

ACLU-PA Probation Bill Comparison | SB 14 PN 59 vs SB 913 PN 1144

Probation provision	SB 14 PN 59 (as filed)	SB 913 PN 1144 (as filed)	Current law	SB 14 PN 59 (2019)	SB 913 PN 1144 (2021)
This spreadsheet offers a comparison of probation provisions originally offered under Senate Bill 14 in 2019 and Senate Bill 913 introduced in 2021. Each provision includes a brief description of current law.					
Caps the amount of time someone can be sentenced to probation.	✔	✘	Under current law (42 Pa. C.S. § 9754(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.	As filed, SB 14 capped the total length of probation terms for felonies at 5 years and 3 years for misdemeanors.	SB 913 does not limit probation terms.
Prohibits judges from imposing stacked and split probation sentences.	✔	✘	Under current law (42 Pa. C.S. § 9721(a)), judges are permitted to impose consecutive probation sentences and may also sentence people to probation following a prison/parole term.	As filed, 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."	SB 913 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 judges to hold mandatory probation review conferences.	✘	✔	Under current law (42 Pa.C.S. § 9771 (a)), judges may review and terminate supervision at any time <i>without a hearing</i> . Nor is a hearing required for judges to reduce or lessen the conditions of probation; judges may do so at any time. Under current law a hearing is only required when judges seek to revoke probation or increase the terms of supervision.	As filed, SB 14 did not create the need for hearings or conferences. Instead, it provided for automatic termination of probation after a person successfully completed 18 months without violation or revocation.	SB 913 creates a complicated process that requires judges to hold review hearings to consider terminating probation after 3 or 5 years, depending on the offense. The process to terminate probation is easier under current law, whereas getting an actual "review conference" is narrowly accessible, confusing to navigate, and riddled with exceptions.
Requires automatic early termination of probation if compliant.	✔	✘	Under current law (42 Pa.C.S. § 9771 (a)), judges may terminate probation at any time, for any reason, for any offense; and it allows people on probation to file petitions for termination at any time without any need for a hearing.	As filed, SB 14 required automatic early termination of probation after a person successfully completed 18 months of supervision without violation or revocation.	SB 913 does not require early termination. It does create a process that presumes judges will accept early termination recommendations from probation officers, as long as there are no objections from victims or the state.
Expands the court's ability to incarcerate people for technical violations.	✘	✔	Under current law (42 Pa. C.S. § 9771 (c)), courts SHALL NOT 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 did not change the presumption against incarceration under § 9771(c). SB14 made it more difficult for judges to incarcerate people for technical violations 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 makes it easier to incarcerate people for technical violations following revocation by (1) striking the conduct provision and changing the current strong presumption against incarceration from "SHALL NOT" to "MAY" incarcerate—a critical backstop to prevent incarceration for <i>all</i> technical violations; (2) eliminating the requirement that judge may NOT incarcerate a person for a technical violation unless their conduct indicates they are likely to commit another crime if not imprisoned; and (3) SB 913 then goes on to explicitly create authority for judges to incarcerate people for a newly created list of technical violations.
Prohibits judges from incarcerating people to "vindicate the authority of the court."	✔	✘	Under current law (42 Pa.C.S. § 9771 (c)), 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 is used to incarcerate people who have committed technical violations but who do not pose a risk of committing a future crime.	As filed, SB 14 eliminated this <u>widely abused provision</u> that gives judges the power to arbitrarily and sometimes vindictively incarcerate people for technical violations "just because." Deleting the "authority of the court" language 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.	SB 913 also strikes this flawed provision. However, SB 913 introduces a lengthy and convoluted section that permits incarceration for a long list of technical violations that would likely give courts the ability to continue current practices but with the explicit authority to do so, effectively nullifying the benefit of that reform.
Limits the amount of time someone can be incarcerated for violations following a revocation.	✔	✔	Under current law, courts may choose to participate in the "swift and certain" sanctions program under 42 Pa. C.S. § 9771.1(g), 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 for the 4th and any subsequent violations.	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 limits incarceration to 14 days after a 1st technical violation and 30 days after a 2nd violation, and no limits after a 3rd or subsequent violation for certain types of technical violations. However, for other types of technical violations, SB 913 permits 44 days for the 1st technical violation and 75 days for the 2nd technical violation , with no limits on the third. In addition, under SB 913 these time limits on incarceration for technical violations may not apply to defendants participating in drug, alcohol, or mental health treatment programs. Nor does this bill offers guidance about potential conflicts with § 9771.1, and it does not limit incarceration for new convictions.
Prohibits extending or revoking probation for nonpayment of fines, costs, or restitution.	✔	✘	Under current law (42 Pa.C.S. § 9754), courts can make payment of fines or restitution a condition of probation. But both the <u>PA Superior Court</u> and the <u>U.S. Supreme Court</u> 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 protecting people who can't afford to pay 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 does not protect those who owe restitution (see "administrative probation" below).
Keeps people who owe restitution on indefinite administrative probation.	✘	✔	"Administrative probation" does not currently exist under PA law.	As filed, SB 14 protected people who can't afford to pay their pay fines, costs, or restitution from having their probation extended or revoked.	SB 913 creates "administrative probation" to keep people who still owe restitution on probation indefinitely—even if they are too poor to pay. This is a dangerous and likely unconstitutional change to the probation system in Pennsylvania.
Makes provisions retroactive.	✔	✘	N/A	As filed, SB 14 allowed people serving more than one year of incarceration for a technical violation to petition the court for resentencing under certain conditions.	SB 913 does not make its provisions retroactive.