

# ACLU-PA Probation Bill Comparison | SB 14 (PN 59) vs SB 913 (PN 1282)

| PROBATION PROVISION  | <a href="#">SB 14 PN 59</a> | <a href="#">SB 913 PN 1282</a> | CURRENT LAW  | <a href="#">SB 14 PN 59 (2019)</a>  | <a href="#">SB 913 PN 1282 (2021)</a>  |
|--|-----------------------------|--------------------------------|--|---|--|
| KEY:  Positive reform  Fails to reform  Mixed reform  Makes probation worse than current law   |                             |                                |  |   |  |
| This spreadsheet offers a comparison of probation provisions originally offered under Senate Bill 14 in 2019 and Senate Bill 913 as amended in 2021. Each provision includes a brief description of current law. |                             |                                |  |   |  |
| <b>Caps</b> the amount of time someone can be sentenced to probation.  |                             |                                | <b>Under current law</b> ( <a href="#">42 Pa. C.S. § 9754(a)</a> ), people may be sentenced to a term of probation that can last up to the maximum sentence for an offense. Current law provides no limit on the number of times a person may be re-sentenced to probation, leading to extended and nearly indefinite supervision terms.   | <b>As filed</b> , SB 14 capped the total length of probation terms at 3 years for misdemeanor offenses and 5 years for felony offenses.   | <b>SB 913</b> does not limit probation terms.  |
| Prohibits judges from imposing <b>stacked and split probation sentences</b> .  |                             |                                | <b>Under current law</b> ( <a href="#">42 Pa. C.S. § 9721(a)</a> ), judges are permitted to impose consecutive probation sentences and may also sentence people to probation following a prison/parole term.   | <b>As filed</b> , SB 14 prohibited judges from stacking probation sentences consecutively (back to back) and from splitting a sentence by imposing a term of probation to be served after a period of incarceration, commonly referred to as a "probation tail."  | <b>SB 913</b> does not eliminate stacked sentences. And it reaffirms the use of split sentences under a new section, § 9771(e)(7): For those with a probation sentence following state incarceration, SB 913 allows a person to schedule their probation review conference 12 months early if they complete the final 12 months of state parole supervision without violating conditions of their parole. This only applies to people who spend 12 months or longer under state parole supervision.                              |
| Requires <b>automatic early termination</b> of probation if compliant.   |                             |                                | <b>Under current law</b> ( <a href="#">42 Pa.C.S. § 9771 (a)</a> ), judges may terminate probation at any time, for any reason, for any offense; and it allows people on probation to file a petition for termination at any time without any need for a hearing.  | <b>As filed</b> , SB 14 required automatic early termination of probation after a person successfully completed 18 months of supervision without violation or revocation.   | <b>SB 913</b> does not require early termination. Instead, it creates "probation review conferences" that presume judges will accept early termination recommendations from probation officers, as long as there are no objections from victims or the state. If a defendant has violated one of the six violations it enumerates under § 9771, then SB 913 explicitly <b>prohibits termination of probation</b> at a review conference.   |
| Requires judges to hold <b>mandatory probation review conferences</b> .  | N/A                         |                                | <b>Under current law</b> ( <a href="#">42 Pa.C.S. § 9771 (a)</a> ), judges may review and terminate supervision at any time <i>without a hearing</i> . Under current law, a hearing is <b>only</b> required when judges seek to revoke probation or increase the terms of supervision.   | <b>As filed</b> , SB 14 did not create the need for hearings or review conference, since the defendant, counsel for the defendant, and/or a probation officer can petition the court for a termination hearing at any time, for any reason, and for any offense. Instead, SB 14 provided for automatic termination of probation after a person successfully completed 18 months without violation or revocation.      | <b>SB 913</b> creates a complicated process that requires judges to hold review hearings to consider terminating probation after 3 for a misdemeanor or 5 years for a felony offense. <b>The process to terminate probation is easier under current law</b> , whereas getting an actual "review conference" is narrowly accessible, confusing to navigate, and riddled with exceptions. Furthermore, waiting 3 or 5 years for a probation review will not help anyone who has been sentenced to fewer than 3 years of probation. |
| Prohibits judges from incarcerating people to <b>"vindicate the authority of the court."</b>   |                             |                                | <b>Under current law</b> ( <a href="#">42 Pa.C.S. § 9771 (c)</a> ), judges can only incarcerate someone after revoking probation if (1) convicted of a new crime; (2) "the conduct of the defendant indicates that it is likely he will commit another crime if not imprisoned;" or (3) "to vindicate the authority of the court." The vindication provision permits judges to incarcerate people who have committed technical violations but who do not pose a risk of committing a future crime. | <b>As filed</b> , SB 14 eliminated this <a href="#">widely abused provision</a> that gives judges the power to arbitrarily and sometimes vindictively incarcerate people for technical violations. Striking the vindication provision is meaningful because it limits incarceration to only direct violations (new offenses) or instances where a person is likely to commit a crime in the future if not imprisoned. | <b>SB 913</b> also strikes this flawed provision. However, SB 913 introduces a section that codifies the authority to incarcerate people for six categories of technical violations. SB 913 gives courts the ability to continue current practices, only now with the explicit authority to do so. As a result, SB 913 effectively <b>nullifies the benefit striking the vindication provision</b> .   |

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| Limits the court's ability to <b>incarcerate people</b> for technical violations.                    |             |                | Under current law, <a href="#">42 Pa. C.S. § 9771(c)</a> already includes a <i>presumption against incarceration</i> , stating that courts <b>SHALL NOT</b> incarcerate someone following a revocation unless: (1) convicted of a new crime; (2) "the conduct of the defendant indicates that it is likely he will commit another crime if not imprisoned;" or (3) "to vindicate the authority of the court."     | As filed, SB 14 made it <b>more difficult for judges to incarcerate people for technical violations</b> by requiring that judges may imprison for technical violations unless no other condition of supervision or treatment would decrease the likelihood of future crime.  | SB 913 <b>expands and codifies the court's ability to incarcerate people</b> for technical violations following revocation by (1) changing the current strong presumption against incarceration from "SHALL NOT" to "MAY" and replacing it with "MAY" incarceration; (2) striking the conduct provision, which permits judges to impose confinement if "the conduct of the defendant indicates that it is likely he will commit another crime if not imprisoned" (although vague, the focus on "conduct" provides a critical backstop that prevents incarceration for mere technical violations); and (3) <b>explicitly permitting judges to incarcerate people</b> for a codified list of technical violations. |
| Limits the amount of time someone can be <b>incarcerated for violations following a revocation</b> . |             |                | Under current law, courts may choose to participate in the "swift and certain" sanctions program under <a href="#">42 Pa. C.S. § 9771.1(g)</a> , which caps incarceration after technical violations at: 3 days after the 1st violation; 7 days after the 2nd; 14 days after the 3rd; and 21 days after the 4th and any subsequent violations and doesn't require probation to be revoked prior to incarceration. | Except for people sentenced under § 9771.1, SB 14, as filed, limited incarceration following a revocation to 30 days if their conduct indicated they may commit a future crime and no other condition of supervision or treatment would decrease that likelihood and 6 months if convicted of a new misdemeanor. For those convicted of a new felony offense, the court has the same sentencing alternatives available as at the initial sentencing. | SB 913 does not limit incarceration for new convictions, but does limit incarceration for technical violations: 14 days after a 1st violation; 30 days after a 2nd violation, and no limits for a 3rd or subsequent violation. However, for some types of technical violations, SB 913 permits <b>44 days for the 1st technical violation and 75 days for the 2nd technical violation</b> , with no limits on the third. The limits on incarceration under SB 913 <b>do not</b> apply to defendants ordered to receive a drug, alcohol, or mental health evaluation, placement in a treatment program, or participation in a problem-solving court.  |
| Prohibits extending or revoking probation for <b>nonpayment of fines, costs, or restitution</b> .    |             |                | Under current law ( <a href="#">42 Pa.C.S. § 9754</a> ), courts can make payment of fines or restitution a condition of probation. But both the <a href="#">PA Superior Court</a> and the <a href="#">U.S. Supreme Court</a> have ruled that nonpayment of fines or restitution only violates probation if the defendant is able, but willfully refuses, to pay.  | As filed, SB 14 clarified the current statute to reflect the PA and US case law by explicitly <b>protecting people who can't afford to pay</b> their pay fines, costs or restitution from having their probation extended or revoked.  | SB 913 also prohibits courts from punishing people who cannot afford to pay fines, but it <b>does not protect</b> those who owe restitution (see "administrative probation" below).  |
| Prohibits people from who <b>only owe restitution</b> from remaining on probation.                   |             |                | "Administrative probation" does not currently exist under PA law.   | As filed, SB 14 protected people who can't afford to pay their pay <b>fines, costs, or restitution</b> from having their probation extended or revoked.  | SB 913 creates "administrative probation" to keep people who still owe restitution on indefinite administrative probation—even if they are too poor to pay. This is a <b>dangerous and likely unconstitutional change</b> to the probation system in Pennsylvania.   |