

No. 345

AN ACT

SB 500

Amending the act of November 25, 1970 (P.L.707, No.230), entitled "An act codifying and compiling a part of the law of the Commonwealth," adding provisions relating to sentencing, and making repeals.

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

Section 1. Chapter 13 of Title 18, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, added December 6, 1972 (P.L.1482, No.334), and amended March 26, 1974 (No.46), is amended to read:

TITLE 18
CRIMES AND OFFENSES

* * *

CHAPTER 13
AUTHORITY OF COURT IN SENTENCING

Subchapter

- A. General Provisions***
- B. Sentencing Authority***
- C. Sentencing Alternatives***
- D. Informational Basis of Sentence***
- E. Imposition of Sentence***
- F. Further Judicial Action***
- G. Sentencing Council***

***SUBCHAPTER A
GENERAL PROVISIONS***

Sec.

1301. Short title of chapter.

§ 1301. Short title of chapter.

This chapter shall be known and may be cited as the "Sentencing Code."

***SUBCHAPTER B
SENTENCING AUTHORITY***

Sec.

1311. Sentencing for murder.

1312. All other cases.

§ 1311. Sentencing for murder.

(a) Findings by jury.—The jury before whom any person shall be tried for murder, shall, if they find such person guilty thereof, ascertain

in their verdict whether the person is guilty of murder of the first degree, murder of the second degree or murder of the third degree.

(b) Instructions to jury and recording verdict.—In a trial for murder, the court shall inform the jury prior to their deliberations, as to the penalties for murder of the first degree, murder of the second degree and murder of the third degree. The court shall also inform the jury that if they find the defendant guilty of murder of the first degree, it will be their further duty to determine whether the killing was accompanied by any aggravating or mitigating circumstances as set forth in subsection (d) of this section after hearing such additional evidence as may be submitted upon that question. Whenever the jury shall agree upon a verdict of murder of the first degree they shall immediately return and render the same, which shall be recorded, and shall not thereafter be subject to reconsideration by the jury, or any member thereof.

(c) Procedure at sentencing hearing.—After such verdict is recorded and before the jury is permitted to separate, the court shall proceed to receive such additional evidence not previously received from the trial as may be relevant and admissible upon the question of aggravating and mitigating circumstances and shall permit such argument by counsel, and deliver such charge thereon as may be just and proper in the circumstances. Aggravating circumstances must be proved beyond a reasonable doubt. Mitigating circumstances must be proved by a preponderance of the evidence. The jury shall then retire and consider the aggravating and mitigating circumstances and render such verdict respecting them as they shall agree upon. A failure of the jury to agree upon the aggravating and mitigating circumstances shall not be held to impeach or in any way affect the validity of the verdict already recorded, and whenever the court shall be of the opinion that further deliberation by the jury will not result in an agreement upon the aggravating and mitigating circumstances, it may, in its discretion, discharge the jury from further consideration thereof, in which event if no retrial is directed, the court shall sentence the defendant to life imprisonment upon the verdict theretofore rendered by the jury and recorded as aforesaid and the jury shall be so informed prior to their deliberations. The court shall impose the sentence so fixed as in other cases.

(d) Aggravating and mitigating circumstances.—If a murder of the first degree is accompanied by at least one of the following aggravating circumstances and none of the following mitigating circumstances, the person convicted shall be sentenced to death. If a murder of the first degree is not accompanied by any of the following aggravating circumstances or is accompanied by at least one of the following mitigating circumstances the person convicted shall be sentenced to life imprisonment:

(1) Aggravating circumstances:

(i) The victim was a fireman, peace officer or public servant concerned in official detention as defined in section 5121 of this title (relating to escape), who was killed in the performance of his duties.

(ii) The defendant paid or was paid by another person or had contracted to pay or be paid by another person or had conspired to pay or be paid by another person for the killing of the victim.

(iii) The victim was being held by the defendant for ransom or reward, or as a shield or hostage.

(iv) The death of the victim occurred while defendant was engaged in the hijacking of an aircraft.

(v) The victim was a witness to a murder or other felony committed by the defendant and was killed for the purpose of preventing his testimony against the defendant in any grand jury or criminal proceeding involving such offenses.

(vi) The defendant committed a killing while in the perpetration of a felony.

(vii) In the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense.

(viii) The offense was committed by means of torture.

(ix) The defendant has been convicted of another Federal or State offense, committed either before or at the time of the offense at issue, for which a sentence of life imprisonment or death was imposable or the defendant was undergoing a sentence of life imprisonment for any reason at the time of the commission of the offense.

(2) Mitigating circumstances:

(i) The age, lack of maturity, or youth of the defendant at the time of the killing.

(ii) The victim was a participant in or consented to the defendant's conduct as set forth in section 1311(d) of this title or was a participant in or consented to the killing.

(iii) The defendant was under duress although not such duress as to constitute a defense to prosecution under section 309 of this title (relating to duress).

(e) Guilty pleas and non-jury trials.—In cases of pleas of guilty, or trial by court, the court shall impose sentence in accordance with Rules of Criminal Procedure as promulgated by the Supreme Court of Pennsylvania.

(f) Record of death sentence to Governor.—Where a sentence of death is imposed, the clerk of the court wherein conviction takes place, shall within ten days after such sentence of death, transmit a full and complete record of the trial and conviction to the Governor.

(g) Review of death sentence.—A sentence of death shall be subject to automatic review by the Supreme Court of Pennsylvania within sixty days after certification by the sentencing court of the entire record. In the event that the sentence of death shall for any reason be invalidated then the convicted defendant shall undergo the sentence of life imprisonment.

§ 1312. *All other cases.*

In all cases, except where the defendant has been found guilty of murder of the first degree, the sentence shall be determined by the court as authorized by law.

SUBCHAPTER C SENTENCING ALTERNATIVES

Sec.

1321. *Sentencing generally.*

1322. *Order of probation.*

1323. *Determination of guilt without further penalty.*

1324. *Partial confinement.*

1325. *Total confinement.*

1326. *Fine.*

§ 1321. *Sentencing generally.*

(a) *General rule.—In determining the sentence to be imposed the court shall, except where a mandatory minimum sentence is otherwise provided by law, consider and select one or more of the following alternatives, and may impose them consecutively or concurrently:*

(1) *An order of probation.*

(2) *A determination of guilt without further penalty.*

(3) *Partial confinement.*

(4) *Total confinement.*

(5) *A fine.*

(b) *General standards.—In selecting from the alternatives set forth in subsection (a) of this section the court shall follow the general principle that the sentence imposed should call for the minimum amount of confinement that is consistent with the protection of the public, the gravity of the offense, and the rehabilitative needs of the defendant.*

(c) *Restitution.—In addition to the alternatives set forth in subsection (a) of this section the court may order the defendant to compensate the victim of his criminal conduct for the damage or injury that he sustained.*

(d) *Detailed criteria.—With respect to each alternative the criteria to be considered by the court are set forth in this subchapter.*

(e) *Term of imprisonment.—All sentences of imprisonment imposed under this chapter shall be for a definite term.*

§ 1322. Order of probation.

The following grounds, while not controlling the discretion of the court, shall be accorded weight in favor of an order of probation:

(1) The criminal conduct of the defendant neither caused nor threatened serious harm.

(2) The defendant did not contemplate that his conduct would cause or threaten serious harm.

(3) The defendant acted under a strong provocation.

(4) There were substantial grounds tending to excuse or justify the criminal conduct of the defendant, though failing to establish a defense.

(5) The victim of the criminal conduct of the defendant induced or facilitated its commission.

(6) The defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that he sustained.

(7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime.

(8) The criminal conduct of the defendant was the result of circumstances unlikely to recur.

(9) The character and attitudes of the defendant indicate that he is unlikely to commit another crime.

(10) The defendant is particularly likely to respond affirmatively to probationary treatment.

(11) The confinement of the defendant would entail excessive hardship to him or his dependents.

(12) Such other grounds as indicate the desirability of probation.

§ 1323. Determination of guilt without further penalty.

If in the light of all the circumstances, probation would be appropriate under section 1322 of this title (relating to order of probation), but it appears that probation is unnecessary, the court may impose a sentence of guilty without further penalty.

§ 1324. Partial confinement.

If in the light of all the circumstances, and when facilities are available, probation would be inappropriate, but it further appears that a sentence of total confinement would not be required in accordance with the criteria established in section 1325 of this title (relating to total confinement), the court may impose a sentence involving partial confinement.

§ 1325. Total confinement.

The court shall impose a sentence of total confinement if, having regard to the nature and circumstances of the crime and the history, character, and condition of the defendant, it is of the opinion that the total confinement of the defendant is necessary because:

(1) *there is undue risk that during a period of probation or partial confinement the defendant will commit another crime;*

(2) *the defendant is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or*

(3) *a lesser sentence will depreciate the seriousness of the crime of the defendant.*

§ 1326. Fine.

(a) *Fine only.*—*The court may, as authorized by law, sentence the defendant only to pay a fine, when, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it is of the opinion that the fine alone suffices.*

(b) *Fine as additional sentence.*—*The court may sentence the defendant to pay a fine in addition to another sentence, either involving total or partial confinement or probation, when:*

(1) *the defendant has derived a pecuniary gain from the crime; or*

(2) *the court is of the opinion that a fine is specially adapted to deterrence of the crime involved or to the correction of the defendant.*

(c) *Exception.*—*The court shall not sentence a defendant to pay a fine unless it appears of record that:*

(1) *the defendant is or will be able to pay the fine; and*

(2) *the fine will not prevent the defendant from making restitution or reparation to the victim of the crime.*

(d) *Financial resources.*—*In determining the amount and method of payment of a fine, the court shall take into account the financial resources of the defendant and the nature of the burden that its payment will impose.*

**SUBCHAPTER D
INFORMATIONAL BASIS OF SENTENCE**

Sec.

1331. Requirement for presentence investigation and report.

1332. Contents of presentence report.

1333. General principles of disclosure of presentence report.

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1335. Objections to contents of presentence report.

1336. Report of psychiatric evaluation.

1337. Report of outstanding charges and sentences.

§ 1331. Requirement for presentence investigation and report.

Before sentencing any defendant to one year or longer, a presentence investigation and report shall be made, unless the sentence is death or a mandatory sentence to life imprisonment, or unless the court specifically orders to the contrary. The report shall be made within 30 days from the date of conviction of defendant or within such greater period of time as the court shall direct.

§ 1332. Contents of presentence report.

The presentence report shall include a summary of the circumstances attending the commission of the crime, the history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation and personal habits of the defendant, and any other matters that the person preparing the report deems relevant or that the court directs be included.

§ 1333. General principles of disclosure of presentence report.

The presentence report shall not be a public record. It shall be available only to the following persons or agencies under the conditions stated:

(1) The report shall be available to the court for the purpose of assisting it in determining the sentence.

(2) The report shall be available on court order to persons or agencies having a legitimate professional interest in the information likely to be contained in the report, as, for example:

(i) A physician or psychiatrist appointed to assist the court in sentencing.

(ii) An examining facility.

(iii) A correctional institution except that no court order is necessary under section 1359(c) of this title (relating to documents transmitted to prison and parole authorities).

(iv) A department of probation or parole except that no court order is necessary under section 1359(c) of this title (relating to documents transmitted to prison and parole authorities).

(3) The report shall be available to reviewing courts when relevant to an issue on which a request for review or an appeal has been taken.

§ 1334. Disclosure of presentence report to the parties.

(a) General rule.—Before imposing sentence, the court shall afford counsel for the prosecution and the defense a reasonable opportunity to read but only in the discretion of the court to copy the presentence report.

(b) Restrictions on disclosure.—The court may in its discretion require counsel not to disclose specified parts of the report.

§ 1335. Objections to contents of presentence report.

Each party shall prior to the imposition of sentence notify the opposing party and the court of any part of the report with which he differs, or of his intention to produce other reports or statements relating to the sentence. Upon such notice the court may conduct a presentence conference. A record of any stipulations agreed upon in the conference shall be made a part of the record of the sentencing proceeding.

§ 1336. Report of psychiatric evaluation.

The court may order the defendant to submit to psychiatric observation and examination for a period not exceeding 60 days. The defendant may be remanded for this purpose to any available clinic or mental hospital or other institution or the court may appoint a qualified psychiatrist to make the examination.

§ 1337. Report of outstanding charges and sentences.

The court shall order that an appropriate agency shall determine all criminal charges brought in any court against the defendant and report to the court on the status or the disposition of such charges. The court shall also be informed if the defendant is then serving any term of imprisonment, or is on probation or parole with reference to any such charges, or is entitled to credit for any time in accordance with section 1360 of this title (relating to credit for time served).

**SUBCHAPTER E
IMPOSITION OF SENTENCE**

Sec.

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§ 1351. Sentencing judge.

The judge who presided at the trial or who received the plea of the defendant shall impose the sentence unless there are compelling reasons that preclude his presence.

§ 1352. Sentencing proceeding generally.

(a) General rule.—As soon as practicable after the determination of guilt and the examination of any presentence report, a proceeding shall be held at which the court shall:

(1) Entertain submissions by the parties on the facts relevant to the sentence, including any facts with respect to negotiated pleas, as to the nature of the sentence.

(2) Afford to the defendant the right to make a statement.

(3) *Hear argument by the defense on the applicability of the various sentencing alternatives to the facts of the case, and may hear argument by the prosecution.*

(b) *Evidence.*—*Where the need for further evidence has not been eliminated by a presentence conference, evidence offered by the parties on the sentencing issue shall be presented in open court with the rights of confrontation, cross-examination, and representation by counsel.*

§ 1353. *Determination of guilt without further penalty.*

The court may impose a sentence determining guilt without further penalty.

§ 1354. *Order of probation.*

(a) *General rule.*—*In imposing an order of probation the court shall specify at the time of sentencing the length of any term during which the defendant is to be supervised, which term may not exceed the maximum term for which the defendant could be confined, and the authority that shall conduct the supervision.*

(b) *Conditions generally.*—*The court shall attach such of the reasonable conditions authorized by subsection (c) of this section as it deems necessary to insure or assist the defendant in leading a law-abiding life.*

(c) *Specific conditions.*—*The court may as a condition of its order require the defendant:*

(1) *To meet his family responsibilities.*

(2) *To devote himself to a specific occupation or employment.*

(3) *To undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose.*

(4) *To pursue a prescribed secular course of study or vocational training.*

(5) *To attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.*

(6) *To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons.*

(7) *To have in his possession no firearm or other dangerous weapon unless granted written permission.*

(8) *To make restitution of the fruits of his crime or to make reparations, in an amount he can afford to pay, for the loss or damage caused thereby.*

(9) *To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment.*

(10) *To report as directed to the court or the probation officer and to permit the probation officer to visit his home.*

(11) *To pay such fine as has been imposed.*

(12) *To participate in drug or alcohol treatment programs.*

(13) To satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience.

(d) Sentence following violation of probation.—The sentence to be imposed in the event of the violation of a condition shall not be fixed prior to a finding on the record that a violation has occurred.

§ 1355. Sentence of partial confinement.

(a) General rule.—In imposing a sentence involving partial confinement the court shall specify at the time of sentencing the length of the term during which the defendant is to be partially confined, which term may not exceed the maximum term for which he could be totally confined, and whether the confinement shall commence in a correctional or other appropriate institution.

(b) Minimum sentence.—The court shall impose a minimum sentence of partial confinement which shall not exceed one-half of the maximum sentence imposed.

(c) Purposes for partial release.—The court may in its order grant the defendant the privilege of leaving the institution during necessary and reasonable hours for any of the following purposes:

(1) To work at his employment.

(2) To seek employment.

(3) To conduct his own business or to engage in other self-employment, including housekeeping and attending to the needs of the family.

(4) To attend an educational institution or participate in a course of vocational training.

(5) To obtain medical treatment.

(6) To devote time to any other purpose approved by the court.

(d) Conditions to release.—The court may in addition include in its order such of the conditions as are enumerated in section 1354 of this title (relating to order of probation) as may be reasonably related to the sentence.

(e) Duties of correctional authorities.—The correctional authorities shall be responsible for arranging a plan consistent with the order issued under this section whereby the objectives of partial confinement may be achieved and they shall determine when and under what conditions consistent with the order issued under this section the defendant shall be permitted to be absent from the correctional institution.

(f) Disposition of earnings of defendant.—If the defendant is employed for wages or salary, the superintendent or another administrative official of the institution shall collect the same, or shall require the defendant to turn over his wages or salary in full when received, and shall deposit the same in a trust account and shall keep a ledger showing the state of the account. When an employer transmits such earnings to the superintendent or other official, the employer shall

have no liability to the defendant for such earnings. From such earnings there shall be deducted without priority the following:

- (1) The board and personal expenses of the defendant both inside and outside the institution.*
- (2) Installment on fines, if any.*
- (3) To the extent directed by the court, support of the dependents of the defendant.*

If sufficient funds after such deductions are available, the superintendent or other official may with the consent of the defendant pay in whole or in part any of the debts of the defendant. Any balance shall be retained and paid to the defendant upon his discharge.

(g) Prisoner release plans.—This section shall not be interpreted as in any way limiting the authority of the Department of Justice as set forth in the act of July 16, 1968 (P.L.351, No.173), as amended, relating to prisoner pre-release centers and release plans, or the authority of the court as set forth in the act of August 13, 1963 (P.L.774, No.390), as amended, relating to prisoner release for occupational and other purposes.

§ 1356. Sentence of total confinement.

(a) General rule.—In imposing a sentence of total confinement the court shall at the time of sentencing specify any maximum period up to the limit authorized by law and whether the sentence shall commence in a correctional or other appropriate institution.

(b) Minimum sentence.—The court shall impose a minimum sentence of confinement which shall not exceed one-half of the maximum sentence imposed.

(c) Prohibition of parole.—Except in the case of murder of the first degree, the court may impose a sentence to imprisonment without the right to parole only when:

- (1) a summary offense is charged;*
- (2) sentence is imposed for nonpayment of fines or costs, or both, in which case the sentence shall specify the number of days to be served; and*
- (3) the maximum term or terms of imprisonment imposed on one or more indictments to run consecutively or concurrently total less than 30 days.*

(d) Prisoner release plans.—This section shall not be interpreted as in any way limiting the authority of the Department of Justice as set forth in the act of July 16, 1968 (P.L.351, No.173), as amended, relating to prisoner pre-release centers and release plans, or the authority of the court as set forth in the act of August 13, 1963 (P.L.774, No.390), as amended, relating to prisoner release for occupational and other purposes.

§ 1357. Consecutive sentences of total confinement for multiple offenses.

Whenever the court determines that a sentence should be served consecutively to one being then imposed by the court, or to one previously imposed, the court shall indicate the minimum sentence to be served for the total of all offenses with respect to which sentence is imposed. Such minimum sentence shall not exceed one-half of the maximum sentence imposed.

§ 1358. Fine.

(a) General rule.—In imposing a fine the court shall at the time of sentencing specify the amount of the fine up to the amount authorized by law and shall provide when it is to be paid, and in the absence of statutory direction provide whether it is to be paid to the county or to the Commonwealth.

(b) Installment payment.—The court may permit installment payments as it considers appropriate to the circumstances of the defendant, in which case its order shall specify when each installment payment is due.

(c) Alternative sentence.—The sentence of the court may include an alternative sentence in the event of nonpayment.

§ 1359. Record.

(a) General rule.—A record of the sentencing proceeding shall be made and preserved in such a manner that it can be transcribed as needed.

(b) Contents.—The record shall include:

(1) The record of any stipulation made at a presentence conference.

(2) A copy of the presentence report and a copy of any other report or document available to the sentencing court as an aid in imposing sentence, subject to such limitations as the court may have imposed under section 1334(b) of this title (relating to restrictions on disclosure).

(3) A verbatim account of the entire sentencing proceeding.

(c) Documents transmitted to prison and parole authorities.—If the defendant is sentenced to imprisonment for a maximum term in excess of two years, there shall be forwarded to the prison and parole authorities a copy of the presentence report, if any.

§ 1360. Credit for time served.

After reviewing the information submitted under section 1337 of this title (relating to report of outstanding charges and sentences) the court shall give credit as follows:

(1) Credit against the maximum term and any minimum term shall be given to the defendant for all time spent in custody as a result of the criminal charge for which a prison sentence is imposed or as a result of the conduct on which such a charge is based. Credit shall

include credit for time spent in custody prior to trial, during trial, pending sentence, and pending the resolution of an appeal.

(2) Credit against the maximum term and any minimum term shall be given to the defendant for all time spent in custody under a prior sentence if he is later reprobated and resented for the same offense or for another offense based on the same act or acts. This shall include credit in accordance with paragraph (1) of this section for all time spent in custody as a result of both the original charge and any subsequent charge for the same offense or for another offense based on the same act or acts.

(3) If the defendant is serving multiple sentences, and if one of the sentences is set aside as the result of direct or collateral attack, credit against the maximum and any minimum term of the remaining sentences shall be given for all time served in relation to the sentence set aside since the commission of the offenses on which the sentences were based.

(4) If the defendant is arrested on one charge and later prosecuted on another charge growing out of an act or acts that occurred prior to his arrest, credit against the maximum term and any minimum term of any sentence resulting from such prosecution shall be given for all time spent in custody under the former charge that has not been credited against another sentence.

§ 1361. Computation and order of service of sentences.

(a) Order of service of sentences.—If a minimum sentence imposed by the court which is to run concurrently with one which has been previously imposed would expire later than the minimum of such a previously imposed sentence, or if the previously imposed sentence is terminated before the expiration of the minimum sentence of the last imposed sentence, the defendant shall be imprisoned at least until the last imposed minimum sentence has been served.

(b) Sentences imposed by other sovereigns.—If the defendant is at the time of sentencing subject to imprisonment under the authority of any other sovereign, the court may indicate that imprisonment under such other authority shall satisfy or be credited against both the minimum and maximum time imposed under the court's sentence. If the defendant is released by such other authority before the expiration of the minimum time imposed by the court, he shall be returned to a correctional institution of the Commonwealth to serve the time which remains of the sentence. If the defendant is released after the minimum time has elapsed, he shall be considered for parole on the same basis as a prisoner who has served his minimum time in a correctional institution of the Commonwealth. If the defendant is released after the maximum time imposed under the sentence of imprisonment he shall be deemed to have served his sentence.

§ 1362. Sentencing proceeding; place of confinement.

All persons sentenced to total or partial confinement for:

(1) maximum terms of five or more years shall be committed to the Bureau of Correction for confinement;

(2) maximum terms of two years or more but less than five years may be committed to the Bureau of Correction for confinement or may be committed to a county prison within the jurisdiction of the court;

(3) maximum terms of less than two years shall be committed to a county prison within the jurisdiction of the court except that as facilities become available on dates and in areas designated by the Governor in proclamations declaring the availability of State correctional facilities, such persons may be committed to the Bureau of Correction for confinement.

SUBCHAPTER F FURTHER JUDICIAL ACTION

Sec.

1371. Modification or revocation of order of probation.

1372. Failure to pay fine.

§ 1371. Modification or revocation of order of probation.

(a) General rule.—The court may at any time terminate continued supervision or lessen or increase the conditions upon which an order of probation has been imposed.

(b) Revocation.—The court may revoke an order of probation upon proof of the violation of specified conditions of the probation. Upon revocation the sentencing alternatives available to the court shall be the same as were available at the time of initial sentencing, due consideration being given to the time spent serving the order of probation.

(c) Limitation on sentence of total confinement.—The court shall not impose a sentence of total confinement upon revocation unless it finds that:

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

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

(3) such a sentence is essential to vindicate the authority of the court.

(d) Hearing required.—There shall be no revocation or increase of conditions of sentence under this section except after a hearing at which the court shall consider the record of the sentencing proceeding together with evidence of the conduct of the defendant while on probation. Probation may be eliminated or the term decreased without a hearing.

§ 1372. Failure to pay fine.

Unless there is proof that failure to pay a fine or that portion of the fine that is due is excusable, the court may after a hearing find the defendant guilty of contempt and sentence him to not more than six

months imprisonment, if a term of confinement of that amount could have been imposed for the offense charged. If an alternative sentence has been imposed under section 1358(c) of this title (relating to alternative sentence), the alternative sentence may not take effect until there has been a preliminary finding of non-indigency, and a wilful failure to pay the fine.

SUBCHAPTER G SENTENCING COUNCIL

Sec.

1381. Composition of sentencing council.

1382. Reference to the sentencing council.

§ 1381. Composition of sentencing council.

Each sentencing council shall consist of the sentencing judge and two other judges designated as follows:

(1) In all judicial districts having four or more judges, the president judge shall designate from time to time two or more judges to consider sentences to be imposed by the sentencing judge. The president judge shall inform the sentencing judge to which judges he should refer his proposed sentences for consideration.

(2) In judicial districts having three judges, the judges of that district shall constitute the sentencing council.

(3) In judicial districts having one or two judges, the sentencing judge shall arrange with a judge or judges of any district to consider proposed sentences, or in the absence of such arrangement, such judge or judges shall be designated in such manner as the Supreme Court shall by rule provide.

§ 1382. Reference to the sentencing council.

(a) General rule.—The sentencing judge in all cases where he is considering imposing a maximum sentence of seven years or more shall before imposing sentence transmit a copy of the presentence report, and of such other information as he may consider pertinent, to the other judges of the sentencing council, each of whom shall within 14 days from receipt of the report confirm in writing to the sentencing judge his recommendation with respect to the sentence to be imposed. The judges of the sentencing council may consider the presentence report and other material together or individually. The written recommendations of the members of the sentencing council shall in no way become a part of the official court record nor shall the written recommendations be considered in any manner as forming the basis of an appeal.

(b) Pronouncement of sentence.—After the consideration of the sentencing council the sentencing judge shall in his sole discretion pronounce sentence.

Section 2. (a) The last sentence of section 15, act of July 25, 1913 (P.L.1311, No.816), entitled "An act providing for the establishment of

a State Industrial Home for Women; authorizing the purchase of a site, and the erection thereon and equipment of necessary buildings; providing for the commitment to said State Industrial Home for Women of females between the ages of sixteen and thirty years, convicted of, or pleading guilty to, the commission of any criminal offense; and providing for the government and management of said institution; and making an appropriation to carry out the purposes of this act," is repealed.

(b) All acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 3. This act shall take effect in 90 days.

APPROVED—The 30th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 345.

A handwritten signature in cursive script that reads "C. McLaughlin Tucker". The signature is written in black ink and is positioned above the printed name of the Secretary of the Commonwealth.

Secretary of the Commonwealth.