

**HOUSE OF REPRESENTATIVES
DEMOCRATIC COMMITTEE**

BILL ANALYSIS

BILL NO: **SB1169** PN2181

SPONSOR: Sen. Waugh

COMMITTEE: Judiciary

DATE: September 15, 2010

PROPOSAL/EXECUTIVE SUMMARY: An act to amend title 42, (Judiciary Code), to further provide for the imposition of costs at sentencing in criminal matters, and for periodic increases.

EXISTING LAW: While this bill would amend 42 Pa. CSA §§9721, & 9728, it would do so by adding new subsections. The first statute addresses sentencing generally, and the latter addresses the specific topic of fines, costs, restitution, and other matters. This bill is in response to a specific court case. Amended on the floor on July 1, 2010, 42 Pa. CSA §§1725.1 and 3571 were amended, as explained below.

ANALYSIS: This bill is the senate version of HB2119, as it appeared in its final form, (PN3033). Thus, and because it is a mirror image of that bill, the analysis of HB2119, shall appear here in modified form. This bill is the senate version of the legislative response to an unusual case from the commonwealth court decided in May, 2009. In that case, *Spotz v Commonwealth, et al.*, 972 A2d. 125, (Pa. Cmwlth. 2009), a defendant, (a man under a sentence of death from Cumberland County), sued to stop the small but automatic deductions from his prison account of money applied to court costs, after his criminal conviction, on the grounds that the sentencing court had failed to include standard 'costs payment language' in the official sentencing order. Spotz was successful in his suit, and the DOC, was enjoined from making these deductions. (On behalf of the county official who had requested it) This bill would add new subsection (c.1), to §9721, to provide that regardless of whether a sentencing court includes a provision in a sentencing order imposing costs, that costs imposition will be automatic, except that under an amendment passed in committee on March 16, 2010, and which does differentiate this bill from HB2119, a court would retain all discretion to modify or even waive costs in an appropriate case, pursuant to Pa.R.Crim. P. 706(C). (Supreme Court Rule) The addition of new subsection (b.2), to §9728, accomplishes the same goal as to the statute specifically addressing the imposition of fines, costs, restitution, and other matters collateral to sentencing, with the same exception under criminal rule 706(C), added by the amendment in committee.

Addressing a flaw that was uncovered in two costs statutes of title 42, Pa. CSA §§1725.1 and 3571(c)(4), which provide for periodic costs increases tied to the consumer price index, and which sunset on January 1, 2010, an amendment was adopted on July 1, 2010. The amendment extended the sunset dates as to each statute to January 1, 2025. Amended again on the floor on September 14, 2010, the amendment amends 42 Pa. CSA §6327, by adding new subsection (c.1), to further provide that if a minor is facing one of several charges, murder, voluntary manslaughter, aggravated assault, robbery, rape, aggravated and common indecent assault, kidnapping, or conspiracy attempt or solicitation of any such offense, has not been released on bail, and is moving to transfer their case to the juvenile system, they may, with the consent of

the commonwealth attorney and a court order authorizing it, be housed in a secure detention facility approved by the department of public welfare until such time as the motion for transfer is denied, or they turn 18, in which event, the minor shall be transferred to the county jail, provided they have not posted bail.

EFFECTIVE DATE: 60 days from date of enactment. Moreover, the bill would only affect a sentencing taking place after the effective date. No retroactive application. The provisions which are the subject of the amendment of September 14, 2010, shall be effective immediately upon enactment. (Addition of new 42 Pa. CSA §6327(c.1))

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