



The Pennsylvania Association on Probation, Parole and Correction

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TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE

SENTENCING REFORM ACT

HOUSE BILL 239 P.N. 247

Tuesday, February 26, 1991

Presented by:

Gary Cenna, Chairman
PAPPC Committee on Legislation

Mark H. Bergstrom, Chairman
PAPPC Committee on Membership, Education
and Professional Development

INTRODUCTION

Good morning Mr. Chairman and members of the House Judiciary Committee. We wish to express our appreciation to Chairman Thomas Caltagirone and the Committee for this opportunity to appear before you today.

The Pennsylvania Association on Probation, Parole and Correction [PAPPC] is a professional organization composed of over 600 adult and juvenile criminal justice practitioners who seek to improve justice methods and to explore alternative service delivery systems to combat crime and delinquency. Our objective is to work toward the advancement of methods and standards in the field of juvenile and adult probation, parole and institutional care.

House Bill 239, under review today, may significantly impact on members of our Association, and especially those employed by the Pennsylvania Department of Corrections, the Pennsylvania Board of Probation and Parole, county Adult Probation/Parole departments and county prisons. Due to the time constraints associated with this legislation, the Association was not able to fully discuss this bill with the membership. However, the Association's Executive Committee was able to obtain representative views from all interested parties. Due to the diversity of opinion within the Association, we believe PAPPC may best advance this discussion today by addressing general concerns and suggesting technical changes in the language contained in the bill. Rather than taking a formal position on the legislation as a whole, we would like to bring to the Committee's attention concerns we have from a practitioner's point of view. Testimony offered by others today, including representatives of several of the above-mentioned agencies, has provided this Committee with an understanding of the broad range of concerns found within our Association.

OVERVIEW AND GENERAL IMPRESSIONS: H.B. 239, P.N. 247

As an Association, PAPPC had indicated support for the concept of earned time during the 1989-90 Session of the General Assembly. Today, we reiterate our support of this concept as a positive aspect of sentencing reform. We believe earned time to be an effective prison management tool which gives inmates an incentive to participate in prison treatment programs and work programs. The implementation of this concept not only would serve as a tool for managing inmate behavior, it might also motivate inmates to treatment exposure and help to alleviate prison crowding. However, we would caution that there would need to be sufficient personnel and an adequate number of programs in place so that those inmates who desired to participate might be able to do so. In the proposed legislation, we believe the terms "work-related time" and "earned-time" need to be further defined.

A positive aspect of the proposed legislation is the continuity of treatment for the offender. One agency becomes responsible for providing offender treatment and rehabilitation. Once the inmate takes advantage of treatment programs made available inside the prison, the treatment plan could be maintained while under parole supervision. However, care must be taken to assure adequate controls if all functions were to shift to the Department of Corrections. This action would weaken the system of checks and balances found in the current system, in which two separate agencies (i.e. - Department of Corrections, Board of Probation and Parole) are involved. Shifting field services such as parole supervision to a single department must not diminish the commitment to or funding of these services; in fact, greater reliance on community-based alternatives and early release options would argue for an increase in the staffing and funding of these services. In order to assure community safety, support of non-institutional services should be closely monitored so as to maintain an

appropriate balance between the probation/parole and corrections components.

SPECIFIC CONCERNS: H.B. 239, P.N. 247

PAPPC recognizes that there are many proposed changes provided for in House Bill 239 regarding sentencing reform. In the review of this Bill, we raise and briefly state the following concerns:

1) Our primary concern is in the area of public safety. We feel that for this reason, it is necessary to insure that a verifiable, investigated residence be part of the parole plan, and further that no state correctional inmate should be released on parole until the residence is investigated and verified. Identification of residence by the inmate prior to his parole eligibility date and an investigation prior to the inmate's release would verify the location of the parolee so that proper supervision can take place.

2) We are concerned that Section 505 (a) of the proposed legislation does not address the potentially violent behavior of the offender upon release, thereby compromising public safety. Language similar to that offered in S.B. 341, P.N. 351, Section 505 (a)(3) provides an example to address this concern (See Addendum No. 2).

3) We are concerned that with less money being made available for treatment programs, there will be inadequate institutional and community programs to service inmates and parolees. This may ultimately result in earned time being unavailable to the inmate, thus creating an attractive yet unachievable "incentive" relating to program participation. Inadequate funding will produce less of a linkage between institutional program involvement and parole program involvement for offenders.

4) We are concerned that if the same work/program incentives are not available to state inmates serving their time in county institutions, the county prisons would face increased overcrowding as compared to that under the present sentencing system. H.B. 239, Section 902 (a)(2) provides for selection of inmates for earned time and work-related time for those inmates serving time in state institutions. Section 901 (a) provides for earning work-related time credits for those inmates incarcerated in institutions operated by the department. No provisions exist for state inmates serving time in facilities operated by counties.

5) We are concerned about the definitions of earned time and work-related time. Neither term is defined in the proposed legislation; defining of these terms is needed to clarify the legislative intent.

6) We are concerned that Section 505 (b), regarding evidence being produced at a parole violation hearing, does not meet the constitutional rights of the parolee to confront witnesses and examine evidence related to alleged parole violations [Morrissey v. Brewer, 408 United States 471 (1972)].

7) We are concerned that funding will be shifted from community corrections to institutional corrections. A move toward reduced support for counties is already proposed in the Governor's Budget which would authorize county probation departments to collect monthly supervision fees from offenders. County departments would be dependent on monies collected through these fees to support existing operations, rather than having the fees simply offset staff costs. The result could be a reduction in funding of field services for those counties with low collection rates.

We are also concerned that county funding will be affected since the proposed legislation has omitted the base year of 1965 for grants-in-aid, which currently provides 80% of the personnel salary costs incurred by a

county to administer additional services and programs. The Grant-in-aid program was designed to encourage expansion of county probation services. Any expansion of services initiated after 1965 is eligible for funding.

Grant-in-aid funding to counties has encouraged high standards in and uniformity among county probation services. PAPPC supports continuation of this effort and encourages the Committee to structure legislation in such a way so as to safeguard and increase this funding.

CONCLUSION AND COMMENTS

House Bill 239 provides for three (3) major changes in the way Pennsylvania sentences its state offenders:

- 1) It provides for the removal of one-half the maximum and allows the judges to theoretically sentence up to the maximum time allowed by law;
- 2) It allows a state confined inmate to earn credit time to be deducted from his/her minimum time; and
- 3) It allow for parole supervision and county funding (grants-in-aid) to be administered by the Department of Corrections.

Any new system adopted should assure the integrity of community supervision services by providing adequate structural controls. This is especially true if all state-level institutional and parole field services are to be controlled by a single department.

Adequate funding and staffing of treatment programs, both within the institution and in the community, must be provided in order for offenders to take advantage of the proposed changes. Failure to address this need may result in inmates simply serving their minimum time, knowing that they will have to be paroled at their minimum even though they had not participated in "needed" treatment?

In presenting testimony, PAPPC has tried to convey to this body what we believe to be the broad issues and concerns related to this proposed legislation. It is our hope that any action taken will serve to improve the quality of probation, parole and correctional services in the Commonwealth. The long term impact of legislation of this magnitude is difficult to project. Therefore, this Association urges the Committee to carefully consider all issues raised today, and act in the best long term interest of the criminal justice system and the community at large.

We thank you for the opportunity to address your Committee today and we will try to respond to any questions that you might have at this time.

ADDENDUM

TECHNICAL CHANGES

1) Because there should not be a weakening of public safety, we recommend that Page 12, Line 2 be amended to read: 1) a verifiable residence investigated by the department staff.

2) S.B. 341, P.N. 351, Section 505 (a) (3) is an example that addresses the violent offender; similar language should be considered for H.B. 239:

Grounds for not paroling an offender: The department reasonably believes that the inmate may act in a violent manner if released based on any threat, statement, act of violence while incarcerated or on any other objective information in the department's possession regarding the defendant.

~~A system should be developed to identify and define the types of information to be used in making this determination.~~

3) Section 902 (a) (1) Earned-Time, Page 22, Lines 29-30 and Page 23, Line 1. This section regarding accrued earned time is not clear in reflecting if all offenders (even those sentenced before this act) would be able to accrue up to four (4) days per month for each program involved in or a total of four (4) days per month for the total number of programs that they were involved in irrespective of how many programs they were involved in.

4) Section 903 uses different terminology than that used in Section 901 and 902, Page 25, Line 9 and Line 21 refers to "meritorious" time rather than "work-related" time.