



**Testimony
Before the Senate Judiciary Committee**

June 25, 2019

**Submitted by the
Pennsylvania Association of Criminal Defense Lawyers**

My name is Christopher Amthor. I am an Assistant Public Defender in Dauphin County and a member of the Pennsylvania Association of Criminal Defense Lawyers' Advocacy Committee (PACDL). I am here today on behalf of PACDL to address Senate Bill 14 and its impact on our clients, their families, and our community at large.

I want to share a story about a recent client of ours. Let's call her Nicole. Nicole entered a guilty plea to Unlawful Possession of Drug Paraphernalia. She was sentenced to twelve months of probation. The conditions of her probation were to include: a comprehensive drug and alcohol evaluation, follow up with any recommended treatment, work full time, and provide weekly drug free urine.

Nicole started a job at the local fast food place, conveniently up the street from where she lives. Her shifts are Mondays, Tuesdays, Wednesdays, and Thursdays from 8:00 a.m. – 4:00 p.m. This allows her to put her daughter on the school bus and then make it to her daughter's after school program before it closes. After her sentencing, Nicole meets her probation officer, who indicates that Nicole is to show up to give urine samples every Monday at 2:00 p.m. Nicole agrees, figuring that she can work things out with her job.

Nicole can get off work Monday the first three times, but after the third, her boss warns her regarding her excessive absences and that another one will result in her termination. Nicole immediately calls her probation officer in a panic. The probation officer is unwilling to change the time in which Nicole must appear each week. She is now left with a choice: skip work next week and lose her job or skip her appointment with her probation officer and keep her job, but risk going to jail. Either way, she's in violation of her probation. Nicole opts to keep going to work, skipping her appointment with her probation officer. Nicole stays at work the following week as well, which prompts her probation officer to have a bench warrant issued after Nicole's second missed appointment. A sheriff shows up at Nicole's job, places her in handcuffs, and takes her to Dauphin County Prison, where she waits for her revocation hearing.

For many of our clients, incarceration is one of the most traumatic experiences of their lives. It has far reaching consequences that are difficult to recover from, all of which undermine the individual's rehabilitation and enhance his or her chances for reoffending. An unexpected stay in prison, even one for only a day or two, can result in missed shifts at work causing termination. It can result in missed payments on a car or house, resulting in repossession and eviction. It can result in the absence for major milestones in their children's lives, such as a first birthday, a graduation, or a medical appointment.

In the case of an alleged probation violation, such incarceration can come with little to no warning. If an individual forgets about and subsequently misses an appointment with his or her probation officer, a capias or bench warrant can be issued. Once the individual is detained, he or she often waits in prison until their revocation hearing, when they are usually released. The scheduling of this revocation hearing, and the period of incarceration, is left to

the discretion of the probation officer. In Dauphin County, that time can range from thirty days to six months. Through the application of evidence backed legislation, many of these issues can be alleviated.

Prisons throughout our country are dealing with issues of overcrowding. According to the Prison Policy Initiative, Pennsylvania has a higher per capita incarceration rate than the United States average. By enacting the proposed legislation in Senate Bill 14, Pennsylvania can provide a far more rehabilitative focused form of community supervision while cutting back substantially on the local prison population. The efficacy of incarceration pales compared to community-based treatment and the potential savings from reduced prison populations can be reinvested in such treatment. Not to mention, the positive impact it will have on people like Nicole who may be detained indefinitely awaiting a hearing date and subsequent release.

The amendments proposed in Senate Bill 14 to Section 9771 go a long way towards limiting the exposure any individual has to unfair periods of incarceration. The caps alone under §9771(c) for new crimes committed could provide relief to citizens statewide. By providing caps even for new crimes committed, it allows defendants the full protections of the United States and Pennsylvania Constitutions by allowing them to fully litigate their pending cases without the undue burden of incarceration until resolution. Specifically, §9771(c)(2)'s limit of thirty days for violations that are not the commission of another crime, ensures that when imprisonment is used it is not abused.

Senate Bill 14 is an excellent beginning to the reform needed for probation and parole services. By enacting these provisions our Commonwealth makes a commitment to the rehabilitation of its citizens. The Pennsylvania Association of Criminal Defense Lawyers thanks the Senate Judiciary Committee for this opportunity to testify before it. We welcome questions or comments and look forward to additional hearings and meaningful change in the near future.