

## **COMMITTEE BILL ANALYSIS**

**Bill:** Senate Bill 100

**Printer's No.:** 85

**Sponsor:** Senator Greenleaf

**Prepared by:** Gregg Warner

**Synopsis:** This bill amends the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, and the Prisons and Parole Code, Title 61, to make changes relating to the powers and duties of the Pennsylvania Commission on Sentencing; provide for sanctions for probation violations; modify the eligibility requirements for alternative sentencing and pre-release programs; establish a comprehensive reentry program; and make criminal justice appropriations.

### **Summary:**

#### **Sentencing commission**

The bill amends the powers and duties of the Pennsylvania Commission on Sentencing. 2010 Act 95 directed the sentencing commission to develop a risk assessment tool as part of the sentencing guidelines. In retrospect that legislation should have referenced the risk assessment tool in the provisions of law requiring the sentencing commission to publish the guidelines for review and, once adopted, to monitor compliance with the guidelines. The bill makes these references in sections 2153 and 2155 of the Judicial Code.

#### **Crime of violence**

“Crime of violence” is defined as including the most serious offenses, all felonies, and the bill uses the term for determining eligibility for the state intermediate punishment (SIP) and recidivism risk reduction incentive (RRRI) programs. The bill amends section 9714 of the Judicial Code by adding to the definition of “crime of violence” several recently enacted offenses including manslaughter of a law enforcement officer, murder of the third degree involving an unborn child, aggravated assault of an unborn child, assault of a law enforcement officer, use of weapons of mass destruction, terrorism, trafficking of persons, and ecoterrorism.

### **County intermediate punishment**

Sections 9763 and 9804 of the Judicial Code relating to county intermediate punishment (CIP) programs are amended to allow certain offenders convicted of low-level drug dealing to be eligible for CIP but only if the offender undergoes a diagnostic assessment for dependency on drugs or alcohol. If the offender is determined to be in need of drug and alcohol treatment, the defendant may only be sentenced to a CIP program which includes participation in clinically prescribed drug and alcohol treatment and includes a residential inpatient program, house arrest with electronic surveillance or a partial confinement program (work release, work camp, and halfway facility).

### **Sanctions for probation violators**

The bill adds section 9771.1 to the Judicial Code authorizing each county court of common pleas to establish a program that will impose swift, predictable and immediate sanctions on offenders who violate their probation. Section 9771.1 directs the county court of common pleas to work with probation administrators and officers, jail administrators, prosecutors, public defenders, and law enforcement to develop this program. The court may determine which offenders are eligible to participate in the program. The focus of the program should be on those offenders who have committed drug-related crimes. The legislation provides that violent offenders and sex offenders are not eligible.

The court shall hold a warning hearing for each participant to clearly communicate program expectations and consequences and to encourage the participant's compliance and success. The court shall emphasize that the participant must remain drug-free and comply with any treatment or services ordered by the court as a condition of the participant's probation. The program shall include random drug-testing. The court shall put the participant on notice that each probation violation, including missed appointments and positive drug tests, will result in jail time.

If a participant commits a probation violation, the participant shall promptly be arrested and a hearing shall be held no later than two business days after the arrest date. For a first violation, the court may impose a sanction of up to three days of jail time; a second violation, up to seven days; a third violation, up to 14 days; and a fourth or subsequent violation, up to 21 days. Anytime after a third violation, the court may revoke the order of probation. Following the revocation, the court shall have the same sentencing alternatives that were available at the initial sentencing but the court should give consideration to time spent serving the order of probation. For employed probationers who commit their first or second violation, the court may allow the term of imprisonment to be served on weekends or other nonwork days. If the participant is able to provide a compelling reason for the violation, the court may waive the sanction.

The court of common pleas may adopt local rules that are not inconsistent with this legislation or any rules adopted by the Supreme Court.

### **Prerelease program**

Section 3705 of the Prisons and Parole Code is added to address time eligibility for the prerelease program operated by the Department of Corrections (DOC). An offender who is committed to the DOC with less than 12 months to serve until he completes his minimum sentence must serve at least three months in State prison before being eligible for the prerelease program. If the offender has at least 12 months but less than 18 months to serve until he completes his minimum sentence, he must serve at least six months in State prison. If the offender has at least 18 months to serve until he completes his minimum sentence, the offender must serve at least nine months in State prison (consistent with the current regulation).

However, no inmate shall be eligible for the prerelease program if the inmate is serving a term of imprisonment for a crime of violence or a crime requiring registration under Megan's Law.

**Eligibility for alternative sentencing programs**

The bill amends sections 4103 and 4503 of the Prisons and Parole Code relating to the eligibility requirements for SIP and RRRI. In determining eligibility, instead of the term “personal injury crime” as defined by the Crime Victims Act, 1998 Act 111, the bill uses the definition of “crime of violence” from 42 Pa.C.S. §9714, relating to sentences for second and subsequent offenses.

SIP is an intensive drug treatment program involving incarceration in state prison initially followed by community-based treatment. Currently the district attorney must request that a defendant be referred to the Department of Corrections for an assessment that will determine whether SIP is appropriate. The defendant must agree to be referred. Once the assessment takes place, the district attorney and the defendant must agree to the commitment. This bill amends section 4101 to remove these requirements so that the judge may refer the defendant for assessment and the judge may commit an eligible offender to SIP.

Under RRRI a judge must sentence an eligible offender to a shorter minimum sentence and if the offender completes programming and meets other requirements, the offender will be paroled on that minimum. Section 9721 allows an eligible defendant to receive a RRRI minimum sentence even if a mandatory sentence would otherwise be provided by law. The bill also authorizes a judge to sentence an eligible offender to boot camp even if a mandatory sentence would otherwise be provided by law.

The definition of “defendant” in section 4103 is amended to include certain offenders convicted of low-level drug dealing. These defendants still would have to undergo an assessment to determine whether the defendant is in need of drug and alcohol addiction treatment and meets other requirements in order to become eligible for SIP.

**Safe Community Reentry Program**

Chapter 49 is added to the Prisons and Parole Code to establish a comprehensive program to reduce recidivism and ensure the successful reentry and reintegration of offenders into the community.

The Safe Community Reentry Program provides offenders with access to a full continuum of services during incarceration and upon release during their transition and reintegration into the community. The DOC shall assess each offender entering the State correctional system to determine which treatment services, programs and skills the offender needs to develop to be successful in the community following release. The DOC shall assist each offender in developing a reentry plan. The DOC shall coordinate the specifics of the offender’s reentry plan with the educational, vocational training, and treatment services that will be provided to the offender during incarceration.

The DOC and the Pennsylvania Board of Probation and Parole (board) shall use community organizations to assist in meeting the needs of offenders reentering the community. “Community organization” is defined as including community, faith-based or other private charitable organizations. The DOC and the board must develop a list of community organizations that are available to provide services such as education, vocational training, follow-up treatment services, and support with finding housing and employment. The DOC and the board may refer offenders to the community organizations on the list.

The bill authorizes the DOC and the board to contract with private vendors, including community organizations, units of government and other entities to provide reintegration and transitional programs and services. These services may include institutional-based and community-based programs. The DOC and the board may share information about offenders with the entities that enter into these contracts. However, personal health information may not be disclosed without the offender’s consent. Any contract entered into shall contain specific performance measures that shall be used to evaluate compliance. The DOC and the board may issue rules and regulations to implement this legislation.

The department shall conduct research to determine whether the Safe Community Reentry Program reduces recidivism rates. A report evaluating the program shall be issued by February 1 of each even-numbered year. The report shall be presented to the House and Senate judiciary committees.

### **Appropriations**

For fiscal year 2011-2012 the bill invests \$50 million as follows:

- An appropriation for the sentencing commission in the amount of \$2.3 million. This amount includes the base appropriation to support the commission's long-standing statutory duties and an additional appropriation to support the new duties and responsibilities specified in 2008 Acts 81 and 83, and in 2010 Act 95.
- An appropriation in the amount of \$2 million to the Administrative Office of Pennsylvania Courts to provide start-up grants to counties for treatment courts.
- An additional \$30 million for county intermediate punishment bringing the total appropriation to \$50 million, \$7 million for CIP and \$43 million for RIP/D&A.
- An additional \$15 million to the Pennsylvania Board of Probation and Parole's appropriation to support parole supervision and reentry services.

### **Effective date**

The appropriation provisions take effect July 1, 2011 and the remainder of the act takes effect in 60 days.

### **Background:**

#### **Legislative history**

During the 2009-2010 legislative session the Senate Judiciary Committee held a public hearing on prison overcrowding. Witnesses made innovative recommendations for reducing the prison population and bringing down prison costs without jeopardizing public safety. In response to these recommendations, seven bills were introduced to address the prison population crisis (Senate Bills 1145, 1161, 1193, 1198, 1275, 1298 and 1299).

The Senate passed three of these bills (Senate Bill 1145, 1161 and 1275). The House of Representatives took concepts from the three bills and combined them into Senate Bill 1161, which was signed into law as 2010 Act 95.

Senate Bill 100, the Criminal Justice Reform Act, amends the Judicial Code, Title 42, and the Prisons and Parole Code, Title 61 of the Pennsylvania Consolidated Statutes, to include proposals from the seven bills that were not included in Act 95.