

# 2017/18 BUDGET BRIEFING

Report on Key Issues

HOUSE APPROPRIATIONS COMMITTEE (D)

**JOE MARKOSEK, DEMOCRATIC CHAIRMAN**

June 9, 2017



## County Criminal Justice Cuts HB218 PN1236

The House Republican budget (HB218 PN1236) would deeply cut county criminal justice funding and devastate county probation departments and courts. The cuts, if enacted, would force many counties to shut down specialty courts and treatment programs when they are needed the most. Overall, the Republican Budget would cut \$71 million from counties for criminal justice.

The largest proposed cuts would zero out the appropriations for juvenile probation (\$19 million), intermediate punishment (\$18 million) and adult probation (\$16 million).

Figure 1

### Under HB218, PN1236 Counties Lose \$71 million in Criminal Justice Funding

Appropriation Name	Available 2016/17	Gov's Budget 2017/18	GOP Proposal 2017/18	GOP - Avail Change
Juvenile Probation Services	\$18,945,000	\$18,945,000	\$0	(\$18,945,000)
Intermediate Punishment Treatment Programs	\$18,167,000	\$18,167,000	\$0	(\$18,167,000)
Improvement of Adult Probation Services	\$16,222,000	\$16,222,000	\$0	(\$16,222,000)
Transfer to Justice Reinvestment Fund*	\$9,614,000	\$10,210,000	\$0	(\$9,614,000)
County Court Reimbursement	\$23,136,000	\$23,136,000	\$19,666,000	(\$3,470,000)
Court Interpreter County Grants	\$1,500,000	\$1,500,000	\$0	(\$1,500,000)
Senior Judge Operational Support Grants	\$1,375,000	\$1,375,000	\$0	(\$1,375,000)
Victims of Juvenile Offenders	\$1,300,000	\$1,300,000	\$0	(\$1,300,000)
Juror Cost Reimbursement	\$1,118,000	\$1,118,000	\$950,000	(\$168,000)
	<b>\$91,377,000</b>	<b>\$91,973,000</b>	<b>\$20,616,000</b>	<b>(\$70,761,000)</b>

\*2017/18 executive budget requests JRI fund distributions for grants to counties (64%), community reentry (27%), victim services (5%) and the sentencing commission (4%).

### Context: Why county probation and intermediate punishment matter

County probation officers supervise convicted offenders and reentrants in the community. Probation officers also provide community supervision for offenders sentenced to county intermediate punishment, or CIP. CIP may take the form of participation in a specialty court like drug or veteran's courts, or it may be a short period of incarceration followed by time in a treatment facility or electronic monitoring in the community. In addition to people sentenced to probation or intermediate punishment, county probation officers also supervise reentrants after they are paroled from a county jail or county prison.

State parole agents, on the other hand, supervise reentrants after they are paroled from a state prison.

Overall, the majority of offenders in Pennsylvania communities are supervised by county adult probation officers. Since December 2014, counties have supervised six offenders for every one offender supervised by the state; this means **86 percent of the total supervised population is managed by counties.**

County probation -- adult and juvenile -- is an entry point into the criminal justice system. Most offenders commit a series of smaller crimes resulting in county probation, CIP (generally including some community supervision by probation officers) or county jail sentences (often followed by probation) before they ever end up in a state prison. Because of this, effective probation supervision that reduces the offender's likelihood of committing more crimes in the future can have a big impact on the entire criminal justice system and on public safety as a whole.

When fewer probationers commit new crimes, there are fewer victims, fewer people entering county and state prisons at a high cost to taxpayers, and improved public safety.

## **Republican Budget Would Add Taxpayer Costs and Reduce Services**

### *Juvenile Probation Services*

HB218 would entirely eliminate \$19 million in annual grants to counties for juvenile probation services. These grants are administered by the Juvenile Court Judges Commission and are, largely, used to offset the operational and staffing costs of county juvenile probation offices. JCJC also provides impact grants for programs designed to improve the effectiveness of the juvenile justice system statewide.

The commonwealth has heavily invested in its probation system for juvenile offenders. As a result, Pennsylvania is recognized as a national leader in juvenile justice. Pennsylvania was among the first

states to partner with the MacArthur Foundation's Models for Change initiative on juvenile justice reform in 2005. Following the end of Models for Change, Pennsylvania continued its efforts through the Juvenile Justice System Enhancement Strategy, which has successfully helped to reduce recidivism and improve outcomes for juvenile offenders. This success has been based on a rigorous system of evidence-based best practices and extremely close collaboration with county juvenile justice programs.

### *Improvement of Adult Probation Services*

In an unprecedented move (see funding history below), House Republicans zeroed out funding for county probation for 2017/18 in HB218.

Counties operate on a calendar fiscal year and have received grant-in-aid funds for adult probation for three decades, making them especially unprepared for the unexpected mid-year cuts. Several counties have reported they will have to lay off personnel if the Republican budget is enacted, resulting in larger caseloads for the remaining probation officers. Some counties would raise real estate taxes to make up the difference.

In 2016, the Justice Reinvestment Workgroup spent a year analyzing data and collaborating with stakeholders to develop a plan for a second Justice Reinvestment Initiative. One of the six policy [recommendations](#) from the group was to streamline and increase funding for county probation. The recommendation came as the result of findings that probation offered the best outcomes and the lowest cost for offenders that can be safely supervised in the community. The plan called for holding harmless current funding levels (\$16.2 million grant-in-aid) and adding JRI reinvestment funds beginning in 2018/19 to gradually ramp up to a total allocation of \$36.2 million by 2020/21.

While JRI 2 legislation to make these recommendations a reality is currently awaiting introduction, the House Republican budget proposal goes in the opposite direction by eliminating all funding for county probation in the state budget.<sup>1</sup>

<sup>1</sup>Augmentations from fees levied at the county level and deposited into restricted receipt accounts within the state treasury according to statute are not affected by the proposed Republican budget.

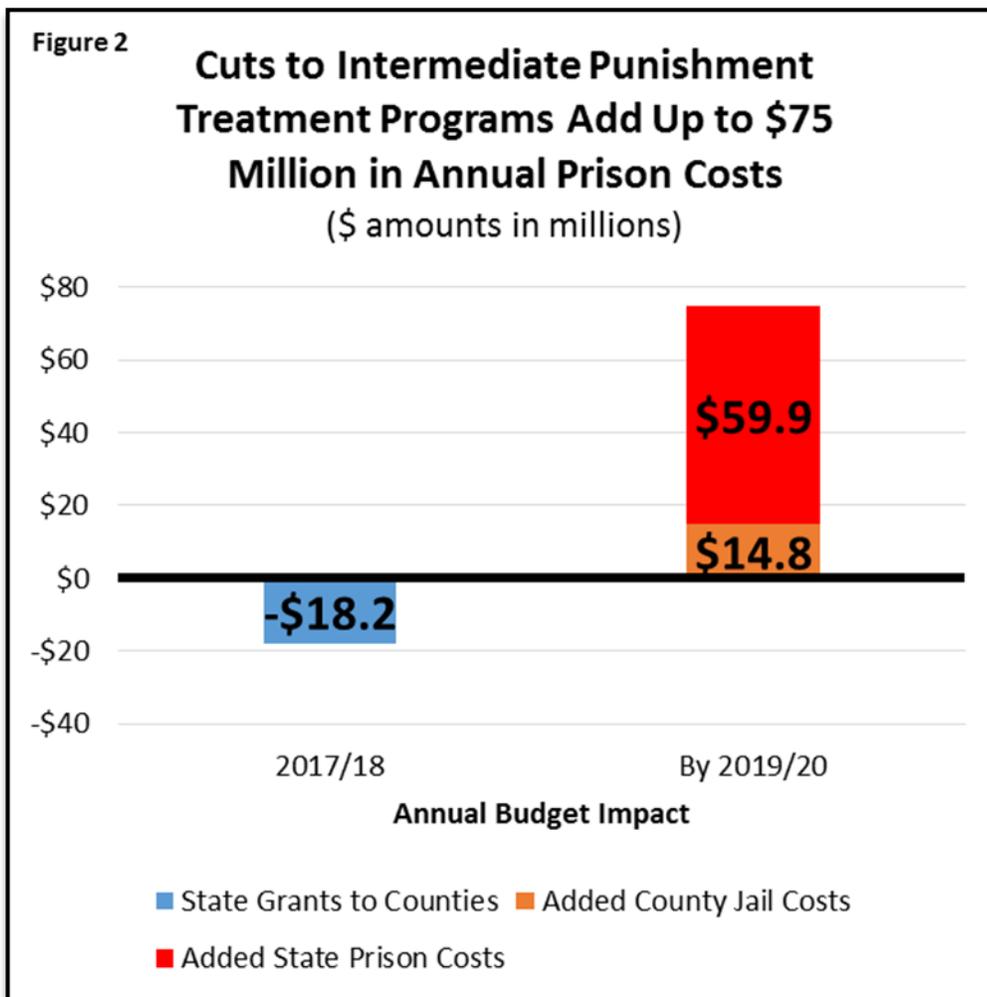
## Intermediate Punishment Treatment Programs

Like probation, the House Republican budget zeros out funding for intermediate punishment treatment programs for 2017/18.

While counties would be forced to find a way to pay for a bare-bones version of probation services to maintain public safety even without state funding, many would eliminate treatment courts and other special probation/CIP programs in the absence of state funding.

Each year, 4,700 new participants are sentenced to CIP programs. With reduced capacity, fewer offenders would be sentenced to CIP.

In the absence of CIP programs, Pennsylvania Commission on Crime and Delinquency (PCCD) and DOC estimate three-quarters of those individuals would be sentenced to county jail and one-quarter to state prison. PCCD has estimated county jails save 20 days on average for each participant in CIP and 67 days for each CIP participant in drug and alcohol programming. Adding back those days for 3,525 inmates each year would cost counties overall up to \$14.8 million annually.<sup>2</sup> With fewer resources for probation and reduced or eliminated CIP programming, recidivism rates may increase as well, which would create additional costs for county and state corrections and reduce public safety.



For state prison, the average sentence for offenders that would have otherwise been sentenced to CIP programs is 16.6 months. For 1,175 additional inmates this would add \$59.9 million to annual DOC costs.

Added costs would begin immediately for county and state corrections, with fully loaded annual costs likely by 2019/20.

In summary, reducing state spending by \$18.2 million in the 2017/18 budget would create up to \$59.9 million in added costs for the Department of Corrections and cost counties an additional \$14.8 million while reducing availability of programs that have been proven to improve public safety.

<sup>2</sup>Total county cost is calculated using average cost. Marginal costs may be lower and will vary across counties. Counties that do not have available bed space or cannot afford to increase staffing and open housing units would experience overcrowding.

## **Funding History**

Effective county probation services improve public safety and reduce future costly prison sentences. The commonwealth has invested in county probation and intermediate punishment treatment services since 1986 and 1995 respectively.

### **Juvenile Probation Services**

The commonwealth has a decades-long history of investing in juvenile justice, beginning with the establishment of the Juvenile Court Judges' Commission in 1959. One of the core responsibilities of the JCJC is the administration of a grant-in-aid program to counties funded through an annual appropriation for juvenile probation services. Act 33 of the 1995 Special Session, which incorporated the goal of balanced and restorative justice into Pennsylvania law, brought a new wave of juvenile justice reform and increased fiscal investment. Subsequent work by JCJC and PCCD expanded these efforts, beginning with pilot programs in select counties before expansion to the entire state. Funding for these programs consistently increased through the 1990s and has since remained steady at about \$19 million per year. Along with the investments have come consistent improvements in outcomes. Nevertheless, HB218 would entirely eliminate these grants.

### **Improvement of Adult Probation Services**

A grant-in-aid program established by Act 134 of 1986 provides financial support for county adult probation departments. The program provides for this support to reimburse counties for up to 80 percent of eligible personnel costs associated with pre-sentence investigations and improvements to adult probation services. "Eligible" personnel costs are defined as positions added after Jan. 1, 1966. The funds are distributed on a pro rata basis depending on the number of eligible personnel in each county and are appropriated in the PBPP budget as "Improvement of Adult Probation Services."

In the first three fiscal years following the 1986 Act, grant-in-aid funds to counties covered 77 percent of eligible costs, on average, and never surpassed the statutory maximum of 80 percent. In 1991, the budget office capped eligible positions statewide for

GIA reimbursement at 1,014. The total amount of distributed grant-in-aid funding is limited by the amount appropriated and that appropriation has never surpassed 80 percent of the cost of eligible positions. The cap, in practice, does not affect the total amount distributed but does reduce the number of eligible positions and therefore inflates the percent of eligible costs that are covered by available funds in the appropriation.

Since 1986, costs for counties rose faster than increases to the state improvement of adult probation services appropriation. The appropriation peaked at \$21.2 million in 2004/05 under the Rendell administration, but the eligible costs for counties had risen so much faster than growth in the appropriation that the funding only covered 35.2 percent of eligible costs that year (compared to 77 percent in the first year). After that, the appropriation decreased, and has been flat funded at \$16.2 million annually since 2011/12. The gap between funding and costs continued to grow and by 2014/15 grant-in-aid funds covered only 17.6 percent of capped eligible salaries. Without the cap, the percent of eligible salary costs covered would be about 9 percent.

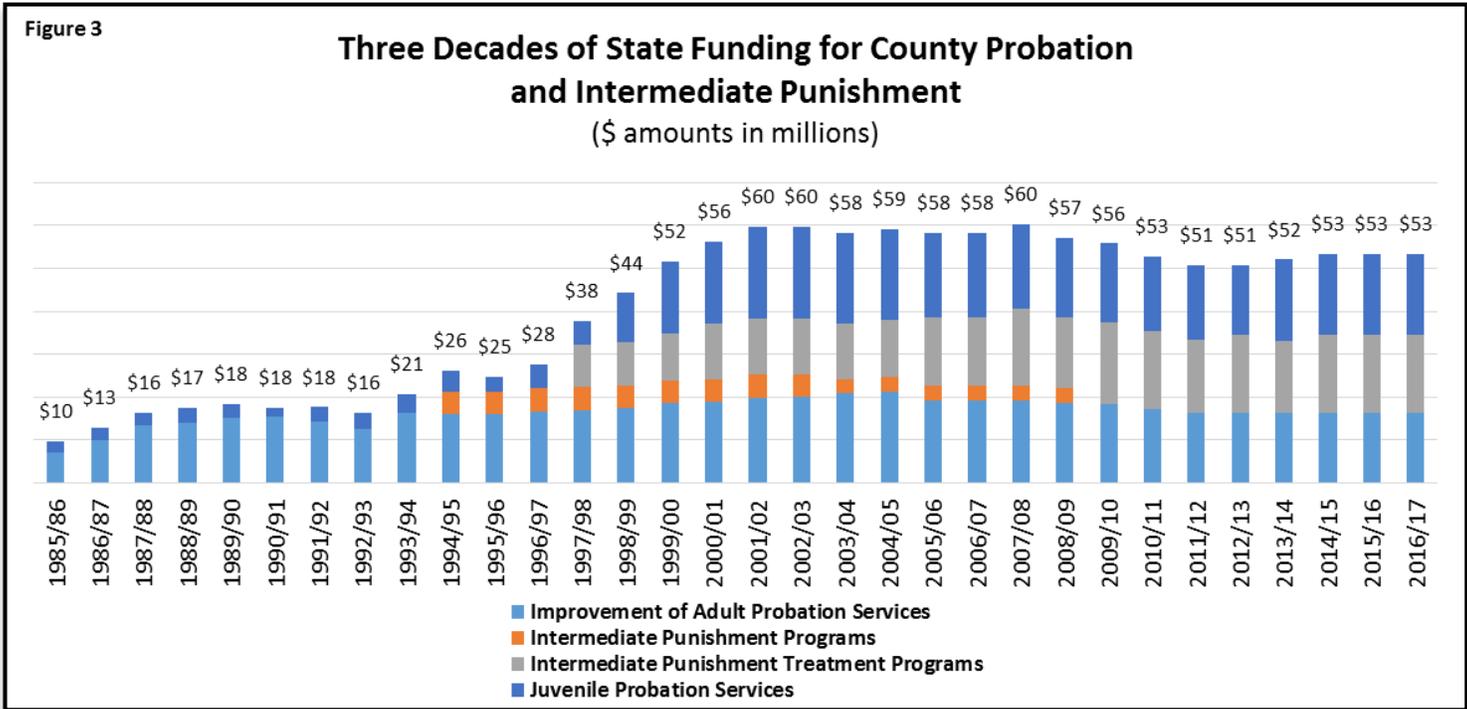
Overall, the Legislative Budget and Finance Committee says counties rely on this state appropriation for 8 percent of their funding.

### **Intermediate Punishment Treatment Programs**

Intermediate punishment is a sentencing alternative to incarceration. It provides additional resources, such as treatment based on an offenders' risk and needs, and is generally less restrictive and less costly than incarceration. In 1990, Act 201 established county intermediate punishment as a sentencing alternative, while Act 193 defined the purpose of CIP programs, eligible offenders, and gave authority to PCCD to promulgate regulations, evaluate programs, and distribute funds to counties.

The first year of funding, 1995, provided \$5.3 million for grants to counties to be distributed by formula based on the number of offenders diverted away from county prisons (50 percent of funding) and the number of offenders diverted away from state prisons (50 percent of funding).

Today, PCCD’s grants to counties for intermediate punishment programs support a wide range of programs and services including specialty courts, dedicated probation officers for high need caseloads, treatment programs, and electronic monitoring. These programs save counties and the state money by diverting offenders away from expensive prison stays into less expensive treatment and community supervision. Importantly, these programs are working. A 2016 analysis for Justice Reinvestment by the Council of State Governments found just 28 percent of participants who completed CIP were rearrested within three years.



### Overall Impact of HB218 on County Criminal Justice

In addition to county probation and the specialized programs they operate, the Republican budget also reduces or eliminates local criminal justice funding for county courts and victim services. These cuts even include Justice Reinvestment grants from savings derived from Act 122 reforms in 2012. In fact, transfer of these savings into the Justice Reinvestment Fund is required by Act 196 of 2012, but the Republican budget proposal assumes the transfer will not occur in 2017/18 to save an extra \$10 million towards balancing the budget. The transfer is an executive authorization, meaning it does not require legislative approval, nevertheless its elimination is assumed in the ‘savings’ to balance HB218. If enacted, the Republican budget would cut \$71 million from counties in the area of criminal justice at a time when these services are needed the most.

Across other areas of the budget, HB218 would cut about 6 percent from each line, but deep cuts to zero out long standing programs in their entirety were proposed almost exclusively in county criminal justice funding.

<b>House Appropriations Committee (D)</b>		
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