

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 959

**PRINTER NO.** 1168

**AMOUNT**

See Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

October 16, 2023

**PRIME SPONSOR**

Senator Robinson

**DESCRIPTION**

Senate Bill 959 amends the act of April 14, 1972 (P.L.233, No.64), known as the Controlled Substance, Drug, Device and Cosmetic Act (Drug Act), to establish an automatic scheduling procedure whenever a controlled substance is added as a controlled substance under federal law. Controlled substances in the Commonwealth would therefore follow the Drug Enforcement Administration (DEA) scheduling of controlled substances.

A new subsection (b.1) is added to provide for the following related to the scheduling of controlled substances in the Commonwealth:

- If a substance is added as a controlled substance under federal law, the Secretary of Health (secretary) shall similarly schedule the substance as a controlled substance under the Drug Act;
- The secretary shall transmit notice of the scheduling to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin, which may not occur earlier than 30 days from publication in the Federal Register of the final order;
- If, within 30 days of publication of the final order in the Federal Register, the secretary or an adversely affected party objects to the automated scheduling, the secretary shall afford all interested parties an opportunity to be heard by the secretary;
- After the hearing, the secretary shall issue an order as to whether the substance is scheduled as a controlled substance and shall transmit the order to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin;
- If, within 30 days of publication of the final order in the Federal Register, neither the secretary objects nor an adversely affected party files with the secretary a substantial written objection, the secretary shall transmit an order to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin. The order shall state that the substance is scheduled as a controlled substance; and
- A rule published in accordance with this legislation shall take effect upon publication in the Pennsylvania Bulletin.

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

Finally, the legislation expedites the scheduling process by deleting language that allows the secretary to similarly schedule a substance only after making a determination that the health and safety of the public will not be adversely affected.

This act shall take effect in 60 days.

**FISCAL IMPACT:**

This legislation automates the scheduling and rescheduling process for controlled substances and newly developed chemical compounds. Enactment of this legislation may result in additional costs to the Commonwealth to the extent that individuals are arrested, convicted and sentenced to imprisonment in a state correctional facility for possessing and/or selling these controlled substances.

The marginal cost per inmate/per day for an inmate in a State Correctional Institution is determined by the additional number of inmates being sentenced to a State Correctional Institution. The marginal costs per inmate/per day for the State Correctional Institutions are as follows:

- 0 – 299 additional inmates = \$41.68 per inmate per day;
- 300 - 599 additional inmates = \$67.49 per inmate per day;
- 600 - 899 additional inmates = \$97.93 per inmate per day; and
- 900 + additional inmates = \$158.80 per inmate per day.

If the provisions of this legislation annually result in the conviction of 10 additional individuals who are sentenced to state confinement, additional costs to the Department of Corrections would be approximately \$152,132 in the first year, increasing to \$924,587 in year 5 when 50 additional individuals would be in state custody.

		Annual Costs to Pennsylvania Department of Corrections				
		1	2	3	4	5
<b>Per. Diem - Small Population Increases</b>		\$41.68	\$43.76	\$45.95	\$48.25	\$50.66
	1	10	10	10	10	10
	2		10	10	10	10
	3			10	10	10
	4				10	10
	5					10
<b>Total Inmates</b>		10	20	30	40	50
<b>Annual Cost</b>		\$152,132	\$319,477	\$503,177	\$704,447	\$924,587