

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 913

PRINTER NO. 1144

AMOUNT

See Fiscal Impact

FUND

General Fund
Local Government Funds

DATE INTRODUCED

October 18, 2021

PRIME SPONSOR

Senator Baker

DESCRIPTION

Senate Bill 913 amends Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes further providing for conditions of probation and for modification or revocation of order of probation.

This legislation amends Title 42 as follows:

- Provides for temporary leave from the jurisdiction of the court for a defendant unless the court finds a specific, identifiable and foreseeable reason that it would likely result in the defendant absconding, causing harm to himself or others or committing a crime;
- The court may not extend the period of probation or impose a brief sanction solely due to nonpayment of fines or costs unless the court finds that the defendant is financially able to pay the fines and has willfully refused to do so;
- The court may only impose a determinate sentence of total confinement upon revocation if the defendant has been convicted of another crime or the court finds by a preponderance of the evidence that the defendant committed a technical violation and any of the following apply:
 - 1) The technical violation was sexual in nature;
 - 2) The technical violation involved assaultive behavior or included a credible threat to cause bodily injury to another;
 - 3) The technical violation involved possession or control of a weapon;
 - 4) The defendant absconded and cannot be safely diverted from total confinement through less restrictive means;
 - 5) An identifiable threat exists to public safety, and the defendant cannot be safely diverted from total confinement through less restrictive means; or
 - 6) The technical violation involved an intentional and unexcused failure to adhere to recommended programming or conditions on more than three occasions, and the defendant cannot be safely diverted from total confinement through less restrictive means.

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- If a defendant is sentenced to total confinement upon revocation for a technical violation, the defendant shall be sentenced as follows:
 - 1) For a first technical violation, a maximum period of 14 days;
 - 2) For a second technical violation, a maximum period of 30 days;
 - 3) For a third or subsequent technical violation, the court may impose any sentencing alternatives available at the time of initial sentencing;
 - 4) For a sentence of total confinement upon revocation for a technical violation that was sexual in nature, involved assaultive behavior, involved possession or control of a weapon or the defendant is a threat to public safety, the court may add up to an additional 30 days for a first technical violation or up to an additional 45 days for a second technical violation;
 - 5) The court shall consider allowing the term of incarceration to be served on weekends or other nonwork days for employed probationers who have committed a first or second technical violation;
 - 6) The time limitations contained above shall not apply to the extent an additional term of total confinement is necessary to allow a defendant to either be evaluated for or to participate in a court-ordered drug, alcohol or mental health treatment program, or a problem-solving court.
- Provides for mandatory probation review conferences to be held three years after the conviction of an individual for a misdemeanor or five years after the conviction of the individual for a felony. Conferences may be held earlier under certain conditions;
- Provides for early initial review conferences for successfully satisfying certain educational or occupational goals;
- Provides that the court shall terminate probation following the probation review conference unless the court determines that the defendant poses a threat to public safety, has not completed all necessary treatment or the defendant fails to pay the total restitution owed, with some exceptions;
- If the court does not terminate probation, the defendant shall be eligible for a subsequent probation review conference no later than 12 months after the most recent conference;
- Provides that a defendant may petition a court for early termination of probation or modification of the terms and conditions of probation;
- Restricts the court's ability to incarcerate individuals that violate probation except if the defendant is convicted of a crime; the defendant commits a serious technical violation that involves sexual conduct, assault, the use or possession of a weapon; or the defendant absconded or failed to adhere to programs or conditions on three or more occasions;
- Clarifies that probation review conferences are not made retroactive to individuals who were sentenced prior to the effective date of the legislation; and

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- Clarifies that courts shall ensure that, except for individuals convicted of certain crimes, a review, which need not consist of a conference, is conducted within certain time frames.

This act shall take effect January 1, 2022.

FISCAL IMPACT:

According to data provided by the Pennsylvania Commission on Sentencing, the Pennsylvania Department of Corrections estimates a reduction in the state prison population of 356 inmates as a result of this legislation. The marginal cost for 300-600 inmates is \$55.73 per inmate per day. Therefore, enactment of this legislation will result in a \$7.2 million annual savings to the Pennsylvania Department of Corrections.

Additionally, there will be savings to counties through a reduction in county prison population and changes to the terms of probation. Using the Department of Corrections' minimum marginal cost of \$29.44 per inmate per day, a county would realize an annual savings of \$107,456 for every 10 defendants diverted from county jail.