

**CHAPTER 307a. RESENTENCING GUIDELINES FOR
8TH EDITION SENTENCING GUIDELINES**

- Sec.
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Source

The provisions of this Chapter 307a added August 25, 2023, effective January 1, 2024, 53 Pa.B. 5470, unless otherwise noted.

Cross References

This chapter cited in 204 Pa. Code § 303a.2 (relating to guideline sentencing standards); and 204 Pa. Code § 307.2 (relating to resentencing guidelines standards).

§ 307a.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 convicted 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 felony or misdemeanor, 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 a person is convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple dockets and OTNs.

“*OGS—offense gravity score.*” An assignment in the sentencing guidelines reflecting the seriousness of a conviction offense (see: 204 Pa. Code Chapter 303a (relating to sentencing guidelines, 8th edition)).

“*OTN—offense tracking number.*” A unique identifying number assigned to an entire set of related charges. 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, based on certain previous juvenile adjudications and/or convictions. (see: 204 Pa. Code Chapter 303a).

“*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 (b), restrictive DUI probation conditions (c), and restrictive conditions of probation (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 offender 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 303a).

“*Sentencing Guidelines Application.*” A JNET-based application developed and operated by the Commission and required to be used for the preparation of sentencing guidelines, sentence risk assessment instruments, and resentencing guidelines, and for the electronic reporting of all required information to the Commission. SGS Web is the sentencing guidelines application used to prepare guidelines and report sentences during the initial implementation of the 8th Edition Sentencing Guidelines.

“*Technical violation.*” Failure to comply with the terms and conditions 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.

§ 307a.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, as provided in Chapter 307 (relating to resentencing guidelines for 7th edition sentencing guidelines), 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, as provided in Chapter 307, 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, 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 resentence 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 resentence imposed. In every case where a court of record imposes a resentence in the aggravated or mitigated range, or imposes a sentence that is a departure from the Resentencing Guidelines, the court shall report the reason or reasons for the deviation from the standard range of the guidelines to the Commission in the manner described as follows.

(e) Unless otherwise provided by the Commission, the JNET-based sentencing guidelines application shall be used at the court's direction to prepare the sentencing guideline form for any resentence for a revocation of probation.

(f) Following revocation of probation and resentencing, a completed guideline sentence form, including the state identification number (SID), the resentence imposed, reasons for deviation from the standard range of the resentencing guidelines, and all required guidelines and resentencing information, including information from the completed sentence guideline form associated with the initial order of probation, shall be made a part of the record, and the information electronically submitted to the Commission using the Commission's sentencing guidelines application no later than 30 days after the date of resentencing.

§ 307a.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 303a (relating to sentencing guidelines, 8th 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 303a, with the OGS assignment increased by one point. The highest OGS assignment permitted is OGS 30. 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.

§ 307a.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 offense-specific recommendations, aggravated and mitigated circumstances, and judicial proceeding recommendations shall be the same as those provided for guideline sentence recommendations pursuant to 204 Pa. Code Chapter 303a (relating to sentencing guidelines, 8th edition).

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