

# ACLU-PA | Probation in Pennsylvania: A Framework for Reform

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This foundational framework is intended to guide decisions about how best to approach probation reform and the changes essential to any meaningful legislation that aims to reform probation in Pennsylvania.

## **NON-CARCERAL: Does the reform proposal create any new punitive or carceral measures?**

Given that the original intent of probation was to serve as an *alternative to incarceration*, it is essential that any new proposals avoid creating new punitive or potentially carceral provisions, either explicitly or through expanded powers granted to courts or prosecutors.

## **CLARITY: Are the reform measures clearly articulated? Will they be easy to follow/implement?**

Reform measures should avoid further complicating or convoluting the process more than it already is. If improvements to the system are too complex (e.g., creating unnecessary or burdensome processes, excessive exceptions or exclusions), successful implementation of those changes will likely suffer.

## **INTERCONNECTED: Do reform measures reflect the interconnected ways that elements of PA's probation system operate together?**

When reforming any process, it is easy to think of each reform measure as a separate, stand-alone element to be negotiated, but these measures must be viewed as part of a tightly woven system. This means that reforming one part of the process may not meaningfully change the outcome without reforming another part of the process. Alternatively, sacrificing one reform as a trade off for securing another reform may not only blunt the effects of the positive reform, but could risk making the probation system in Pennsylvania even worse.

## **RESPONSIVE: Do reforms respond/correlate to the drivers of mass supervision in Pennsylvania?**

Pennsylvania's probation system is among the most archaic and punitive in the U.S. Any reform legislation should seek to fix the underlying drivers of excessive supervision in Pennsylvania with solutions that are informed by data, research, and best practices that aim to respond to these questions specifically:

### **1. Does the bill limit the amount of time a person can be sentenced to probation?**

The sheer length of probation terms is the primary driver of Pennsylvania's probation problem, and any meaningful reform legislation **must** limit the amount of time people can be sentenced to probation.

**Recommendation: Limit** the amount of time people can be sentenced to probation:

- Cap the amount of time people can be sentenced to probation (e.g., 3 years)
- Prohibit imposing consecutive and split sentences of probation sentences of probation
- Prohibit extending probation for people financially unable to pay fines or restitution

### **2. Does the bill reduce the amount of time a person can spend on probation?**

If hard limits to probation terms are unattainable or significantly compromised, there must be alternative ways to reduce the length of probation sentences.

**Recommendation: Reduce** the amount of time on probation through early termination incentives or credits:

- Automatically or presumptively terminate probation after a period of time without violation
- Reduce term of probation upon completion of educational or vocational achievements

### **3. Does the bill restrict the court's ability to revoke or incarcerate following a technical violation?**

Technical violations can extend a person's probation or can result in having probation revoked, sending them back to jail for weeks, months, even years.

**Recommendation: Restrict** the court's ability to punish people for technical violations of probation:

- Restrict the court's ability to revoke probation for technical violations
- Limit incarceration following a probation revocation, both before and after violation proceedings
- Eliminate or revise unreasonable conditions of probation