



Bill Summary: Probation Reform in Pennsylvania SB 14 (Williams and Bartolotta)

What the bill would do: If passed, SB 14 would reform how long Pennsylvanians stay on probation, and the time served in prison for probation violations. FAMM supports this bill.

Who it would help: The bill would help people being sentenced or resentenced to probation on or after the bill goes into effect on January 1, 2021. People currently on probation can benefit from this bill, except for the provision that allows for a mandatory review conference of probation.

Bill status: *This bill is not yet a law.* It cannot become enacted as a law until it is approved by committees, passed by the Pennsylvania House and the Senate, and signed by the governor.

SB 14 would make the following changes to probation:

Conditions of probation

- Allows courts to permit a person to temporarily leave the jurisdiction of the court unless the court finds a specific, identifiable and foreseeable reason that leaving the court's jurisdiction would likely result in the person absconding, causing harm to themselves or others, or committing a crime.
 - Any movement of a defendant outside of the court's jurisdiction must comply with applicable supervising requirements.

Modification or revocation of probation

- Bans courts from extending probation terms or imposing a sanction because a person failed to pay a fine or cost, if the person is not financially able to pay such amounts
- Bans courts from sending people to prison for revocations of probation, unless the person has been convicted of a new crime.
- Courts can send people to prison after finding by a preponderance of evidence that the person committed a technical violation and the following apply:
 - The technical violation was sexual in nature
 - The technical violation involved assaultive behavior or included credible threat to cause bodily injury to another
 - The technical violation involved possession or control of a weapon
 - The person absconded and cannot be safely diverted from incarceration through less restrictive means
 - There exists an identifiable threat to public safety, and the person cannot be safely diverted from incarceration through less restrictive means
 - The technical violation involved an intentional and unexcused failure to adhere to recommended programming or conditions on more than three occasions, and the person cannot be safely diverted from incarceration through less restrictive means

- If courts imposes a prison sentence for technical violations, the person will be sentenced as follows:
 - For a first technical violation, a maximum of 14 days
 - For a second technical violation, a maximum of 30 days
 - For a third or subsequent technical violation, the court may impose any sentencing alternatives that were available at the time of the initial sentencing
 - For violations that were 1) sexual in nature, 2) assaultive or included credible threat to cause bodily injury, 3) involved possession or control of a weapon, or 4) where threat to public safety where the defendant cannot be safely diverted through less restrictive means, the court may add up to an additional 30 days for a first violation or up to 45 days for a second technical violation
 - The court must consider allowing the term of incarceration to be served on weekends or other non-work days for employed probationers who have committed a first or second technical violation
 - The caps on the length of incarceration cannot apply if an additional term of incarceration is needed to allow a defendant to either be evaluated for, or to participate in:
 - Court ordered drug, alcohol or mental health treatment program; or
 - A problem solving court

Mandatory probation review conferences

- People on probation are eligible for an initial probation review conference after completing 3 years of probation for misdemeanor convictions or after 5 years for a felony
- If the probation term is for multiple convictions, probation review conferences are allowed after the following time periods:
 - If all convictions are misdemeanors and are based on the same conduct or arise from the same criminal episode, the person is eligible for a review conference after completing 3 years
 - If the convictions include a felony and are based on the same conduct or arise from the same criminal episode, the defendant is eligible for a review conference after completing 5 years
- The court must hold a review within 60 days from the date the person is eligible. If the review doesn't happen within the 60 day time frame, the defendant's attorney or the defendant if unrepresented, may file a motion demanding a probation review conference within five business days
- A person serving probation following a felony or misdemeanor conviction is eligible for an initial probation review conference six months before the date they would otherwise be eligible, if they meet any of the following conditions while on probation:
 - Earned a high school diploma or certificate of high school equivalency
 - Earned an associate degree from an accredited university, college, seminary college, community college or two-year college
 - Earned a bachelor's degree from an accredited university, college or seminary college
 - Earned a master's or other graduate degree from an accredited university, college or seminary college
 - Obtained a vocational or occupational license, certificate, registration or permit

- Completed a certificated vocational, technical or career education or training program
- Any other condition approved by the court at the time of sentencing that substantially assists the person in leading a law-abiding life or furthers their rehabilitative needs
- Note: people on probation for a felony conviction can receive an initial review an additional six months earlier if they satisfy an additional condition under this section
- People on probation for a misdemeanor or felony conviction are eligible for an initial review conference prior to any of the above time periods as follows:
 - Two months earlier for every six consecutive months on probation without a violation.
 - Two months earlier for every six consecutive months of maintaining at least 80 hours per month of employment.
 - Two months earlier for every six consecutive months for completing at least 80 hours per month of community service on behalf of a Pennsylvania registered 501(c)(3) nonprofit or civil or government agency
 - People can earn up to six months of reduction in time under this section
 - Note: Any employee or non-profit or civil or government agency referenced under this section must be approved by the Pennsylvania Commission on Crime and Delinquency
- A person sentenced to probation following a prison sentence is eligible for an initial probation review 12 months before the date that they would otherwise be eligible under, if they have completed the final 12 months of state parole supervision. This does not apply people who served less than 12 months on state parole supervision.
- No one is eligible for a probation review conference if the court determines by a preponderance of evidence that they committed one of the following technical violations within nine months before their review conference:
 - A technical violation that is sexual in nature
 - A technical violation that involved assaultive behavior, or included a credible threat to cause bodily injury
 - A technical violation that involved possession or control of a weapon
 - The person absconded
 - A technical violation that involved an intentional and unexcused failure to adhere to recommended programming or conditions on more than three occasions
 - However, if all other conditions are satisfied, a review conference can be held nine months after the technical violation happened
- No one is eligible for a probation review conference if the court determines by a preponderance of evidence that the defendant committed any other technical violation not listed above within six months before the review conference
 - However, if all other conditions are satisfied, a review conference can be held six months after the technical violation happened
- No one is eligible for a probation review conference if they were convicted of a misdemeanor or felony offense committed while incarcerated or on probation

Termination of probation

- After the review conference, the court must terminate the probation unless the court finds by a preponderance of the evidence any of the following:
 - The person's conduct on probation creates an identifiable threat to public safety, including consideration if the person is subject to an active protection abuse order or an active protection from intimidation order
 - The person has not successfully completed all treatment or other programs required as a condition of probation; and terminating the probation would either prevent the person from continuing in the court mandated treatment/programming that the court determines is still necessary to help in the person's rehabilitation or would create a substantial likelihood that the defendant would discontinue the treatment or programs
 - The defendant has failed to pay the total restitution owed
- If the court doesn't terminate probation at the review solely because of failure to pay restitution in full, the court has to order the person to be placed on administrative probation if the person has paid at least 50% of the amount owed or the court determines the person's resources, income and family, legal or other obligations, that the person has made a good faith effort to pay.
 - Administrative probation means probation that:
 - 1) requires supervision contact at least one time a year,
 - 2) requires the person to provide updated contact information upon change in residence or employment,
 - 3) requires payment on remaining restitution owed on a schedule that the person can afford, and
 - 4) does not impose any other condition of probation
- If the court doesn't terminate probation at a review conference, it has to provide a written notice of the court's order detailing its findings. The person is eligible for a future review no later than 12 months after the date of the most recent review
- A probation review is not allowed for the following convictions:
 - An offense listed under Subchapter H (relating to registration of sexual offenders) or I (relating to continued registration of sexual offenders) of Chapter 97
 - Crime of violence as defined in section 9714(g)
 - An offense under 18 Pa.C.S. § 2701 (relating to simple assault) or 2709.1 (relating to stalking) against a family or household member.