



Testimony from
Erin Haney, National Policy Director, REFORM Alliance

In Support of S.B. 5 and Probation Reform in the Commonwealth of Pennsylvania
September 20, 2020

Dear Chair Lisa Baker, Democratic Chair Steven Santarsiero, and Honorable Members of the Senate Judiciary Committee,

On behalf of REFORM Alliance, I am writing to express strong support for commonsense probation reforms – like those contained in Senate Bill 5 – which will greatly improve probation policies, and, in turn, make our communities safer, ensure increased statewide fiscal return and responsibility, decrease instability in our workforces and families, and improve the trajectory of the Commonwealth overall.

At REFORM Alliance, we aim to reduce the number of people unnecessarily under community supervision by supporting measures which hold individuals accountable, increase public safety, and provide people in the criminal justice system with a pathway to redemption, work, and wellbeing. We believe in policies that are efficient, cost-effective, and fair, and for that reason we support safe and reasonable limits on total probation time, the use of effective incentives, and focusing supervision resources where they're needed by reducing costly incarceration from non-criminal actions. Across the nation, we have supported and seen communities benefit from these measures – many of which are contained in Senate Bill 5 – and urge the committee to adopt them for the benefit of all Pennsylvanians.

Pennsylvania currently has the fourth highest population under community supervision in the United States.¹ While 1 out of every 59 adults is on probation or parole in the United States, 1 in 37 adults in the Commonwealth is under supervision.² Pennsylvania's higher probation population can be attributed, at least in part, to Pennsylvania's lengthy probation sentences. While many states, such as Alabama and Kentucky, cap misdemeanor and felony probation terms at 2 and 5 years, respectively, Pennsylvania remains in the minority of states that allow for terms up to the statutory maximum period of incarceration.³ Local leaders, such as York County, have addressed this problem by pioneering effective incentives, like presumptive early termination, which allow people to end their probation after 2 years (misdemeanors) or 4 years (felonies). York County's presumptive early termination program serves as an impressive model, proving that early termination not only safely reduces lengthy probation terms, thereby decreasing probation officer caseloads and the overall probation population, but also *reduces* recidivism. Indeed, of the 736 defendants who have been granted early termination in York County, only 8% were rearrested and convicted – this is a *huge*

¹ <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/ppus19.pdf>

² <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/ppus19.pdf>

³ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>.

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improvement over the Commonwealth's overall recidivism rate of 53%.⁴ While York County's system serves as an impressive model for how reasonable, evidence-based limitations on probation terms can safely reduce the number of people on probation *and* the rate of recidivism, the lack of a consistent similar statewide framework positions the Commonwealth as an outlier in probation terms across the nation.

In addition to using caps or early termination processes to implement evidence-based reasonable time limits for probation terms, states across the nation have also successfully used time credits to encourage compliance and incentivize engagement in activities proven to reduce recidivism, while safely shortening probation lengths and more wisely stewarding taxpayer dollars. Like the incentives championed by leaders on both sides of the political aisle under the Federal First Step Act, 16 states have enacted similar "earned time" credit systems, in which credits for supervision compliance and participation in recidivism-reducing activities reduce the original supervision term. States including Louisiana, South Carolina, Arizona, Utah, and Missouri, among others, have successfully implemented time credit systems to safely reduce probation length.⁵ And additional states, including Georgia and Kansas, have enacted laws to ensure that people on probation who have demonstrated success and rehabilitation are rewarded with consideration of early termination of supervision.⁶

Lengthy probation terms might be warranted if they had a positive impact on public safety and reentry. Yet, research shows that the opposite is true. Most substantive supervision violations occur early—generally, within an individual's first year or two of supervision.⁷ If the concern is identifying people on probation who are likely to violate, those problems tend to appear early in the supervision sentence, making lengthy probation terms unnecessary for this purpose. Further, long probation terms do little to help public safety outcomes.⁸ Indeed, researchers commissioned to study Oregon and South Carolina's systems found that more than half of the individuals studied in both states could have served terms that were truncated by at least a year with *no* negative impact on public safety.⁹

⁴ <https://worldpopulationreview.com/state-rankings/recidivism-rates-by-state>

⁵ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>.

⁶ *Ibid.*

⁷ Austin, J. (2010). "Reducing America's Correctional Populations: A Strategic Plan." *Justice Research and Policy* 12(1): 9-40.; Klingele, C. (2013). "Rethinking the use of community supervision." *The Journal of Criminal Law and Criminology* 103(4): 1015-1069
<http://scholarlycommons.law.northwestern.edu/jclc/vol103/iss4/1>.

⁸ Michael P. Jacobson, Vincent Schiraldi, Reagan Daly, and Emily Hotez, "How Reducing Probation Populations Can Improve Outcomes," August 2017.
https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/less_is_more_final.pdf

⁹ Pew Charitable Trusts, "States Can Shorten Probation and Protect Public Safety," December 3, 2020.
<https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety#:~:text=The%20national%20average%20probation%20term,to%20five%20years%2C%20in%20Hawaii>.

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On top of failing to make us safer, the Commonwealth's current probation policies deplete limited resources, with Pennsylvania's taxpayers shouldering a cost of \$334 million a year to incarcerate people for violations of supervision.¹⁰ Non-criminal, technical violations of supervision terms — such as being late for an appointment or traveling outside of the county — can result in incarceration and cost the Commonwealth's taxpayers \$101 million annually. The cost of using incarceration to address violations goes far beyond just wasting money — ordering incarceration as a sanction for technical violations can derail hard-fought progress by disrupting the workforce, fracturing the family unit, destabilizing communities, and threatening public safety. Unfortunately, the damage caused by such incarceration is far from rare, with more than half of all new prison admissions in the Commonwealth resulting from these technical violations each year.¹¹ Public safety is the primary concern for all of us, which is why REFORM champions the use of graduated sanction for technical violations: States that have implemented alternative or graduated sanctions for supervision violations have seen a decline in prison admissions and associated costs, without any related decrease in public safety.

Retaining individuals for long probation terms and failing to enact statewide opportunities to reward progress is a waste of economic resources and human potential. Probation population bloat also means larger caseloads for hardworking probation officers, which all too often thwarts probation officers' ability to focus their time and attention on those who need quality services or present a threat to public safety. Lengthier supervision terms increase the likelihood of non-criminal technical violations, which further burdens taxpayers and destabilizes families and communities, all while failing to make Pennsylvanians any safer.

We commend the efforts of Senator Lisa Baker, along with Senator Anthony Williams and Senator Camera Bartolotta in advancing these essential policies in the Commonwealth, and we urge approval of legislation consistent with these probation reforms for the benefit of all Pennsylvanians.

Sincerely,



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REFORM Alliance

¹⁰ <https://csgjusticecenter.org/publications/confined-costly/?state=PA#primary>

¹¹ <https://csgjusticecenter.org/publications/confined-costly/?state=PA#primary>