

THE GENERAL ASSEMBLY

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

Adopted 8th Edition Sentencing Guidelines; Correction

Several errors occurred in Annex B published at 53 Pa.B. 5361 (August 26, 2023). Annex B is corrected as follows, with ellipses referring to the balance of the text as it appeared at 53 Pa.B. 5361. The remainder of Annex B was accurate as published.

Annex B TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS PART VIII. CRIMINAL SENTENCING CHAPTER 303a. SENTENCING GUIDELINES, 8TH EDITION

§ 303a.4. Prior record score.

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(e)(7)(ii). A charge which is nolle [**prosed**] **prossed**, dismissed, or on which a demurrer is sustained.

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§ 303a.9. Offense listing (OGS/POG assignments).

18 Pa.C.S. §	Description	Statutory Class	Offense Gravity Score (OGS)	Prior Offense Group (POG)	Mandatory/Enhancements
PART I					
* * * * *					
908.1(a)(2)	Possess electric incapacitation device (no intent to commit felony)	M-1	6	POG1	
[908.1(c)	Use/possess electric incapacitation device (prohibited possession)	M-1	7	POG1]	
910(a)(1)(i)	Manufacture/etc.-device for theft of telecommunications (>50 devices)	F-2	12	POG3	
* * * * *					
PART II ARTICLE B					
* * * * *					
3011(a)(3)	Trafficking in individuals-knows or recklessly disregards	F-2	13	[POG4] POG3	
3011(a)(4)	Trafficking in individuals-knowingly benefits financially	F-2	13	[POG4] POG3	
* * * * *					
PART II ARTICLE C					
* * * * *					
3503(b)(1)(iv)	Criminal trespass-defiant (notice posted/ school grounds)	M-3	5	POG1	E
3503(b)(1)(v)	Criminal trespass-defiant (communication/leave school grounds)	M-1	7	POG1	E
3503(b.2)(1)(i)	Criminal trespass-agricultural trespass (posted land)	M-3	2	POG1	E
3503(b.2)(1)(ii)	Criminal trespass-agricultural trespass (defies order)	M-2	7	POG1	E
* * * * *					

<i>18 Pa.C.S. §</i>	<i>Description</i>	<i>Statutory Class</i>	<i>Offense Gravity Score (OGS)</i>	<i>Prior Offense Group (POG)</i>	<i>Mandatory/Enhancements</i>
PART II	ARTICLE E				
* * * * *					
5741(a)(1)	Unlawf[.]ul access stored communications-access w/o authority-for gain (2nd/subsq off)	M-2	5	POG1	
5741(a)(1)	Unlawf[.]ul access stored communications-exceed authorization-for gain (2nd/subsq off)	M-2	5	POG1	
* * * * *					

<i>35 Pa.C.S. § 780-113</i>	<i>Description</i>	<i>Statutory Class</i>	<i>Offense Gravity Score (OGS)</i>	<i>Prior Offense Group (POG)</i>	<i>Mandatory/Enhancements</i>
* * * * *					
(a)(38)[(II)](ii)	Unlawful manufacture-methamphetamine (BI of child <18)	F-2	13	POG3	
(a)(38)[(I)](i)	Unlawful manufacture-methamphetamine (child <18 present)	F-3	10	POG2	
* * * * *					

<i>75 Pa.C.S. §</i>	<i>Description</i>	<i>Statutory Class</i>	<i>Offense Gravity Score (OGS)</i>	<i>Prior Offense Group (POG)</i>	<i>Mandatory/Enhancements</i>
* * * * *					
3808(a)(2)	Illegally operating motor vehicle not equipped with ignition interlock-BAC >=.025	M-3	9	POG1	M
[7122	Altered, forged, or counterfeit documents and plates	M-1	7	POG1]	

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§ 303a.10. BUI/DUI offense listing (OGS/POG assignments).

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	<i>Description</i>	<i>Statutory Class</i>	<i>Offense Gravity Score (OGS)</i>	<i>Prior Offense Group (POG)</i>	<i>Enhancements</i>
<i>75 Pa.C.S. §</i>	<i>All offenses contained within this section (related to driving under the influence of alcohol or controlled substances) are subject to a mandatory penalty under Title 75 § 3804 (penalties).</i>				
* * * * *					
3802(a)(1)	DUI-incapable of safe driving: refused testing (prior conviction 75-3735) (1st off)	F-3	[7] 9	POG2	
* * * * *					

§ 303a.12. OGS enhancements table.

<i>Pa.C.S.</i>	<i>Description</i>	<i>OGS Subcategorization</i>	<i>OGS Adjustment</i>	<i>Guideline Section and Additional Details</i>
<i>General enhancements (§ 303a.3(b)(5))</i>				
* * * * *				
42-9720.4	Sentencing for offenses committed in association with a criminal gang.			§ 303a.3(b)(5)(iii)
	Murder-3rd degree	x		

<i>Pa.C.S.</i>	<i>Description</i>	<i>OGS Subcategorization</i>	<i>OGS Adjustment</i>	<i>Guideline Section and Additional Details</i>
	Crimes of violence (42-9714(g)) or a violation of section (a)(30) of the Drug Act (35-780-11[4]3) if knowingly committed at the direction of or for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.		+2	
42-9720.8	Sentencing for offenses involving domestic violence.			§ 303a.3(b)(5)(iv)
	Murder-3rd degree	x		
	Offense under Title 18, Chapters 25, 27, 29, 30, 31, or 49 against a family or household member (23-6102).		+2	
	Defendant knew crime was witnessed, either through sight or sound, by a minor who is also a family or household member[s] of the defendant [to] or the victim.			Payment of costs or fees for assessment and treatment of the minor.
* * * * *				
<i>General enhancements (§ 303a.3(b)(6))</i>				
* * * * *				
18-3502	Burglary (as provided in part in 42-9720.7)			§ 303a.3(b)(6)(vi)
	Occupied structure, person present, bodily injury crime	x		
	<i>Unless otherwise included in OGS description:</i>			
18-3502(d.1)	Domestic animal harmed [of] or killed		+1	
18-3503	Criminal trespass			§ 303a.3(b)(6)(vii)
	<i>Unless otherwise included in OGS description:</i>			
18-3503(e.2)	Domestic animal harmed [of] or killed		+1	
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[Pa.B. Doc. No. 23-1576. Filed for public inspection November 17, 2023, 9:00 a.m.]

COMMISSION ON SENTENCING

Meetings Scheduled

The Commission on Sentencing announces the following meetings to be held in Harrisburg, PA and by means of Zoom:

Wednesday, December 6, 2023	6 p.m.	Dinner Meeting	Harrisburg Hilton and Towers Hotel One North Second Street Harrisburg, PA
Thursday, December 7, 2023	9 a.m.	Policy Meeting	523 Irvis Building Capitol Complex Harrisburg, PA Zoom Webinar: https://bit.ly/PCSDec072023

	11 a.m.	Quarterly Business Meeting	523 Irvis Building Capitol Complex Harrisburg, PA Zoom Webinar: https://bit.ly/PCSDec072023
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MARK H. BERGSTROM,
Executive Director

[Pa.B. Doc. No. 23-1577. Filed for public inspection November 17, 2023, 9:00 a.m.]

THE GENERAL ASSEMBLY

Recent Actions during the 2023 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2023 Regular Session:

Doc. No.	Date of Action	Bill Number	Printer's Number	Effective Date	Subject Matter
2023 General Acts of Regular Session Enacted—Act 008—019					
008	Oct 4	S0829	PN1014	Immediately	Conveyance—multiple conveyances in multiple counties and repeals
009	Oct 11	H1407	PN1572	Immediately*	Tobacco Settlement Agreement Act—definitions
010	Oct 11	S0836	PN0925	60 days	Municipalities (53 Pa.C.S.)—powers and duties of commission
011	Oct 11	H1209	PN1279	Immediately*	Tobacco Product Manufacturer Directory Act—omnibus amendments
012	Oct 11	H1171	PN1236	60 days	Combustible and Flammable Liquids Act—regulations
013	Oct 23	H0404	PN1301	60 days	Military and Veterans Code (51 Pa.C.S.)—retention of licenses and certifications of persons entering military service
014	Oct 23	H0804	PN1305	60 days	Military Personnel—Residency Status for Students—residency of students
015	Oct 23	H1351	PN2159	Immediately	Human Services Code—omnibus amendments
016	Oct 23	S0141	PN0017	Immediately	Military and Veterans Code (51 Pa.C.S.)—authorized decorations, medals, badges and awards
017	Oct 23	S0621	PN1149	60 days	Conveyance—multiple conveyances in multiple counties and repeals
018	Oct 23	S0746	PN0915	90 days	Dog Law—omnibus amendments
019	Oct 23	S0851	PN1158	Immediately*	Vehicle Code (75 Pa.C.S.)—enforcement of failure to stop for school bus with flashing red lights, imposing a penalty and editorial change

*denotes an effective date with exceptions

Effective Dates of Statutes

The effective dates specified for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective date of statutes).

Advance Copies of Statutes

Section 1106 of 1 Pa.C.S. (relating to prothonotaries to keep files of advance copies of statutes) provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available.

One-time purchases of the advance copies of statutes can be purchased through the State Bookstore’s web site at www.shoppaheritage.com.

VINCENT C. DeLIBERATO, Jr.,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 23-1578. Filed for public inspection November 17, 2023, 9:00 a.m.]