

Wilmington, Delaware  
June 20, 2024

**#0446**

**Sponsor:**

**Council  
Member  
Harlee**

**Co-Sponsors:**

**Council  
President  
Congo**

**Council  
Members  
McCoy  
White  
Mills  
Bracy**

**WHEREAS**, Senate Substitute 2 for Senate Bill 4 (SS 2 for SB 4), An Act to Amend Title 11, Title 13, and Title 29 of the Delaware Code Relating to the Criminal Justice System, Including Probation, codifies best practices that have been evidenced to reduce recidivism in the State of Delaware. The proposed bill mandates that the “least restrictive conditions possible” be employed in the supervision and reintegration of criminal justice-involved individuals into society; and

**WHEREAS**, *11 Del. C. § 4321* of the Constitution of the State stipulates that the Department of Corrections (DOC) and its probation and parole officers “shall use all suitable methods to aid and encourage” persons in their charge to improve their conduct and successfully meet the conditions and obligations of their probation or parole. SS 2 for SB 4 would enact amendments that more closely align Title 11 of the Delaware State Code to its articulated goals and functions; and

**WHEREAS**, in 2023, approximately 64% of Delawareans in the criminal legal system were on probation or parole. In 2019, 91% of rearrests within the first year of release from corrections were due to technical violations, or behaviors that are only classified as crimes because of an individual’s probationary or parolee status. Of those rearrested for violations of probation or parole, one in four reincarcerations involved the failure to comply with only one imposed condition; and

**WHEREAS**, in 2020, the DOC reported a 77% rate of successful probation case closures. The DOC attributed its success to reducing “zero tolerance” conditions that do not allow officers to consider individual circumstances prompting a violation, decreasing the use of

administrative warrants that require the detainment of individuals on probation pending a hearing, implementing more graduated responses that hold individuals on probation accountable while also allowing them a chance to redeem themselves, and using incentives that recognize and reward compliance and positive behavior; and

**WHEREAS**, SS 2 for SB 4 reinforces the DOC's progress by placing limitations on the special conditions that can be imposed on an individual on probation. The court, Board of Parole, or probation and parole officers are required to articulate the reasonable relationship between any special condition and the individual's propensity towards recidivism. The bill also allows probation and parole officers to consider an individual's access to resources, verifiable schedule, childcare responsibilities, and other factors when setting requirements for meetings and other terms of supervision; and

**WHEREAS**, if individuals fail to comply with their probation or parole conditions, the amendments proposed by SS 2 for SB 4 would both permit officers to take into account the circumstances of their noncompliance and treat incarceration as a measure of last resort. Individuals who have earned days of credit for complying with their conditions would be notified of their eligibility by the DOC; and

**WHEREAS**, the amendments to the State Code proposed by SS 2 for SB 4 would restore the rights of individuals on probation or parole to enjoy the same activities as other responsible adults, including obtaining a marriage license without first having the consent of a probation or parole officer and possessing and consuming alcoholic beverages, provided that they do not have a documented substance abuse problem. SS 2 for SB 4 would also ensure that probation and parole officers facilitate access to appropriate recovery programs for individuals under their supervision; and

**WHEREAS**, in 2020, the City of Wilmington’s incarceration rate was 1,299 per 100,000 people. The amendments proposed by SS 2 for SB 4 increase the potential for Wilmingtonians leaving corrections facilities to develop partnerships with their probation or parole officers support their rehabilitation, access resources that assist them in maintaining their freedom, and to better face the challenges they incur while rebuilding their lives.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON** that this Legislative body expresses strong favor for Senate Substitute 2 for Senate Bill 4 (SS 2 for SB 4), An Act to Amend Title 11, Title 13, and Title 29 of the Delaware Code Relating to the Criminal Justice System, Including Probation that reinforces the Delaware Department of Correction’s (DOC) progress in reducing recidivism.

**BE IT FURTHER RESOLVED** that SS 2 for SB 4 would represent the codification of strategies that the DOC has already demonstrated to be effective. The Wilmington City Council urges the honorable members of the Delaware General Assembly to support these necessary changes.

Passed by City Council,

ATTEST: \_\_\_\_\_  
City Clerk

**SYNOPSIS:** This Resolution expresses strong favor for Senate Substitute 2 for Senate Bill 4 (SS 2 for SB 4), An Act to Amend Title 11, Title 13, and Title 29 of the Delaware Code Relating to the Criminal Justice System, Including Probation. SS 2 for SB 4 reinforces the Delaware Department of Correction’s progress in reducing recidivism by incorporating probation and parole strategies that it has demonstrated to be successful into the Delaware State Code.