

THE GENERAL ASSEMBLY

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

COMMISSION ON SENTENCING PART VIII. CRIMINAL SENTENCING [204 PA. CODE CH. 303]

Adoption of Supplement to 7th Edition Amendment 4 Sentencing Guidelines

On October 21, 2017, the Pennsylvania Commission on Sentencing published a proposed Supplement to the 7th Edition Amendment 4 Sentencing Guidelines in the *Pennsylvania Bulletin*, in accordance with 42 Pa.C.S.A. § 2155(a)(1), and held a public hearing on December 13, 2017 in Harrisburg, PA.

On December 14, 2017, the Pennsylvania Commission on Sentencing adopted the Supplement to 7th Edition Amendment 4 Sentencing Guidelines.

The 7th Edition Sentencing Guidelines, which the Commission adopted on September 13, 2012, apply to all offenses committed on or after the effective date of December 28, 2012. In order to address legislative mandates to provide sentencing enhancements, the Commission adopted four amendments to the 7th Edition Sentencing Guidelines.

- Amendment 1 was adopted on June 6, 2013 and became effective September 27, 2013. Two sentencing enhancements were provided: 1) murder in third degree of a person younger than age 13 and 2) related to criminal gang with conviction of a crime of violence as defined in 42 Pa.C.S. § 9714 or 35 P.S. § 780-113(a)(30). The amendment also addressed sentencing ranges based on newly enacted mandatory minimum sentences for offenders younger than age 18 convicted of murder 1 or murder 2.

- Amendment 2 of the 7th Edition Sentencing Guidelines was adopted on June 5, 2014 and became effective September 26, 2014. Two sentencing enhancements were provided: one related to child abuse and one related to arson.

- Amendment 3 of the 7th Edition Sentencing Guidelines was adopted on June 4, 2015 and became effective September 25, 2015. A sentencing enhancement for human trafficking was provided.

- Amendment 4 of the 7th Edition Sentencing Guidelines was adopted on June 1, 2017 and became effective January 1, 2018. Four sentencing enhancements were provided: 1) burglary of a home/person present and bodily injury crime is committed, attempted, or threatened; 2) related to persons not to possess, use, manufacture, control, sell, or transfer a firearm; 3) homicide by vehicle with conviction related to prohibiting text-based communications; and 4) aggravated assault of a vehicle with conviction relating to prohibiting text-based communications.

The Commission subsequently adopted a Supplement to Amendment 4 in response to concerns raised pertaining to violations of 35 P.S. § 780-113(a)(14) and (30) involving fentanyl and its derivatives and analogues. The Commission took no action in regard to violations of 35 P.S. § 780-113(a)(12) involving fentanyl and its derivatives

and analogues. Therefore, in this Supplement, offenses for 35 P.S. § 780-113(a)(14) and (30) were further subcategorized to include fentanyl and its derivatives and analogues, and offense gravity scores were assigned.

This Supplement to 7th Edition Amendment 4 Sentencing Guidelines, as adopted by the Commission, is summarized as follows and is included in Annex A.

PRESIDENT JUDGE SHEILA A. WOODS-SKIPPER,
Chair

Commentary on Annex A

This commentary provides selected highlights of the adopted Supplement to 7th Edition Amendment 4 Sentencing Guidelines. The only change is within § 303.15 Offense Listings, under 35 P.S. § 780-113(a)(14) and (30). Sections 303.1 through 303.14 and Sections 303.16 through 303.18 remain unchanged from 7th Edition Amendment 4 Sentencing Guidelines. Additionally, there are no modifications to all other offenses found in 303.15 under Pa.C.S.A. Titles 18, 23, 30, 42 and 75.

The adopted Supplement is set forth in Annex A.

Revisions to 303.1—Sentencing guideline standards

No changes.

Revisions to 303.2—Procedure for determining the guideline sentence

No changes.

Revisions to 303.3—Offense gravity score (general)

No changes.

Revisions to 303.4—Prior record score (categories)

No changes.

Revisions to 303.5—Prior record score (prior convictions)

No changes.

Revisions to 303.6—Prior record score (prior juvenile adjudications)

No changes.

Revisions to 303.7—Prior record score (guideline points scoring)

No changes.

Revisions to 303.8—Prior record score (miscellaneous)

No changes.

Revisions to 303.9—Guideline sentence recommendations (general)

No changes.

Revisions to 303.10—Guideline sentence recommendations (enhancements)

No changes.

Revisions to 303.11—Guideline sentence recommendations (sentencing levels)

No changes.

Revisions to 303.12—Guideline sentence recommendations (sentencing programs)

No changes.

Revisions to 303.13—Guideline sentence recommendations (aggravating and mitigating circumstances)

No changes.

Revisions to 303.14—Guideline sentence recommendations (economic sanctions)

No changes.

*Revisions to 303.15—Offense listing**18 Pa.C.S.A.*

No changes.

23 Pa.C.S.A.

No changes.

30 Pa.C.S.A.

No changes.

35 P.S.

§ 780-113(a)(14)*. Delivery by practitioner—fentanyl and its derivatives and analogues

§ 780-113(a)(30)*. Possession with intent to deliver—fentanyl and its derivatives and analogues.

42 Pa.C.S.A.

No changes.

75 Pa.C.S.A.

No changes.

Revisions to 303.16—Basic Sentencing Matrices

No changes.

Revisions to 303.17—Deadly Weapon Enhancement Matrices

No changes.

Revisions to 303.18—Youth, School, Youth and School Enhancement Matrices

No changes.

Resource Utilization

In accordance with 42 Pa.C.S.A. § 2153(a)(15), the Commission is mandated to determine resources required under current guidelines and resources that would be required to carry out the Supplement to 7th Edition Amendment 4. Amendment 3 is used as the base for comparison as Amendment 4 applies to offenses committed on or after January 1, 2018 and no data are available.

Changes to the sentencing guidelines may be in response to legislation enacted by the General Assembly or may be initiated by the Commission. The changes contained in the Supplement to Amendment 4 were initiated by the Commission in response to concerns raised by district attorneys, law enforcement, and other practitioners regarding fentanyl.

The Commission currently subcategorizes offenses under 35 Pa.C.S.A. § 780-113(a)(14), delivery by a practitioner, and § 780-113(a)(30), possession with intent to deliver, by type of drug and quantity of drug. In the Supplement to Amendment 4, the Commission further subcategorized these offenses to include fentanyl and its derivatives and analogues and assigned offense gravity scores.

The 7th Edition Sentencing Guidelines § 303.3(e) states: “if any mixture or compound contains any detectable amount of a controlled substance, the entire amount of the mixture or compound shall be deemed to be composed of a controlled substance. If a mixture or compound contains a detectable amount of more than one controlled substance, the mixture or compound shall be deemed to be composed entirely of the controlled substance which has the highest Offense Gravity Score.”

Therefore, when fentanyl or its derivatives or analogues is contained in a mixture or compound leading to a conviction under 35 Pa.C.S.A. § 780-113(a)(14) or § 780-113(a)(30), the offense gravity score for fentanyl applies since it is assigned a higher offense gravity score.

Fentanyl is not currently captured in the Commission’s sentencing data. Therefore, the Commission consulted with a number of resources, and obtained data compiled by the Philadelphia Field Division of the U.S. Drug Enforcement Administration (DEA). The DEA provided information on drug seizures in Pennsylvania that contained heroin, cocaine, fentanyl, fentanyl-related substances (FRS) or methamphetamine, or a combination of these drugs that were analyzed and reported to the National Forensic Laboratory Information System (NFLIS). For 2016, in these analyzed samples, heroin was present in 56% of the cases, which is comparable to percentage of sentences reported to the Commission for 35 Pa.C.S.A. § 780-113(a)(30) convictions in which heroin was present (59%).

Based on the 2016 and preliminary 2017 data received from the DEA Philadelphia Field Division, there has been a consistent increase in the percentage of samples containing fentanyl and FRS each quarter. In 2016 the percentage of cases which contained fentanyl or FRS increased each quarter (Q): Q1 = 7%; Q2 = 9%; Q3 = 15%; and Q4 = 22%. All indications are that the trend has continued in 2017, but these preliminary data are not yet published: Q1 = 27% and Q2 = 30%. At the same time, the percentage of samples containing heroin has declined, from 60% in the first quarter of 2016 to 50% in the last quarter of 2016.

This resource impact for the Supplement to Amendment 4 is based upon the disposition and duration of sentences reported to the Commission for calendar year 2016. The metrics were calculated for the guidelines in effect at the time and for the Supplement to Amendment 4. The impact represents the difference between the two and is presented as an increase or reduction to the utilization of Department of Corrections (DOC) resources on an annual basis. This simulation holds all other factors and conformity to the guidelines constant except the change being analyzed. It addresses minimum sentence imposed and does not take into account additional time served prior to parole or release.

35 Pa.C.S.A. § 780-113(a)(14) (delivery by a practitioner: fentanyl and its derivatives and analogues)

A total of six sentences (most serious offense in judicial proceeding) were reported in 2016 for delivery by a practitioner. None of the sentences involved heroin, cocaine, or methamphetamine. Therefore, no substantial change in resource utilization is expected for this new subcategorization of delivery by a practitioner for fentanyl.

35 Pa.C.S.A. § 780-113(a)(30) (possession with intent to deliver: fentanyl and its derivatives and analogues)

In 2016, 910 state incarceration sentences were reported for possession with intent to deliver heroin (2,817 total), 462 state incarceration sentences for cocaine (1,639 total), and 125 state incarceration sentences for methamphetamine (298 total). All are based on the most serious offense in a judicial proceeding. As noted, violations of this section are subcategorized, with offense gravity scores assigned based on the highest classified drug contained in the mixture or compound and the quantity of the mixture or compound. The average minimum sentences and percentage of sentences of state incarceration vary based on the type and quantity of drugs.

At a minimum, this resource utilization assumes 22% of sentences for possession with intent to deliver heroin, cocaine, or methamphetamine contain fentanyl and its derivatives and analogues. This percentage is based on the last published data (Q4 of 2016) by the DEA Philadelphia Field Division. To determine the number of state incarceration sentences and average minimum sentence, the comparable figures based on the new offense gravity score assignment were used. The resources required for sentences imposed in 2016 were 2,732 DOC beds per year. Replacement with the proposed Supplement for fentanyl and FRS would require 3,266 DOC beds per year. Therefore, the resources required to carry out this Supplement to the Sentencing Guidelines is, at minimum, an annual increase of 534 DOC beds per year.

However, as the increase in the percentage of cases containing fentanyl and FRS has continued in 2017, a

more likely resource utilization assumes 30% of sentences for possession with intent to deliver heroin, cocaine, or methamphetamine contain fentanyl and its derivatives and analogues. This percentage is based on the latest preliminary data (Q2 of 2017) by the DEA Philadelphia Field Division. As noted above, the resources required for sentences imposed in 2016 were 2,732 DOC beds per year. Replacement with the proposed Supplement for fentanyl and FRS would require 3,480 DOC beds per year. The resources required to carry out this supplement to the sentencing guidelines under this more likely scenario is an annual increase of 748 DOC beds per year.

Effective Date

The Supplement to 7th Edition Amendment 4 Sentencing Guidelines shall become effective June 1, 2018, unless disapproved by the General Assembly, pursuant to 42 Pa.C.S.A. § 2155(b).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING

CHAPTER 303. SENTENCING GUIDELINES

§ 303.15. Offense Listing.

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DRUG ACT OFFENSES

<i>35 P.S. § 780-113</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(1)	Manufacture/sale/delivery-adulterated controlled substance (1st off)	M	4	m
(a)(1)	Manufacture/sale/delivery-adulterated controlled substance (2nd/subsq off)	M	4	m
(a)(2)	Adulterate/misbrand-controlled substance (1st off)	M	4	m
(a)(2)	Adulterate/misbrand-controlled substance (2nd/subsq off)	M	4	m
(a)(3)	False/misleading advertisement (1st off)	M	4	m
(a)(3)	False/misleading advertisement (2nd/subsq off)	M	4	m
(a)(4)	Removal/disposal-detained substance (1st off)	M	5	m
(a)(4)	Removal/disposal-detained substance (2nd/subsq off)	M	5	m
(a)(5)	Adulterate/destroy label-controlled substance for sale (1st off)	M	4	m
(a)(5)	Adulterate/destroy label-controlled substance for sale (2nd/subsq off)	M	4	m
(a)(6)	Forge/counterfeit w/ mark/ID symbol (1st off)	M	5	m
(a)(6)	Forge/counterfeit w/ mark/ID symbol (2nd/subsq off)	M	5	m
(a)(7)	Place trademark on controlled substance to defraud (1st off)	M	5	m
(a)(7)	Place trademark on controlled substance to defraud (2nd/subsq off)	M	5	m
(a)(8)	Selling controlled substance w/ defrauded trademark (1st off)	M	5	m
(a)(8)	Selling controlled substance w/ defrauded trademark (2nd/subsq off)	M	5	m
(a)(9)	Selling trademark equipment to defraud (1st off)	M	5	m
(a)(9)	Selling trademark equipment to defraud (2nd/subsq off)	M	5	m
(a)(10)	Illegal sale of nonproprietary drug (1st off)	M	4	m

<i>35 P.S. § 780-113</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(10)	Illegal sale of nonproprietary drug (2nd/subsq off)	M	4	m
(a)(11)	Illegal pharmacy operations (1st off)	M	5	m
(a)(11)	Illegal pharmacy operations (2nd/subsq off)	M	5	m
(a)(12)*	Acquisition of controlled substance by fraud-heroin (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-heroin (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-heroin (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-heroin (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-heroin (1-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-heroin (<1 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (>1000 pills)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (100-1000 pills)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (50-<100 pills)	F	10	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (10-<50 pills)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (1-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (1-<10 pills)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-other narcotics, Sched I & II (<1 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (10-<50 g)	F	8	3
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (5-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (2-<5 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-cocaine (<2 g)	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (100-1000 g)	F	11	3

<i>35 P.S. § 780-113</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (2.5-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-methamphetamine (<2.5 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-PCP (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-PCP (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-PCP (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-PCP (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-PCP (2.5-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-PCP (<2.5 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (>1000 g)	F	13	3
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (100-1000 g)	F	11	3
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (50-<100 g)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (10-<50 g)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (2.5-<10 g)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-MDMA (<2.5 g)	F	6	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (>1000 lbs.)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (>5000 plants)	F	10	3
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (50-1000 lbs.)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (51-5000 plants)	F	8	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (10-<50 lbs.)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (21-<51 plants)	F	7	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (1-<10 lbs.)	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (10-<21 plants)	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (<1 lb.)	F	3	2
(a)(12)*	Acquisition of controlled substance by fraud-marijuana (<10 plants)	F	3	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched I	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched II	F	5	2

<i>35 P.S. § 780-113</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(12)*	Acquisition of controlled substance by fraud-Sched III	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched IV	F	5	2
(a)(12)*	Acquisition of controlled substance by fraud-Sched V	M	3	m
(a)(13)	Dispense drugs to dependent person (1st off)	M	4	m
(a)(13)	Dispense drugs to dependent person (2nd/subsq off)	M	4	m
(a)(14)*	Delivery by practitioner-heroin (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-heroin (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-heroin (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-heroin (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-heroin (1-<10 g)	F	7	2
(a)(14)*	Delivery by practitioner-heroin (<1 g)	F	6	2
<u>(a)(14)*</u>	<u>Delivery by practitioner-fentanyl and its derivatives and analogues (>=100 g)</u>	<u>F</u>	<u>14</u>	<u>3</u>
<u>(a)(14)*</u>	<u>Delivery by practitioner-fentanyl and its derivatives and analogues (50-<100 g)</u>	<u>F</u>	<u>13</u>	<u>3</u>
<u>(a)(14)*</u>	<u>Delivery by practitioner-fentanyl and its derivatives and analogues (10-<50 g)</u>	<u>F</u>	<u>11</u>	<u>2</u>
<u>(a)(14)*</u>	<u>Delivery by practitioner-fentanyl and its derivatives and analogues (1-<10 g)</u>	<u>F</u>	<u>10</u>	<u>2</u>
<u>(a)(14)*</u>	<u>Delivery by practitioner-fentanyl and its derivatives and analogues (<1 g)</u>	<u>F</u>	<u>9</u>	<u>2</u>
(a)(14)*	Delivery by practitioner-other narcotics Sched I & II (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (>1000 pills)	F	13	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (100-1000 pills)	F	11	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (50-<100 pills)	F	10	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (10-<50 pills)	F	8	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (1-<10 g)	F	7	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (1-<10 pills)	F	7	2
(a)(14)*	Delivery by practitioner-other narcotics, Sched I & II (<1 g)	F	6	2
(a)(14)*	Delivery by practitioner-cocaine (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-cocaine (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-cocaine (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-cocaine (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-cocaine (5-<10 g)	F	7	2
(a)(14)*	Delivery by practitioner-cocaine (2-<5 g)	F	6	2
(a)(14)*	Delivery by practitioner-cocaine (<2 g)	F	5	2

<i>35 P.S. § 780-113</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(14)*	Delivery by practitioner-methamphetamine (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-methamphetamine (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-methamphetamine (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-methamphetamine (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-methamphetamine (2.5-<10 g)	F	7	2
(a)(14)*	Delivery by practitioner-methamphetamine (<2.5 g)	F	6	2
(a)(14)*	Delivery by practitioner-PCP (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-PCP (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-PCP (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-PCP (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-PCP (2.5-< 10 g)	F	7	2
(a)(14)*	Delivery by practitioner-PCP (<2.5 g)	F	6	2
(a)(14)*	Delivery by practitioner-MDMA (>1000 g)	F	13	3
(a)(14)*	Delivery by practitioner-MDMA (100-1000 g)	F	11	3
(a)(14)*	Delivery by practitioner-MDMA (50-<100 g)	F	10	3
(a)(14)*	Delivery by practitioner-MDMA (10-<50 g)	F	8	2
(a)(14)*	Delivery by practitioner-MDMA (2.5-< 10 g)	F	7	2
(a)(14)*	Delivery by practitioner-MDMA (<2.5 g)	F	6	2
(a)(14)*	Delivery by practitioner-marijuana (>1000 lbs.)	F	10	3
(a)(14)*	Delivery by practitioner-marijuana (>5000 plants)	F	10	3
(a)(14)*	Delivery by practitioner-marijuana (50-1000 lbs.)	F	8	2
(a)(14)*	Delivery by practitioner-marijuana (51-5000 plants)	F	8	2
(a)(14)*	Delivery by practitioner-marijuana (10-<50 lbs.)	F	7	2
(a)(14)*	Delivery by practitioner-marijuana (21-<51 plants)	F	7	2
(a)(14)*	Delivery by practitioner-marijuana (1-<10 lbs.)	F	5	2
(a)(14)*	Delivery by practitioner-marijuana (10-<21 plants)	F	5	2
(a)(14)*	Delivery by practitioner-marijuana (<1 lb.)	F	3	2
(a)(14)*	Delivery by practitioner-marijuana (<10 plants)	F	3	2
(a)(14)*	Delivery by practitioner-Sched I	F	5	2
(a)(14)*	Delivery by practitioner-Sched II	F	5	2
(a)(14)*	Delivery by practitioner-Sched III	F	5	2
(a)(14)*	Delivery by practitioner-Sched IV	F	5	2
(a)(14)*	Delivery by practitioner-Sched V	M	3	m
(a)(15)	Illegal retail sale-controlled substance (1st off)	M	4	m
(a)(15)	Illegal retail sale-controlled substance (2nd/subsq off)	M	4	m
(a)(16)	Simple possession (1st off)	M	3	m
(a)(16)	Simple possession (2nd/subsq off)	M	3	m
(a)(16)	Simple possession-GHB (1st off)	F	5	2
(a)(16)	Simple possession-GHB (2nd/sub off)	F	5	2
(a)(17)	Dispense drugs w/o label by practitioner (1st off)	M	4	m
(a)(17)	Dispense drugs w/o label by practitioner (2nd/subsq off)	M	4	m
(a)(18)	Illegal sale container (1st off)	M	4	m
(a)(18)	Illegal sale container (2nd/subsq off)	M	4	m
(a)(19)	Intentional unauthorized purchase (1st off)	M	5	m
(a)(19)	Intentional unauthorized purchase (2nd/subsq off)	M	5	m
(a)(20)	Divulging trade secret (1st off)	M	4	m

<i>35 P.S. § 780-113</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(20)	Divulging trade secret (2nd/subsq off)	M	4	m
(a)(21)	Failure to keep records (1st off)	M	2	m
(a)(21)	Failure to keep records (2nd/subsq off)	M	2	m
(a)(22)	Refusal of inspection (1st off)	M	2	m
(a)(22)	Refusal of inspection (2nd/subsq off)	M	2	m
(a)(23)	Unauthorized removal of seals	M	5	m
(a)(24)	Failure to obtain license (1st off)	M	2	m
(a)(24)	Failure to obtain license (2nd/subsq off)	M	2	m
(a)(25)	Manufacture by unauthorized party	M	5	m
(a)(26)	Distribution by registrant of Schedule I or II	M	5	m
(a)(27)	Use of fictitious registration number	M	5	m
(a)(28)	Furnish false application material	M	5	m
(a)(29)	Production of counterfeit trademarks equipment	M	5	m
(a)(30)*	Possession with intent to deliver-heroin (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-heroin (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-heroin (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-heroin (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-heroin (1-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-heroin (<1 g)	F	6	2
<u>(a)(30)*</u>	<u>Possession with intent to deliver-fentanyl and its derivatives and analogues (>=100 g)</u>	<u>F</u>	<u>14</u>	<u>3</u>
<u>(a)(30)*</u>	<u>Possession with intent to deliver-fentanyl and its derivatives and analogues (50-<100 g)</u>	<u>F</u>	<u>13</u>	<u>3</u>
<u>(a)(30)*</u>	<u>Possession with intent to deliver-fentanyl and its derivatives and analogues (10-<50 g)</u>	<u>F</u>	<u>11</u>	<u>2</u>
<u>(a)(30)*</u>	<u>Possession with intent to deliver-fentanyl and its derivatives and analogues (1-<10 g)</u>	<u>F</u>	<u>10</u>	<u>2</u>
<u>(a)(30)*</u>	<u>Possession with intent to deliver-fentanyl and its derivatives and analogues (<1 g)</u>	<u>F</u>	<u>9</u>	<u>2</u>
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (>1000 pills)	F	13	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (100-1000 pills)	F	11	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (50-<100 pills)	F	10	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (10-<50 pills)	F	8	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (1-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (1-<10 pills)	F	7	2

<i>35 P.S. § 780-113</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(30)*	Possession with intent to deliver-other narcotics, Sched I & II (<1 g)	F	6	2
(a)(30)*	Possession with intent to deliver-cocaine (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-cocaine (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-cocaine (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-cocaine (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-cocaine (5-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-cocaine (2-<5 g)	F	6	2
(a)(30)*	Possession with intent to deliver-cocaine (<2 g)	F	5	2
(a)(30)*	Possession with intent to deliver-methamphetamine (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-methamphetamine (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-methamphetamine (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-methamphetamine (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-methamphetamine (2.5-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-methamphetamine (<2.5 g)	F	6	2
(a)(30)*	Possession with intent to deliver-PCP (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-PCP (100-<1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-PCP (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-PCP (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-PCP (2.5-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-PCP (<2.5 g)	F	6	2
(a)(30)*	Possession with intent to deliver-MDMA (>1000 g)	F	13	3
(a)(30)*	Possession with intent to deliver-MDMA (100-1000 g)	F	11	3
(a)(30)*	Possession with intent to deliver-MDMA (50-<100 g)	F	10	3
(a)(30)*	Possession with intent to deliver-MDMA (10-<50 g)	F	8	2
(a)(30)*	Possession with intent to deliver-MDMA (2.5-<10 g)	F	7	2
(a)(30)*	Possession with intent to deliver-MDMA (<2.5 g)	F	6	2
(a)(30)*	Possession with intent to deliver-marijuana (>1000 lbs.)	F	10	3
(a)(30)*	Possession with intent to deliver-marijuana (>5000 plants)	F	10	3
(a)(30)*	Possession with intent to deliver-marijuana (50-1000 lbs.)	F	8	2
(a)(30)*	Possession with intent to deliver-marijuana (51-5000 plants)	F	8	2
(a)(30)*	Possession with intent to deliver-marijuana (10-<50 lbs.)	F	7	2
(a)(30)*	Possession with intent to deliver-marijuana (21-<51 plants)	F	7	2
(a)(30)*	Possession with intent to deliver-marijuana (1-<10 lbs.)	F	5	2
(a)(30)*	Possession with intent to deliver-marijuana (10-<21 plants)	F	5	2
(a)(30)*	Possession with intent to deliver-marijuana (<1 lb.)	F	3	2
(a)(30)*	Possession with intent to deliver-marijuana (<10 plants)	F	3	2
(a)(30)*	Possession with intent to deliver-Sched I (>=100 g)	F	7	2
(a)(30)*	Possession with intent to deliver-Sched I (<100 g)	F	5	2

<i>35 P.S. § 780-113</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(30)*	Possession with intent to deliver-Sched II	F	5	2
(a)(30)*	Possession with intent to deliver-Sched III	F	5	2
(a)(30)*	Possession with intent to deliver-Sched IV	F	5	2
(a)(30)*	Possession with intent to deliver-Sched V	M	3	m
(a)(31)	Possession-small amt. of marijuana (<=30 g/<=8 g hashish)	M	1	m
(a)(31)	Possession-small amt. of marijuana (<=30 g/<=8 g hashish): personal use	M	1	m
(a)(31)	Possession-small amt. of marijuana (<=30 g/<=8 g hashish): intent to distribute, not sell	M	1	m
(a)(31)	Possession-small amt. of marijuana (<=30 g/<=8 g hashish): distribution, not sale	M	1	m
(a)(32)	Possession-drug paraphernalia	M	1	m
(a)(33)	Possession w/ intent to deliver paraphernalia-under 18/3 yrs or more junior	M-2	4	m
(a)(33)	Possession w/ intent to deliver paraphernalia-not to a minor	M	3	m
(a)(34)	Place ad for sale of drug paraphernalia	M	1	m
(a)(34)	Place ad for sale of drug paraphernalia-GHB	F	5	2
(a)(35)(i)	Illegal sale of noncontrolled substance-intent to distribute	F	5	2
(a)(35)(ii)	Illegal sale of noncontrolled substance-represent as controlled substance	F	5	2
(a)(35)(iii)	Illegal sale of noncontrolled substance-distribute for redistribution	F	5	2
(a)(36)	Possession w/ intent to deliver-designer drugs	F	5	2
(a)(37)	Possession >30 doses-anabolic steroid (1st off)	M	4	m
(a)(37)	Possession >30 doses-anabolic steroid (2nd/subsq off)	M	4	m
(a)(38)(II)	Unlawful manufacture-methamphetamine (BI of child <18)	F-2	9	2
(a)(38)(I)	Unlawful manufacture-methamphetamine (child <18 present)	F-3	7	1
(a)(39)	Possess ephedrine, etc. w/ intent to manuf. methamphetamine (1st off)	M	2	m
(a)(39)	Possess ephedrine, etc. w/ intent to manuf. methamphetamine (2nd/subsq off)	M	2	m
(a)(40)	Retail sale-product containing ephedrine, etc. (1st off)	M	2	m
(a)(40)	Retail sale-product containing ephedrine, etc. (2nd/subsq off)	M	2	m

*=subcategorized offenses. See § 303.3(b).

m=other misdemeanor offense. See § 303.7(a)(5).

<i>35 P.S. § 780-113.1</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(1)(i)	Possess liquefied ammonia-purpose other than agriculture/industrial	M	3	m
(a)(1)(ii)	Possess liquefied ammonia-unapproved container	M	3	m
(a)(2)	Possess liquefied ammonia-intent to manuf controlled substance	F	5	2

<i>35 P.S. § 780-113.1</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(3)	Possess red phosphorous-intent to manuf controlled substance	F	5	2
(a)(4)	Possess esters/salts/etc. w/ intent to manuf controlled substance	F	5	2

<i>35 P.S. § 780-113.4</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
(a)(1)	Operate meth lab-create chemical reaction	F-2	7	2
(a)(3)	Operate meth lab-create chemical reaction (w/in 1000 ft. of school)	F-1	8	3
(b)(1)	Operate meth lab-stores/disposes substance used in manuf.	F-3	5	1

<i>35 P.S.</i>	<i>DESCRIPTION</i>	<i>STATUTORY CLASS</i>	<i>§ 303.3 OFFENSE GRAVITY SCORE</i>	<i>§ 303.7 PRIOR RECORD SCORE POINTS</i>
6018.101— 6018.1002	Solid Waste Management Act			
	Knowingly transports, etc. hazardous waste without permit	F-1	9	1
	Transports, etc. hazardous waste without permit	F-2	7	2
	Violation of Act, DER Order, etc.	M-3	1	m
691.1— 691.1001	Clean Streams Law			
	Violation of Act, DER Order, etc.	M-3	1	m
4001— 4015	Air Pollution Control Act			
	Knowingly releases hazardous air pollutant	F-1	9	1
	Violation of Act, DER Order, etc.	M-2	2	m
	Negligently releases hazardous air pollution	M-3	1	m

m=other misdemeanor offense. See § 303.7(a)(5).

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