuses testing of breath under section 1547
33 (relating to chemical testing to determine amount of
34 alcohol or controlled substance) or chemical testing of
35 blood pursuant to a valid search warrant, court order or
36 any other basis permissible by the Constitution of the
37 United States and the Constitution of Pennsylvania, and
38 who drives a motor vehicle on any highway or trafficway
39 of this Commonwealth at a time when the person's
40 operating privilege is suspended or revoked as a
41 condition of acceptance of Accelerated Rehabilitative
42 Disposition for a violation of section 3802 or former
43 section 3731 or because of a violation of section 1547(b)
44 (1) or 3802 or former section 3731 or is suspended under
45 section 1581 for an offense substantially similar to a
46 violation of section 3802 or former section 3731 shall,
47 upon a first conviction, be guilty of a summary offense
48 and shall be sentenced to pay a fine of \$1,000 and to
49 undergo imprisonment for a period of not less than 90
50 days.

51 * * *

1 § 1556. Ignition interlock limited license.

2 * * *

3 (b) Petition.--

4 (1) An applicant for an ignition interlock limited
5 license shall file a petition with the department, by
6 certified mail, on a form prescribed by the department[, and
7 shall include proof that an approved ignition interlock
8 system, as defined in section 3801, has been installed in one
9 or more motor vehicles that the applicant seeks permission to
10 operate]. The petition shall include proof of financial
11 responsibility covering each vehicle the applicant requests
12 to be permitted to operate. Upon approval of the petition,
13 the ignition interlock system shall be installed in any motor
14 vehicle to be operated by the applicant, and proof of
15 installation shall be provided by the ignition interlock
16 device vendor.

17 (2) [The petition shall also include proof of financial
18 responsibility covering each vehicle the applicant requests
19 to be permitted to operate.] The department shall promulgate
20 regulations to require additional information as well as
21 additional evidence to verify the information contained in
22 the petition.

23 * * *

24 Section 2.2. Chapter 15 of Title 75 is amended by adding a
25 subchapter to read:

26 SUBCHAPTER E

27 RELIEF FROM ADMINISTRATIVE SUSPENSION PROGRAM

28 Sec.

29 1591. Definitions.

30 1592. Relief from Administrative Suspension Program.

31 1593. Program requirements.

32 1594. Use of revenue.

33 1595. Proceedings relating to violations barred.

34 § 1591. Definitions.

35 The following words and phrases when used in this subchapter
36 shall have the meanings given to them in this section unless the
37 context clearly indicates otherwise:

38 "Court." The issuing authority or court of competent
39 jurisdiction which notified the department of an individual's
40 failure to respond that resulted in the indefinite suspension of
41 that individual's operating privilege under section 1533
42 (relating to suspension of operating privilege for failure to
43 respond to citation).

44 "Program." The Relief from Administrative Suspension Program
45 established under section 1592 (relating to Relief from
46 Administrative Suspension Program).

47 § 1592. Relief from Administrative Suspension Program.

48 (a) Establishment.--The department, in consultation with the
49 Administrative Office of Pennsylvania Courts, shall establish
50 the Relief from Administrative Suspension Program that shall
51 begin on the effective date of this section and end 12 months

1 after the effective date of this section.

2 (b) Purposes.--The program shall permit the department to
3 restore the operating privileges of eligible individuals from
4 suspensions imposed under sections 1533(a), (b) or (d) (relating
5 to suspension of operating privilege for failure to respond to
6 citation), 1543(a) (relating to driving while operating
7 privilege is suspended or revoked) and 1544(a) (relating to
8 additional period of revocation or suspension).

9 (c) Duties.--The department, in consultation with the
10 Administrative Office of Pennsylvania Courts, shall:

11 (1) Review the applications filed for relief under the
12 program and make a determination as to the applicant's
13 eligibility for relief within 30 days of receipt of the
14 application and all other required items.

15 (2) Determine if an applicant has satisfied all court-
16 ordered obligations which resulted in a suspension of the
17 applicant's operating privilege under section 1533(a), (b) or
18 (d).

19 (3) Determine if an applicant was convicted of one or
20 more violations under section 1543(a) that occurred only as
21 the result of a suspension imposed under the authority of
22 section 1533 or 6146 (relating to enforcement agreements) and
23 is currently serving or will serve an operating privilege
24 suspension for a section 1543(a) conviction.

25 (4) Determine whether the granting of relief under the
26 program would result in immediate restoration of the
27 applicant's operating privilege.

28 (5) Prioritize the processing of applications for which
29 the granting of relief will result in an immediate
30 restoration of the applicant's operating privilege.

31 (6) Update eligible applicants' driver's records and
32 restore the operating privilege of applicants as permitted
33 under this title.

34 (d) Eligibility.--The program shall be available to an
35 individual who meets the following criteria:

36 (1) The individual's operating privilege has been
37 indefinitely suspended under section 1533(a), (b) or (d)
38 prior to the effective date of this subsection.

39 (2) The department's records show that the individual's
40 operating privilege will be or is suspended for a conviction
41 under section 1543(a) only as a result of a suspension
42 imposed under the authority of section 1533 or 6146 prior to
43 the effective date of this section.

44 (3) The individual has served any operating privilege
45 suspension required by the underlying offense which resulted
46 in violation of section 1533(a), (b) or (d).

47 (4) The individual has submitted a completed application
48 for relief to the department on a form prescribed by the
49 department. The following items must also be submitted with
50 the application:

51 (i) the restoration fee; and

1 (ii) proof of financial responsibility; or
2 (iii) in the case of an individual who does not own
3 a motor vehicle currently registered in this
4 Commonwealth, a signed statement certifying that the
5 individual does not own a motor vehicle currently
6 registered in this Commonwealth.

7 (e) Prohibitions.--An individual shall be prohibited from
8 receiving relief under the program for convictions of violations
9 committed after the effective date of this subsection.

10 (f) Reinstatement.--The department shall amend eligible
11 individuals' driver's records to show they satisfied all court-
12 ordered obligations which resulted in a suspension of the
13 individual's operating privilege under section 1533. The
14 department shall amend eligible individuals' driver's records to
15 show that suspensions imposed for relevant convictions under
16 section 1543(a) will end or will not be imposed. Any add-on
17 suspensions imposed under section 1544(a) for violations that
18 occurred at the same time as a relevant violation of section
19 1543(a) shall be rescinded from eligible individuals' driver's
20 records. The department shall not be required to reinstate the
21 operating privilege of an individual under this subchapter if
22 the department is authorized under this title to suspend the
23 operating privilege of the individual for other violations of
24 this title. Upon restoration from suspension under this program,
25 eligible individuals' driver's records shall show five points.

26 (g) Compliance.--The department may not be required to
27 restore the operating privilege of an individual under this
28 subchapter until the individual has complied with section 1593
29 (relating to program requirements).
30 § 1593. Program requirements.

31 (a) Form.--An individual who seeks to participate in the
32 program shall respond to the court pursuant to the instructions
33 in a restoration requirements letter which shall be provided by
34 the department.

35 (b) Satisfaction of payments owed.--The individual is
36 required to pay 100% of the original penalty and any other
37 court-ordered obligations imposed under the applicable laws of
38 this Commonwealth.

39 (c) Requirements.--In addition to the requirements under
40 section 1960 (relating to reinstatement of operating privilege
41 or vehicle registration), an individual applying for the program
42 shall perform one of the following:

43 (1) Pay all court-ordered obligations immediately or in
44 a single remittance.

45 (2) If an individual is unable to pay all obligations
46 under subparagraph (i), the individual shall either:

47 (i) pay in installments all court-ordered
48 obligations after a hearing conducted by the issuing
49 authority to determine the individual's ability to pay
50 and the issuance of an order providing for installment
51 payments; or

1 (ii) notwithstanding 42 Pa.C.S. § 1520(a) (relating
2 to adjudication alternative program), complete a court-
3 ordered public service or other adjudication alternative
4 program under 42 Pa.C.S. § 1520(b).

5 (d) Proof of financial responsibility.--Notwithstanding
6 section 1783 (relating to proof of financial responsibility
7 before restoring operating privilege or registration), before
8 restoring an operating privilege, the department shall require
9 an individual participating in the program to provide the
10 department with:

11 (1) proof of financial responsibility; or

12 (2) in the case of an individual who does not own a
13 motor vehicle currently registered in this Commonwealth, a
14 signed statement certifying that the individual does not own
15 a motor vehicle currently registered in this Commonwealth.

16 (e) Certification.--The court shall certify to the
17 department that an individual is eligible for relief under the
18 program because:

19 (1) an individual has satisfied the amounts owed to the
20 court; or

21 (2) an individual has completed or satisfied all court-
22 ordered public service requirements or other alternative
23 adjudication programs.

24 § 1594. Use of revenue.

25 All revenue received by the court under the program shall be
26 distributed in accordance with law.

27 § 1595. Proceedings relating to violations barred.

28 Participation in the program is conditioned upon the
29 individual's agreement not to protest or pursue an
30 administrative or judicial proceeding against the department for
31 the sanctions it imposed on the individual's operating privilege
32 under section 1533 (relating to suspension of operating
33 privilege for failure to respond to citation), 1543 (relating to
34 driving while operating privilege is suspended or revoked), 1544
35 (relating to additional period of revocation or suspension) or
36 6146 (relating to enforcement agreements) as addressed by the
37 program.

38 Section 3. Section 3803(b) (3) and (4.1) of Title 75 are
39 amended to read:

40 § 3803. Grading.

41 * * *

42 (b) Other offenses.--

43 * * *

44 (3) An individual who violates section 3802(a) (1) where
45 there was an accident resulting in bodily injury, serious
46 bodily injury or death of any person or in damage to a
47 vehicle or other property, or who violates section 3802(b),
48 (e) or (f) and who has two prior offenses commits a
49 [misdemeanor of the first] felony of the third degree.

50 * * *

51 (4.1) An individual who violates section 3802(a) (1)

1 where the individual refused testing of breath or chemical
2 testing pursuant to a valid search warrant, court order or
3 any other basis permissible by the Constitution of the United
4 States and the Constitution of Pennsylvania, or who violates
5 section 3802(c) or (d) [and who] commits:

6 (i) A felony of the third degree if the individual
7 has two [or more] prior offenses [commits a felony of the
8 third degree].

9 (ii) A felony of the second degree if the individual
10 has three or more prior offenses.

11 * * *

12 Section 4. Section 3804(e) (2) of Title 75 is amended and the
13 section is amended by adding subsections to read:

14 § 3804. Penalties.

15 * * *

16 (c.2) Consecutive sentence.--A sentence imposed upon an
17 individual under this section who has two or more prior offenses
18 shall be served consecutively to any other sentence the
19 individual is serving and to any other sentence being then
20 imposed by the court, except for those with which the offense
21 must merge as a matter of law.

22 (c.3) Sentencing enhancement.--The Pennsylvania Commission
23 on Sentencing, under 42 Pa.C.S. § 2154 (relating to adoption of
24 guidelines for sentencing), shall provide for a sentencing
25 enhancement for a violation of section 3802(a)(1) where the
26 individual refused testing of breath or chemical testing
27 pursuant to a valid search warrant, court order or any other
28 basis permissible by the Constitution of the United States and
29 the Constitution of Pennsylvania or for a violation of section
30 3802(c) or (d) and where the individual has four or more prior
31 offenses.

32 * * *

33 (e) Suspension of operating privileges upon conviction.--

34 * * *

35 (2) Suspension under paragraph (1) shall be in
36 accordance with the following:

37 * * *

38 (ii) 18 months for a misdemeanor of the first degree
39 or felony [of the third degree] under this chapter.

40 * * *

41 Section 5. Section 3805(c) and (h.2) of Title 75 are amended
42 and the section is amended by adding subsections to read:

43 § 3805. Ignition interlock.

44 * * *

45 (c) Issuance of unrestricted license.--[One year from the
46 date of issuance of an ignition interlock restricted license
47 under this section, if] If otherwise eligible, a person may be
48 issued a replacement license under section 1951(d) that does not
49 contain the ignition interlock system restriction. The
50 department shall not issue an unrestricted license until a
51 person has presented all of the following:

1 (1) Proof that the person has completed the ignition
2 interlock restricted license period under [this section]
3 subsection (c.1).

4 (2) Certification by the vendor that provided the
5 ignition interlock device that the person has complied with
6 subsection (h.2).

7 (c.1) Restricted license period.--An individual may be
8 issued an unrestricted license under subsection (c) after a
9 period of time as follows:

10 (1) Except as provided under paragraph (2), one year
11 from the date of issuance of the ignition interlock
12 restricted license.

13 (2) Two years from the date of issuance of the ignition
14 interlock restricted license in the case of an individual
15 convicted of an offense under section 3802 who has two or
16 more prior offenses.

17 * * *

18 (h.2) Declaration of compliance.--Restrictions imposed under
19 section 1556 [(relating to ignition interlock limited license)]
20 shall remain in effect until the department receives a
21 declaration from the person's ignition interlock device vendor,
22 in a form provided or approved by the department, certifying
23 that the following incidents have not occurred in the two
24 consecutive months prior to the date entered on the certificate,
25 and for the purposes of a suspension imposed under section
26 3807(d) (2), the person's ignition interlock device vendor shall
27 certify the following incidents have not occurred in the prior
28 30 days entered on the certificate:

29 (1) An attempt to start the vehicle with a breath
30 alcohol concentration of 0.08% or more, not followed within
31 10 minutes by a subsequent attempt with a breath alcohol
32 concentration lower than 0.08%.

33 (2) Failure to take or pass any required retest.

34 (3) Failure of the person to appear at the ignition
35 interlock system vendor when required for maintenance,
36 repair, calibration, monitoring, inspection or replacement of
37 the device such that the ignition interlock system no longer
38 functions as required under subsection (h).

39 (h.3) Notice to department.--If a violation under subsection
40 (h.2) (1), (2) or (3) occurs in the two consecutive months prior
41 to the date entered on the certificate, the vendor shall notify
42 the department as to the violation on a form designated by the
43 department, and the department shall notify the person of the
44 violation and that ignition interlock device usage shall
45 continue until no violations have occurred within a 60-day
46 period.

47 * * *

48 Section 6. Section 3806(b) (1) of Title 75 is amended to
49 read:

50 § 3806. Prior offenses.

51 * * *

1 (b) Timing.--

2 (1) For purposes of sections 1553(d.2) (relating to
3 occupational limited license), 1556 (relating to ignition
4 interlock limited license), 3803 (relating to grading), 3804
5 (relating to penalties) [and], 3805 (relating to ignition
6 interlock), 3815 (relating to mandatory sentencing) and 3818
7 (relating to substance monitoring program), the prior offense
8 must have occurred:

9 (i) within 10 years prior to the date of the offense
10 for which the defendant is being sentenced; or

11 (ii) on or after the date of the offense for which
12 the defendant is being sentenced.

13 * * *

14 Section 7. Section 3807(b)(4) of Title 75 is amended and
15 subsection (a) is amended by adding a paragraph to read:

16 § 3807. Accelerated Rehabilitative Disposition.

17 (a) Eligibility.--

18 * * *

19 (2.1) Notwithstanding the procedures for Accelerated
20 Rehabilitative Disposition for other crimes, the attorney for
21 the Commonwealth shall not submit a charge brought under this
22 chapter for Accelerated Rehabilitative Disposition unless
23 all of the following apply:

24 (i) The defendant admits that the Commonwealth's
25 evidence would prove the elements beyond a reasonable
26 doubt under section 3802.

27 (ii) The defendant agrees that the defendant's
28 admission may be used as a prior conviction for the
29 purpose of increasing the grading and penalty of any
30 subsequent offense under this title.

31 (iii) The defendant knowingly and voluntarily waives
32 the defendant's right to challenge the use of the
33 Accelerated Rehabilitative Disposition as a prior
34 conviction for the purpose of enhancing the grading and
35 sentencing of any subsequent offense under this title.

36 * * *

37 (b) Evaluation and treatment.--

38 * * *

39 (4) The assessment under paragraph (2) shall consider
40 issues of public safety and shall include recommendations for
41 all of the following:

42 (i) Length of stay.

43 (ii) Levels of care.

44 (iii) Follow-up care and monitoring.

45 (iv) The use of medication-assisted treatment in
46 conjunction with behavioral therapies if the treatment is
47 clinically appropriate.

48 * * *

49 Section 7.1. Section 3814(4) of Title 75 is amended to read:

50 § 3814. Drug and alcohol assessments.

51 If a defendant is convicted or pleads guilty or no contest to

1 a violation of section 3802 (relating to driving under influence
2 of alcohol or controlled substance), the following apply prior
3 to sentencing:

4 * * *

5 (4) The assessment under paragraph (2) shall consider
6 issues of public safety and shall include recommendations for
7 all of the following:

8 (i) Length of stay.

9 (ii) Levels of care.

10 (iii) Follow-up care and monitoring.

11 (iv) The use of medication-assisted treatment in
12 conjunction with behavioral therapies if the treatment is
13 clinically appropriate.

14 Section 8. Section 3815(b) (2) of Title 75 is amended and the
15 section is amended by adding a subsection to read:

16 § 3815. Mandatory sentencing.

17 * * *

18 (b) Parole.--

19 * * *

20 (2) The following shall be conditions of parole:

21 (i) If the offender is not determined under the
22 procedures set forth in section 3814 to be addicted to
23 alcohol or another substance, the offender must refrain
24 from:

25 (A) the use of illegal controlled substances;

26 and

27 (B) the abuse of prescription drugs, over-the-
28 counter drugs or any other substances.

29 (ii) If the offender is determined under the
30 procedures set forth in section 3814 to be addicted to
31 alcohol or another substance, the offender must do all of
32 the following:

33 (A) Refrain from:

34 (I) the use of alcohol or illegal controlled
35 substances; and

36 (II) the abuse of prescription drugs, over-
37 the-counter drugs or any other substances.

38 (B) Participate in and cooperate with drug and
39 alcohol addiction treatment under subsection (c).

40 (iii) In addition to any other condition or
41 restriction imposed, an individual who violates section
42 3802 and who has one or more prior offenses may be
43 ordered by the court to participate in a substance
44 monitoring program under section 3818.

45 (b.1) Probation.--In addition to any other condition or
46 restriction imposed, an individual who violates section 3802 and
47 who has one or more prior offenses may be ordered by the court
48 to participate in a substance monitoring program as a condition
49 of probation under section 3818.

50 * * *

51 Section 9. Title 75 is amended by adding a section to read:

1 § 3818. Substance monitoring program.

2 (a) Evaluation required.--The following shall apply:

3 (1) In all of the following circumstances, in addition
4 to any other condition or restriction imposed, an individual
5 shall be evaluated by a court to determine whether, at the
6 court's discretion, the individual may be ordered to
7 participate in a substance monitoring program:

8 (i) While adjudication of a violation of section
9 3802 (relating to driving under influence of alcohol or
10 controlled substance) is pending for an individual who
11 has one or more prior offenses.

12 (ii) While adjudication of two or more violations of
13 section 3802 are concurrently pending for an individual.

14 (iii) As a condition of probation or parole where
15 the individual violates section 3802 and has one or more
16 prior offenses.

17 (2) The court may use the assessment from section 3814
18 (relating to drug and alcohol assessments) to satisfy this
19 requirement under paragraph (1).

20 (b) Monitoring devices and technologies.--

21 (1) A substance monitoring program shall include a
22 requirement that the individual use or participate in one or
23 both of the following, as determined by the court:

24 (i) A continuous alcohol monitoring device, remote
25 breath testing device or any other similar alcohol
26 monitoring technology or device, other than an ignition
27 interlock system, as determined by the court.

28 (ii) Random drug testing or any other controlled
29 substance monitoring technology or device as determined
30 by the court.

31 (2) When determining the devices or technologies to be
32 used under paragraph (1), the court shall consider the
33 individual's:

34 (i) prior offenses;

35 (ii) most recent violation of section 3802;

36 (iii) any pending adjudication for a violation of
37 section 3802;

38 (iv) in consultation with the county, the monitoring
39 devices and technologies available to or utilized by the
40 county; and

41 (v) any other factor deemed appropriate by the
42 court.

43 (c) Determination and costs to be paid.--If the court orders
44 an individual to participate in a substance monitoring program,
45 the individual shall pay for costs associated with the
46 individual's participation in the substance monitoring program,
47 including costs associated with any required device or
48 technology.

49 (d) Prohibitions.--An individual ordered to participate in a
50 substance monitoring program is prohibited from all of the
51 following for the duration of the substance monitoring program:

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

3 (2) Tampering with any device or technology associated
4 with the substance monitoring program.

5 (3) Failing to comply with any other requirement ordered
6 by the court as part of the substance monitoring program.

7 (e) Construction.--Nothing in this section shall be
8 construed to prohibit a court from:

9 (1) Ordering an individual pending adjudication for a
10 single violation of section 3802 with no prior offenses to
11 participate in a substance monitoring program as a condition
12 of bail.

13 (2) Ordering an individual convicted of a violation of
14 section 3802 who has no prior offenses to participate in a
15 substance monitoring program as a condition of probation or
16 parole.

17 Section 10. This act shall take effect as follows:

18 (1) The following provisions shall take effect
19 immediately:

20 (i) The amendment of 75 Pa.C.S. § 1543(b)(1.1)(i).

21 (ii) The addition of 75 Pa.C.S. § 3807(a)(2.1).

22 (iii) This section.

23 (2) The amendment or addition of 75 Pa.C.S. § 1532(b)(6)
24 and (d) shall take effect in 60 days.

25 (3) The amendment or addition of 75 Pa.C.S. § 3805(c)
26 and (c.1) shall take effect in 90 days.

27 (4) The following provisions shall take effect in eight
28 months:

29 (i) The amendment of 75 Pa.C.S. § 1556(b)(1) and

30 (2).

31 (ii) The addition of 75 Pa.C.S. § 3805(h.3).

32 (5) The addition of 75 Pa.C.S. Ch. 15 Subch. E shall
33 take effect in 10 months.

34 (6) The remainder of this act shall take effect in 120
35 days.