

# STATE CRIMINAL JUSTICE NETWORK LEGISLATIVE UPDATE

BY ANGELYN C. FRAZER AND ADAM DIAMOND

## Legislatures Consider Deferment and Sentencing Reform

### Rhode Island Deferment Of Sentence Bill

*For the majority of individuals convicted and sentenced to prison, their sentences are further exaggerated by the various collateral consequences faced after they are released. Individuals with deferred sentences must serve their time, but their criminal records are expunged after they complete their sentences, ensuring their rights are restored. A deferred sentence essentially allows an individual to re-enter society with as few impediments as possible.*

If an individual completes five years of probation successfully without violating the probationary requirements, Rhode Island statute § 12-19-19 provides that the defendant's case will be dismissed, the defendant will be considered exonerated, and the record of the complaint and offense will be sealed. In addition, all public records that discuss the crime will not indicate the identity of the defendant.

Mike DiLauro of the Rhode Island Public Defender's Office summarized the bill as allowing "people who get deferred sentences to get their records expunged earlier." According to DiLauro, the major opponents of the bill were a few media outlets in Rhode Island. Since the bill closes some public records by expunging criminal records, the bill also essentially blocks media access to individuals' criminal records that could potentially be used against them even after they served their sentences and repaid their debt to society. Ultimately, the legislature clearly felt that restoring the rights of individuals far exceeded the desires of the media to have access to criminal records.

The passage of this bill allows defendants, who do not violate their

deferred agreement and continue to be contributing members of society, to shed the stigma of being an offender and to move on with their lives. These individuals will have spent five years proving that they are able to be constructive citizens and, as such, they should be treated with respect.

### Pennsylvania Technical Parole Violation Reform

*Each year thousands of individuals on parole are sent back to prison due to minor parole violations most often attributed to the inability to find a home or job or pay child support, lack of access to transportation for meeting with parole officers or other officials, and a host of other menial violations. The recidivism rate for many jurisdictions is astronomical and has subsequently caused incarceration costs to soar. In response to this problem, many states have attempted to take on technical parole violations to ensure that individuals who have violated a condition of parole are not automatically sent back to prison, but are given options concerning how to handle the violation.*

Prior to the passage of Senate Bill 1161, the Pennsylvania Board of Probation and Parole required that prisoners meet all required programming and conditions in order to be released on parole. SB 1161 reforms that system, however, so that prisoners can be released to a halfway house or Community Corrections Center if they have completed all required conditions other than their programming. Andrew Hoover, the Legislative Director at the American Civil Liberties Union of Pennsylvania, credits Sen. Stewart



Greenleaf as the primary advocate and sponsor of the bill. Greenleaf, the Republican Chairman of the Senate Judiciary Committee, teamed up with key entities including the Pennsylvania Prison Society and the Department of Corrections to pursue passage of the legislation.

The benefits of this encouraging reform are two-fold. First, offenders are given an opportunity to become contributing members of society again at an earlier stage of their incarceration. Second, the legislation helps decrease prison over-population and allows prisoners who have completed all other parts of their parole requirements to enter halfway houses for treatment and other programs. The decrease in the prison population also reduces prison costs.

In addition, SB 1161 reduces the population of technical parole viola-

The summaries in this month's legislative update describe reform laws recently enacted in three states. These laws help increase the likelihood that formerly incarcerated individuals will become productive members of their communities and avoid future involvement in crime. They also provide mechanisms to review and evaluate existing sentencing structures to determine their effectiveness and fairness.

tors who are widely considered low-risk offenders. This bill refers offenders to a re-entry booster program instead of arresting them and taking them back to the state penitentiary. Importantly, the bill outlines a risk assessment program. It requires a commission to craft guidelines for judges to use when deciding to refer people to alternative programs. This less serious punishment allows violators to be reprimanded without being unjustly incarcerated. As with the rest of this bill, this provision does not apply to violent offenders or sex offenders. The risk assessment will guarantee that the judges properly decide which individuals should be eligible for these programs.

### South Carolina Omnibus Offense Reform Bill

*With increasing frequency, state legislatures are establishing Sentencing Reform Commissions to look at overall sentencing structure and determine avenues to save money, ensure public safety, and provide a thoroughly researched analysis of crime. Utilizing this approach allows legislators to vote for sometimes unpopular criminal jus-*

*tice reform proposals without being labeled "soft on crime." Often these commissions are made up of bipartisan members of the community including legislators, law enforcement, judges, lawyers, and reform advocates.*

Victoria Middleton, the Executive Director at the ACLU of South Carolina, explained that "the Sentencing Reform Commission was a bipartisan group with House and Senate members of both parties, three judges, and the former head of the South Carolina Department of Corrections." The Commission created a three-pronged approach. The first focused on the sentencing component, another focused on re-entry and parole, and a third focused on alternative programs. The Commission submitted recommendations to the legislature that were included in the omnibus reform bill. The main goals of SB 1154 are to protect public safety, hold offenders accountable, alleviate the overpopulation of prisons, and control rising costs of the corrections system. The General Assembly passed the bill on May 27, 2010, and the governor signed it on June 2, 2010.

One part of the reform requires higher supervision for offenders who

have been released. By providing services to them and overseeing their progress, offenders can rejoin society and resist the life of crime. By reducing recidivism and closing down the continuing loop of the prison door, the limited prison space within the state will be reserved for the violent offenders who truly deserve a prison cell. Prison costs have continuously swallowed tax dollars, and minimizing recidivism helps to combat this issue. Another part of the reform prioritizes funds to target high-risk offenders. These reforms will help minimize prison costs while increasing the resources allocated to the most dangerous offenders. Once low-risk offenders are released, the community will play a big role in preventing recidivism by providing programs they desperately need. ■

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