

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in sentencing, providing
3 for sentences for certain offenses involving theft from
4 government or government-funded entities.

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

7 Section 1. Title 42 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 9720.9. Sentences for certain offenses involving theft from
10 government or government-funded entities.

11 (a) Mandatory sentence.--A person who is convicted of an
12 offense involving theft from a government or government-funded
13 entity shall be sentenced to a minimum sentence of:

14 (1) at least one day of total confinement for each
15 \$1,000 of cash or property unlawfully taken, received,
16 retained or disposed of from the government; or

17 (2) at least one day of total confinement for each
18 \$1,000 of cash or property unlawfully taken, received,

1 retained or disposed of from the government-funded entity, if
2 the offense occurred during a calendar year in which the
3 government-funded entity received funds or in-kind services
4 from a government. The dollar amount of cash or property
5 calculated under this paragraph shall be limited to the
6 dollar amount of funds or in-kind services received from the
7 government during the calendar year.

8 (b) Proof at sentencing.--Any provision of this section that
9 requires imposition of a mandatory minimum sentence shall
10 constitute an element enhancing the underlying offense. Any
11 enhancing element must be proven beyond a reasonable doubt at
12 trial on the underlying offense and must be submitted to the
13 fact-finder for deliberation together with the underlying
14 offense. If the fact-finder finds the defendant guilty of the
15 underlying offense, the fact-finder shall then also decide
16 whether any enhancing element has been proven.

17 (c) Authority of court in sentencing.--There shall be no
18 authority in any court to impose on an offender to which this
19 section is applicable any lesser sentence than provided for in
20 subsection (a) or to place such offender on probation or to
21 suspend sentence. Nothing in this section shall prevent the
22 sentencing court from imposing a sentence greater than that
23 provided in this section. Sentencing guidelines promulgated by
24 the Pennsylvania Commission on Sentencing shall not supersede
25 the mandatory sentences provided in this section.

26 (d) Appeal by Commonwealth.--If the fact-finder finds any
27 enhancing element and a sentencing court imposes a sentence
28 below the mandatory minimum sentence, the Commonwealth shall
29 have the right to appellate review of the sentence. If the
30 appellate court finds that the mandatory sentencing provision

1 was applicable, the court shall vacate the sentence and remand
2 for resentencing in accordance with that provision.

3 (e) Definitions.--As used in this section, the following
4 words and phrases shall have the meanings given to them in this
5 subsection unless the context clearly indicates otherwise:

6 "Government." As defined in 18 Pa.C.S. § 3901 (relating to
7 definitions).

8 "Government-funded entity." An entity that receives payment
9 of funds or in-kind services from a government.

10 "Offense involving theft from government or government-funded
11 entity." An offense under 18 Pa.C.S. Ch. 39 (relating to theft
12 and related offenses) committed against a government or
13 government-funded entity.

14 Section 2. This act shall take effect in 60 days.