



HOUSE COMMITTEE ON APPROPRIATIONS
2009-10 Legislative Session

FISCAL NOTE

SENATE BILL: 1161 PRINTER'S NO: 2206 PRIME SPONSOR: Greenleaf
As amended by A09224

FISCAL IMPACT SUMMARY	FY 2010/11	FY 2011/12
Expenditure Increase/(Decrease):		
Department of Corrections	(\$1,890,000)	(\$14,100,000)
PA Board of Probation and Parole	\$1,200,000	\$3,200,000
PA Commission on Sentencing	\$667,000	\$1,000,000
General Fund	(\$23,000)	(\$9,000,000)

OVERVIEW:

Senate Bill 1161, as amended by A09224, amends Title 42 (Judiciary and Judicial Procedure) to provide for risk assessment and Title 61 (Prisons and Parole) to provide for powers and duties of the Pennsylvania Board of Probation and Parole (Board). This bill also makes technical changes to complete codification of Title 61. Senate Bill 1161 has 28 sections that will be outlined in this overview.

Section 1: This section amends §2154 of Title 42 by providing that in adopting guidelines, the Pennsylvania Commission on Sentencing (Commission) shall recommend confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and the community and the rehabilitative needs of the offender. §2154.2 of Title 42 is amended to cross reference Title 61 relating to state intermediate punishment.

Section 2: A new §2154.7 is added to provide for the Commission to adopt a sentence risk assessment instrument for the sentencing court to use to help determine the appropriate sentence within the limits established by law for defendants who plead guilty or nolo contendere to, or who were found guilty of, felonies and misdemeanors. The risk assessment instrument may be used as an aid in evaluating the relative risk that an offender will reoffend and be a threat to public safety. The risk assessment instrument may also be used to determine whether a more thorough pre-sentence investigation is warranted and whether alternative sentencing is appropriate.

Section 3: This section makes technical changes to §9721(A.1) of Title 42 by cross referencing Title 61 as it relates to county intermediate punishment. §9774 of Title 42 provides for revocation of state intermediate punishment and is amended to cross reference Title 61.

Section 4: A new definition for “prescribed programming” is amended into §102 of Title 61.

Section 5: Title 61 is amended to add a new §1105 providing for powers and duties of the Department of Corrections (DOC). This is basically codification for DOC to set standards for county jails.

Sections 6 and 7: Sections 1721 and 1722 of Title 61 are technically amended regarding County Jail Oversight Boards to allow home rule counties to elect, by resolution, to be governed by statutory provisions. These changes are not substantive; they are part of the completion of codification of Title 61.

Section 8: Changes the Subchapter C heading of Chapter 17 of Title 61 from “other counties” to “Board of Inspectors.”

Section 9: Chapter 31 of Title 61 is amended by adding a subchapter heading to read: “Subchapter A, County Correctional Institutions.”

Section 10: Makes a technical change to §3102 of Title 61.

Section 11: Chapter 31 of Title 61 is amended by adding “Subchapter B, State Correctional Institutions.” This subchapter codifies inmate employment, the manufacturing fund, deposit of sales receipts, inmate accounts, remainder of inmate accounts, and inmate-made goods.

Sections 12 and 13: §3909 of Title 61 is amended by adding a section providing for DOC and the Commission to monitor and evaluate the motivational boot camp program to ensure that the programmatic objectives are being met. It removes language requiring reports to the General Assembly in even-numbered years.

Section 14: Amends §4510(a) of Title 61 by switching the years in which DOC and the Commission shall provide reports on recidivism risk reduction to the General Assembly. The new provision will be for DOC to report in even-numbered years and the Commission to report in odd-numbered years.

Section 15: Title 61 is amended by adding a new §5906 related to confidentiality of victim information. Notwithstanding any other provisions of law, any and all statements or testimony of the victim or family member submitted to DOC shall be deemed confidential and privileged and may not be subject to subpoena or discovery. This information also may not be introduced into evidence in any judicial or administrative proceeding or released to the inmate. All DOC records pertaining to victims shall be kept separate and confidential. No person who has had access to a report, record, or any other information shall disclose the contents or testify in a judicial or administrative proceeding without the written consent of the victim.

Section 16: §6113 of Title 61 is amended to provide that the Board shall develop, adopt, and periodically update, as deemed necessary, a parole decisional instrument that is tested prior to implementation, which incorporates evidence-based practices to assist and inform the Board’s professional judgment in the parole decision-making process.

Section 17: Title 61 is amended to add a new §6124 related to certain offenders residing in group-based homes. A group-based home located within a county of the sixth, seventh, or eighth class that agrees to provide housing to an individual knowing that the individual has been previously convicted of an offense under 18 Pa. C.S. §2502 (relating to murder) or a substantially similar offense committed in another jurisdiction shall notify the head of the governing body of the municipality and the county in which the group-based home is located that the individual is staying at the group-based home. The governing body may conduct a public hearing concerning the group-based home provider, its site, and its operation.

Section 18: §6131 of Title 61 is amended to add additional powers and duties to the Board. The Board is to incorporate evidence-based practices into parole decision making, supervision, and the supervision of technical violators. The Board shall coordinate the reentry of offenders into the community using evidence-based practices that are effective in reducing recidivism. Also, the Board is to conduct research to identify, to be informed of, and to apply recognized evidence-based parole practices that promote public safety and reduce recidivism. And, finally, the Board shall conduct outcome and performance analyses on implemented Board programs and practices to enhance public safety through reduced recidivism.

Section 19: Title 61 is amended to provide for Board powers to deal with inmates and their minimum term of imprisonment. Following the expiration of the inmate's minimum term of imprisonment, if the primary reason for not paroling the inmate is the inmate's inability to access and complete prescribed programming within the correctional institution, the Board may release the inmate on parole with the condition that the inmate complete the prescribed programming while on parole. This shall not apply to offenders who are currently serving a term of imprisonment for a crime of violence or for a crime requiring registration under Megan's Law.

Also, for a parolee who was not paroled from a sentence arising from a conviction under the Controlled Substance, Drug, Device and Cosmetic Act or from a drug-related crime, the Board may establish, as a condition of parole that the parolee achieve negative results in screening test randomly conducted. The parolee shall be responsible for testing costs.

Under current law, DOC shall identify all inmates committed to their custody that meet the definition of an eligible offender. Upon identification of an inmate as an eligible offender, DOC shall send notice to the prosecuting attorney and the court no less than six months before the expiration date of the inmate's minimum sentence and within 60 days of receipt of notice, the court or prosecuting attorney may file a written objection. This legislation reduces the number of days from 60 days receipt of notice to 30 days receipt of notice.

Section 20: Makes technical changes adding "by a Pennsylvania court" for originally imposed sentences.

If the parolee is sentenced to serve a new term of total confinement by a Federal court or by a court of another jurisdiction because of a verdict of plea, the parolee shall serve the balance of the original term before serving the new term.

Also, parole violators shall be supervised in accordance with evidence-based practices that may include:

- Consideration of whether the offender poses a risk of safety to the community or himself.
- The Board's capacity to deliver programs that address criminal-thinking behavior and related crime producing factors.
- Use of community-based sanctioning alternatives to incarceration.
- Use of a graduated violation sanctioning process.
- Recommitment to a correctional facility.

The Board shall divert technical parole violators from confinement in a state correctional institution unless the parolee's diversion poses an undue risk to public safety. Supervision practices shall reflect the balance of enforcement of the conditions of parole and case management techniques to maximize successful parole completion through effective reentry to society.

This amendment removes the language related to "Adult Supervision Fee."

Section 21: §7103 of Title 61 related to powers, changes the individual responsible for the interstate compact from the Attorney General to the Secretary of Corrections.

Section 22: This section will re-insert the provisions relating to the supervision-of-adult offenders fee under the interstate compact. The interstate compact governing the transfer of probationers and parolees from state to state was codified by Act 33 and this language was left out. The fee will be \$100 and the money will be retained by the counties until the application fee and county percentage are determined prior to the beginning of the next fiscal year.

Section 23: Technical section providing for certain acts to continue to have the force and effect of law and shall be construed to be consistent with provisions of Title 61 Pa. C.S. §1105.

Section 24: Technical section providing that this legislation is a continuation of the Act of June 1, 1915 (P.L. 656, No. 289).

Section 25: The Act of June 1, 1915 (P.L. 656, No. 289) is repealed.

Section 26: The following provisions shall apply retroactively to November 9, 2009:

1. The addition of 61 Pa.C.S. §§ 1105 and 7115.
2. Section 23 of this act.

Section 27: The following shall apply retroactively to October 12, 2009:

1. The addition of 61 Pa.C.S. §§ 1721, 1722, and 1723.
2. The amendment of the headings of subchapters B and C of Chapter 17.

Section 28: This act shall take effect immediately.

ANALYSIS:

Pennsylvania Commission on Sentencing: According to the Commission, they need a reliable and consistent funding base to begin the work required of them in this legislation. The Commission indicates that approximately \$1 million is needed annually for risk assessment and related duties (data collection, empirical research on risk, etc.). Some the development of the risk assessment guidelines is related to prior duties to develop other risk assessment guidelines making the funding issue an on-going issue. For fiscal year 2010/11, based on the effective date of this bill, the Commission would need approximately eight months of funding at \$667,000.

Department of Corrections:

Savings to DOC would result from the diversion of technical parole violators from state correctional institutions to Parole Violation Centers (PVC). According to DOC, in the first year they would realize a saving of \$2.8 million dollars as a result of 588 offenders being diverted to a PVC. Due to the effective date of this bill, the approximate cost savings for eight months in fiscal year 2010/11 would be \$1.89 million. Also according to DOC, the cost savings for fiscal year 2011/12 would be \$14.1 million with 686 offenders diverted to PVC's.

Pennsylvania Board of Probation and Parole: According to the Board, they have referred 430 technical parole violators to the Parole Violator Centers to date. These Parole Violator Centers are secure centers and offenders cannot leave. They conservatively estimate that they will refer 1,000 offenders by the end of fiscal year 2010/11. Supervising these offenders at the Board's current ratio of 1:66, the Board would require 15 new agents at a cost of \$120,000 each. The Board's cost estimates for the first year are based on the cost to hire an agent plus all necessary equipment, including start up costs (salary, benefits, car, seven weeks of Basic Training Academy, vest, gun, desk, computer, etc.). Therefore, the Board's fiscal impact would be approximately \$1.8 million for a full year. Due to the effective date of the bill, the Board would realize eight months of fiscal impact at \$1.2 million for eight months in fiscal year 2010/11. In fiscal year 2011/12, the Board would still be supervising offenders from the previous year, in addition to another 1,000 offenders being diverted. For fiscal year 2011/12, the Board expects a fiscal impact of \$3.2 million.

Counties: Counties and local municipalities that hold hearing for offenders being released to a group-based home will incur costs that are not quantifiable at this time.

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General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*