



**Testimony to the Pennsylvania State Senate Judiciary Committee:
Senate Bill 14 and Probation Reform in Pennsylvania
6/25/2019**

Chair Baker, Minority Chair Farnese, Members of the Committee:

Pennsylvania is ripe for immediate action on probation and community supervision reforms. As of 2017, 194,000 Pennsylvanians were on active probation supervision by the counties (this count does not include inactive probation supervision cases, nor the over 8,000 individuals on probation supervised by the Pennsylvania Board of Probation and Parole).¹ The population is relatively low-risk: just over half of these individuals were sentenced to probation for a misdemeanor. Further, resource issues have resulted in an average caseload of 108 probationers per officer, an unsustainable ratio. Unsurprisingly, outcomes are poor: only 70 percent were successfully discharged; in 2017 alone, 17,600 Pennsylvanians had their probation revoked due to a technical violation, and 6,500 of those cases were revoked to incarceration.

As a result, Senate Bill 14 has been developed and filed that will (1) cap probation terms to three years for misdemeanors (a two-year limit has also been proposed) and five years for felonies, and prohibit extension of a probation term due solely to the nonpayment of fines and fees; (2) provide a system of early termination for probation, under which 18 months of supervision without violation or revocation triggers a merit-based termination; and (3) provide graduated sanctions for technical violations, cap incarceration for technical violations, and permit Pennsylvanians currently incarcerated for a technical violation an opportunity for resentencing.² The Justice Action Network thanks the sponsors of this legislation, Senator Anthony Williams and Senator Camera Bartolotta, for authoring this important bill to improve community supervision in Pennsylvania.

¹ County Adult Probation and Parole Annual Statistical Report, 2017. Available at: <https://www.pbpp.pa.gov/Information/Documents/CAPP%20Reports/2017%20County%20Adult%20Probation%20and%20Parole.pdf>.

² Senate Bill 14. Available at: <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&sInd=0&body=S&type=B&bn=0014>.



Limits on Probation Terms

Research indicates that there is little correlation between the length of a probation sentence and the success or failure of the probationer.³ In fact, in a review of the factors found to be most consistently linked to probation outcomes, probation sentence lengths of more than five years was most closely linked to a higher likelihood of failure.⁴

While the majority of states limit the length of a probation sentence to five years or less, Pennsylvania permits probation sentences up to the statutory maximum penalty for the offense, and over one-third of probation sentences exceed three years. One out of every twenty probation sentences exceed five years.⁵

One example of a state attempting to deal with similar drivers is Louisiana. In 2017, Louisiana sought to reduce maximum probation terms, increase the use of graduated sanctions, and incentivize compliance with probation terms. In the first year alone, these policies reduced that state's probation population by 4 percent, cutting average caseloads, slashed technical revocations by 53 percent, and reduced full revocations by 7.4 percent.⁶

Merit-Based Termination

Incentivizing compliance with probation terms and encouraging those on probation to desist from crime is vitally important. In particular, providing a way to earn time off of one's probation sentence can be a powerful motivator for these individuals. As an added benefit, it would also conserve probation resources and allow probation officers the opportunity to focus their attention on those probationers in need of closer supervision.

Dozens of states have enacted ways of earning time off of probation terms. For example, Missouri in 2012 allowed probationers to earn 30 days off their probation

³ See, for example, "Predicting Probation Outcomes: Factors Associated with Probation Rearrest, Revocations, and Technical Violations during Supervision," David E. Olson and Arthur J. Lurigio, available at: <https://journals.sagepub.com/doi/10.3818/JRP.2.1.2000.73>.

⁴ Factors Associated with Probation Outcome," K.D. Morgan, available at: <https://www.ncjrs.gov/App/abstractdb/AbstractDBDetails.aspx?id=150742>.

⁵ Council of State Governments Justice Center, Third Presentation to the Working Group – July 2016. Available at: https://csgjusticecenter.org/wp-content/uploads/2016/07/PA_Presentation3.pdf.

⁶ Louisiana's Justice Reinvestment Reforms: First Annual Performance Report. Louisiana Department of Public Safety & Corrections; Louisiana Commission on Law Enforcement. Available at: http://gov.louisiana.gov/assets/docs/JRI/LA_JRI_Annual_Report_FINAL.PDF.



term for every 30 days in compliance. On average, probationers earned 14 months off their terms under this policy, with no increase in recidivism as compared to those who did not earn time credits.⁷ In South Carolina, which provided earned time credits and other probation reforms in 2010, successful probation outcomes have increased from 65 percent to 77 percent, revocations for technical violations and new offenses have declined by nearly half, and tens of millions in taxpayer dollars have been saved.⁸

Improved Sanctions for Technical Violations

Technical violations, or those violations of probation terms that do not amount to new offenses, are both common and frustrating for probation agencies to handle. For decades, common practice was to ignore or overlook minor issues, such as missing a meeting or breaking a curfew, until these technical violations amassed to the point that revocation was unfortunately necessary. In recent years, however, states have begun creating smarter approaches to addressing technical violations: namely, providing swift, clear, and proportionate responses to these violations, and arming probation officers with the tools necessary to individually sanction the violation and correct the behavior before revocation becomes necessary. A key part of proportional and graduated responses to technical violations is limiting the overuse of incarceration as a sanction. This one-size-fits-all response is expensive, eliminates any advancement made towards a productive and law-abiding life, and is disproportionate to the underlying issue.

In 2007, Louisiana capped incarceration for a technical violation to 90 days (which the state subsequently reduced), and reduced time served for a technical violation by 9 months on average, decreasing demand by over 2,000 beds each year. But that more effective response to technical violations cut even new crime revocations by 22 percent, and saved the state \$17 million each year.⁹

⁷ "Missouri Policy Shortens Probation and Parole Terms, Protects Public Safety," available at: https://www.pewtrusts.org/~media/assets/2016/08/missouri_policy_shortens_probation_and_parole_terms_protects_public_safety.pdf.

⁸ South Carolina Department of Probation, Parole, and Pardon Services: Report to the Sentencing Reform Oversight Committee, November 2017. Available at: [https://www.scstatehouse.gov/citizensinterestpage/SentencingReformOversightCommittee/FY%202017%20SROC%20Report%20\(FINAL\).pdf](https://www.scstatehouse.gov/citizensinterestpage/SentencingReformOversightCommittee/FY%202017%20SROC%20Report%20(FINAL).pdf).

⁹ Reducing Incarceration for Technical Violations in Louisiana. Available at: <https://www.pewtrusts.org/~media/assets/2014/11/psppreducingincarcerationfortechnicalviolationsinlouisiana.pdf>.



Conclusion

Multiple Pennsylvania-based groups from across the political spectrum have been united in their support for probation reform. These groups include the Pennsylvania Chamber of Business and Industry; Americans for Prosperity; the Commonwealth Foundation; the ACLU of Pennsylvania; and the Greater Pittsburgh Chamber of Commerce. These bipartisan and extraordinarily influential groups draw attention when they work together. In addition, key stakeholders, from the Administrative Office of the Courts, to Probation Chiefs, to the Pennsylvania District Attorneys Association are collaborating on these probation reforms to produce the most effective legislation. I thank this Committee in advance for your consideration, and the Justice Action Network stands ready to assist in your efforts to provide a smarter system of probation in Pennsylvania.