

**CHAPTER 307. RESENTENCING GUIDELINES FOR
7TH EDITION SENTENCING GUIDELINES**

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Source

The provisions of this Chapter 307 adopted September 6, 2019, effective January 1, 2020, 49 Pa.B. 5206, unless otherwise noted.

Cross References

This chapter cited in 204 Pa. Code § 303.1 (relating to sentencing guidelines standards); 204 Pa. Code § 303a.2 (relating to guideline sentencing standards); and 204 Pa. Code § 307a.2 (relating to resentencing guidelines standards).

§ 307.1. Preliminary provisions.**(a) Authorization.**

(1) As authorized by 42 Pa.C.S. § 2154.4 (relating to adoption of guidelines for resentencing), the Commission shall adopt guidelines that shall be considered by the court when resentencing a person following the revocation of probation.

(2) The Resentencing Guidelines shall take into account:

- (i) factors considered in adopting the sentencing guidelines;
- (ii) the seriousness of the violation; and
- (iii) the rehabilitative needs of the defendant.

(b) *Definitions.* For the purposes of this chapter, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“*Commission.*” Pennsylvania Commission on Sentencing. A criminal justice agency of the General Assembly authorized to adopt and implement a sentence risk assessment instrument and guidelines for sentencing and resentencing to be considered by the court, and guidelines for parole and recommitment ranges following revocation to be considered by the Pennsylvania Parole Board.

“*Conviction.*” A finding of guilty or the entering of a plea of guilty or nolo contendere for a misdemeanor or felony in a court, whether or not judgement of sentence has been imposed.

“*Conviction violation.*” Commission of a new offense during the period of probation, resulting in a conviction for a misdemeanor or felony, whether or not judgement of sentence has been imposed.

“*Court.*” Unless otherwise provided, a court of common pleas or any judge thereof, the Philadelphia Municipal Court or any judge thereof, the Pittsburgh Magistrates Court or any judge thereof, or any magisterial district judge.

“*Judicial proceeding.*” A sentencing hearing in which all offenses for which the person is convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple OTNs.

“*OGS—offense gravity score.*” An assignment in the sentencing guidelines reflecting the seriousness of a conviction offense (see: 204 Pa. Code Chapter 303 (relating to sentencing guidelines, 7th edition)).

“*OTN—offense tracking number.*” A unique identifying number assigned to an entire set of charges related to a conviction. An OTN is generally assigned by the court at the time of arraignment.

“*PRS—prior record score.*” A category in the sentencing guidelines reflecting the seriousness of the criminal history of a person (see: 204 Pa. Code Chapter 303).

“*Probation.*” A sentencing alternative as provided in 42 Pa.C.S. § 9722 (relating to order of probation) and imposed pursuant to 42 Pa.C.S. § 9754 (relating to order of probation); conditions of probation, pursuant to 42 Pa.C.S. § 9763 (relating to conditions of probation), include conditions generally subsection (b), restrictive DUI probation conditions subsection (c), and restrictive conditions of probation subsection (d).

“*Resentence.*” A new sentence imposed following the revocation of probation. Upon revocation, the sentencing alternatives available to the court shall be the same as were available at the time of the initial sentence, due consideration given to time spent serving the order of probation.

“*Revocation.*” The termination of an order of probation, upon proof of a violation of specific conditions of the order or sentence, as provided in 42 Pa.C.S. §§ 9771 and 9771.1 (relating to modification or revocation of order of probation; and court-imposed sanctions for violating probation).

“*Risk assessment instrument.*” An empirically based worksheet which uses factors that are relevant in predicting recidivism. A risk assessment instrument is often identified with a specific ‘generation’ of development:

1st generation. “Professional judgment,” with assessments based on training and experience;

2nd generation. “Risk assessment,” an actuarial assessment of static criminal justice and demographic factors used to estimate risk of re-offense;

3rd generation. “Risk-needs assessment (RNA),” an actuarial assessment of static and dynamic factors and changing circumstances, such as relationships, employment, and substance abuse, used to estimate risk of re-offense and to assess criminogenic needs to be addressed through treatment and supervision;

4th generation. “Risk-needs-responsivity (RNR) assessment,” an actuarial assessment of static and dynamic factors used to match the level of service to the person’s risk to re-offend; assess criminogenic needs and target them in treatment; and structure the sentence to address the learning style, motivation, abilities, and strengths of the person.

“*SID—State identification number.*” A unique number associated with each person based on fingerprints. The Commission requires the inclusion of the SID as part of the record in the completed Guideline Sentence Form (see: 204 Pa. Code Chapter 303).

“*Sentencing Guidelines Software Web Application (SGS Web).*” A JNET-based application operated by the Commission which includes the modules for Sentencing Guidelines and for Resentencing Guidelines. SGS Web serves as the source of data for the original reported sentence and associated information and the reporting source for revocations and resentences.

“*Technical violation.*” Failure to comply with terms of an order of probation, other than by the commission of a new offense of which the person is convicted.

“*Violation.*” A finding by a court, following a hearing, that the convicted person failed to comply with terms and conditions of an order of probation.

Source

The provisions of this § 307.1 amended September 25, 2020, effective January 1, 2021, 50 Pa.B. 5441; amended August 25, 2023, effective January 1, 2024, 53 Pa.B. 5470. Immediately preceding text appears at serial pages (402903) to (402904) and (411393).

§ 307.2. Resentencing guidelines standards.

(a) The court shall consider the Resentencing Guidelines in determining the appropriate resentence upon a revocation of probation.

(b) The Resentencing Guidelines shall apply to revocations of probation for all offenses committed on or after January 1, 2020. Amendments to the Resentencing Guidelines shall apply to revocations of probation for all offenses committed on or after the effective date of the amendment.

(1) The initial Resentencing Guidelines, effective January 1, 2020, apply to all offenses committed on or after January 1, 2020, but prior to January 1, 2021, for which the 7th Edition, Amendment 5 Sentencing Guidelines applied.

(2) Resentencing Guidelines, Amendment 1, effective January 1, 2021, apply to all offenses committed on or after January 1, 2021, but prior to January 1, 2024, for which the 7th Edition, Amendment 6 Sentencing Guidelines applied.

(3) Resentencing Guidelines for the 8th Edition Sentencing Guidelines, effective January 1, 2024, as provided in Chapter 307a (relating to resentencing guidelines for 8th Edition Sentencing Guidelines), apply to all offenses committed on or after January 1, 2024, for which the 8th Edition Sentencing Guidelines applied.

(c) Upon revocation of probation, all sentencing alternatives available to the court at the time of the initial sentence shall be available to the court for resentencing.

(d) In every case in which a court of record imposes a resentencing for a felony or misdemeanor, the court shall make as a part of the record and disclose in open court at the time of resentencing, a statement of the reason or reasons for the revocation and for the resentencing imposed. In every case where a court of record imposes a resentencing outside the Resentencing Guidelines, the reason or reasons for the deviation from the guidelines shall be recorded on the Guideline Sentence Form, a copy of which shall be electronically transmitted to the Pennsylvania Commission on Sentencing in the manner described in 204 Pa. Code Chapter 303 (relating to sentencing guidelines, 7th edition).

(e) Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software Web Application (SGS Web) shall be used at the court's direction to report all revocations of probation and related resentences to the Commission. The information shall be electronically submitted to the Commission via SGS Web no later than 30 days after the date of resentencing.

Source

The provisions of this § 307.2 amended September 25, 2020, effective January 1, 2021, 50 Pa.B. 5441; amended August 25, 2023, effective January 1, 2024, 53 Pa.B. 5470. Immediately preceding text appears at serial page (411393).

§ 307.3. Procedure for determining the resentencing guidelines.

(a) For a technical violation resulting in the revocation of an order of probation, the resentencing guidelines shall be the same as the initial sentencing guidelines, pursuant to 204 Pa. Code Chapter 303 (relating to sentencing guidelines, 7th edition), with consideration given to any service of the original sentence.

(b) For a conviction violation resulting in revocation of an order of probation, the resentencing guidelines shall begin with the initial sentencing guidelines, pursuant to 204 Pa. Code Chapter 303, and include consideration of the following:

(1) If the PRS category of the initial sentencing guidelines is PRS 0 through PRS 4, the PRS is increased by one category;

(2) If the PRS category of the initial sentencing guidelines is PRS 5, RFEL, or REVOC, there is no change to the PRS category. Consideration shall be given to any service of the original sentence.

(c) If the revocation of an order of probation is related to both a technical violation and a conviction violation, the resentencing guidelines for the conviction violation apply.

Source

The provisions of this § 307.3 amended September 25, 2020, effective January 1, 2021, 50 Pa.B. 5441; amended August 25, 2023, effective January 1, 2024, 53 Pa.B. 5470. Immediately preceding text appears at serial pages (411393) to (411394).

§ 307.4. Resentencing guidelines recommendations.

(a) Prior to resentencing, the Commission recommends the court obtain additional information via a risk-needs assessment or a risk-needs-responsivity assessment to identify any rehabilitative needs that may be addressed in a resentence.

(b) Guidelines resentencing recommendations relating to sentencing level, sentencing programs, aggravated and mitigated circumstances, and economic sanctions shall be the same as those provided for guideline sentence recommendations pursuant to 204 Pa. Code Chapter 303 (relating to sentencing guidelines, 7th edition).

Source

The provisions of this § 307.4 amended September 25, 2020, effective January 1, 2021, 50 Pa.B. 5441; amended August 25, 2023, effective January 1, 2024, 53 Pa.B. 5470. Immediately preceding text appears at serial page (411394).

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(416424) No. 590 Jan. 24

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