

# Joint statement | Opposition to Senate Bill 913 (PN 1144)

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Pennsylvania has the [second highest](#) percentage of its citizens on probation and parole in the country and the [highest incarceration rate](#) in the northeast. More than [50%](#) of people sent to state prison each year are there for supervision violations and many of the people held in our jails pretrial are incarcerated on probation and parole [detainers](#). Pennsylvania clearly has not only a mass incarceration problem, it has a mass supervision problem.

Probation was originally intended to be an alternative to incarceration. And yet, Pennsylvania's probation system feeds our mass incarceration problem.

Last session, Senate Bill 14 [originally proposed](#) several fundamental structural changes to Pennsylvania's broken probation system, but those reforms were lost after SB 14 was [amended](#). With the start of a new session, we were hopeful the senate would consider reintroducing at least some of those vital reforms.

Unfortunately, [Senate Bill 913 \(PN 1144\)](#) changed little from last session's bill—it fails to address the core problems plaguing Pennsylvania's probation system and would amend current law in ways that **risk making probation worse** in Pennsylvania.

No bill is perfect, especially those that weather bipartisan negotiation and compromise. However, when considering legislation that aims to improve probation in Pennsylvania, we must consider its potential impact.

**Below is our assessment of Senate Bill 913.**

**Based on this assessment, we urge our state senators to oppose Senate Bill 913 (PN 1144).**

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Fails to reform

Mixed reform

Positive reform

## **RESPONSIVE: Would the proposed reforms reduce mass supervision in Pennsylvania?**

Any reform legislation should seek to fix the underlying drivers of excessive supervision in Pennsylvania with solutions informed by data, research, and best practices. Specifically, reform legislation should respond to these questions:

### **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.

#### **SB 913:**

- Fails to cap the amount of time people can be sentenced to probation. Instead, SB 913 proposes “probation review conferences” at 3 years for misdemeanors and 5 years for felony offenses.
- Does not prohibit consecutive sentences of probation (sentences served back-to-back).
- Does not prohibit imposing split sentences of probation (probation term served after incarceration). In fact, SB 913 *reaffirms* the use of split sentences.

### **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 amount of time someone spends on probation.

#### **SB 913:**

- Does not reduce the length of a *probation sentence* upon completion of educational or vocational achievements. Instead, SB 913 only permits those achievements to be used to reduce the amount of time before a person is eligible for a probation review conference, with no guarantee of termination.
- Does not permit *automatic* early termination of probation. Instead, SB 913 establishes a *presumption* that judges will accept recommendations from probation officers, including for early termination, as long as no one objects and the person meets the strict eligibility requirements to be considered for termination.

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

Technical violations occur when a person breaks any of the numerous and often burdensome rules of probation—behavior which would otherwise not be considered a crime. Technical violations can result in having probation revoked, extending a person's probation, or even sending them to jail or prison for weeks, months, even years.

#### SB 913:

- ✗ Fails to restrict the court's ability to revoke probation for technical violations and codifies hearings intended to make it easier to revoke probation for a new alleged crime by pursuing it via a technical violation. This avoids the “hassle” of securing a conviction for a new offense, allowing people to be locked up for *uncharged* and *unsubstantiated allegations* of criminal misconduct.
- ✗ Fails to restrict the court's ability to incarcerate someone for a technical violation. Although SB 913 eliminates a widely abused provision that allows judges to incarcerate people in order to “vindicate the authority of the court,” SB 913 also explicitly creates **new authority to incarcerate** people who have broken a rule of their probation.
- ~ Prohibits extending or revoking probation for people financially unable to pay **finer**. However, SB 913 specifically allows a court to deny termination based on unpaid **restitution** and creates “administrative probation” to keep people who owe restitution on probation indefinitely.
- ~ Establishes graduated sanctions after first and second technical violations; but then allows the court to ignore those limits to keep people in jail while they wait weeks, even months, for a drug or mental health evaluation and/or placement in a treatment program or problem-solving court.
- ✓ Revises a condition of probation to make it harder to violate a person for simply “leaving the jurisdiction.” Leaving would require intent to flee or avoid supervision to qualify as a violation.

### NON-CARCERAL: Do reforms include any new provisions that could lock more people up?

Any reform proposal must avoid creating new punishments or provisions that put more people in jail or prison, either explicitly or through expanded powers granted to courts or prosecutors.

#### SB 913:

- ✗ Weakens the protection against incarceration in current law, changing “shall not” incarcerate to “may” incarcerate, making it easier for judges to jail or imprison people following a revocation of probation.
- ✗ Grants the court new and expanded authority to incarcerate people for a long list of technical violations—some of which identify conduct that would, or *should*, qualify as a new offense but masquerade as “technical” violations; others would incarcerate people for breaking the most common rules of probation.

### CLARITY: Are proposed reforms clearly defined? Will changes be easy to follow and implement?

Reform measures should avoid further complicating an already convoluted process. Changes that are too complex or burdensome, unnecessary or duplicative, or narrowly or exclusively defined, make successful implementation less likely and reform measures more meaningless.

#### SB 913:

- ✗ Creates “probation review conferences”—a process that complicates an already complex system and distracts from tackling the core problems of our broken probation system. Under [current law](#), judges may already terminate probation at any time, for any reason, for any offense; and it allows for probation review hearings at any time, including by petition of the probationer. In other words, current law already provides a straightforward off-ramp from probation. By contrast, instead of an off-ramp, SB 913 creates a maze of “probation review conferences” intended only to *consider* terminations of probation. These review conferences are largely inaccessible, nearly impossible to navigate, and shot through with exceptions and conditions. This is not reform. It is a solution in search of a problem—an unnecessary, convoluted process that will only help the handful of people who survive its gauntlet.

**We, the undersigned, urge our state senators to oppose Senate Bill 913 (PN 1144):**

<b>Signatories to Joint Statement in Opposition to Senate Bill 913 (PN 1144)</b>		
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ACLU of Pennsylvania	Elizabeth Randol	Legislative Director
AIDS Law Project	Ronda Goldfein, Esq.	Executive Director
Alliance for Police Accountability	Kyna James	Coalition Organizer
Amistad Law Project	Kris Henderson	Executive Director
Better PA	Jenna Henry	Deputy Director
Casa San Jose	Monica Ruiz	Executive Director
Coalition Against Death By Incarceration (CADBI)—Delaware Co.	Dana Lomax-Ayler	President
Color of Change	Megan French-Marcelin	Campaign Director, Criminal Justice & Democracy
Dauphin County Bail Fund	Alex Domingos	Board Chair
Dignity Act Now Collective	Madusa Carter	Co-Founder
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Educating Communities for Parenting	Anita Kulick	President & CEO
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Frontline Dads	Reuben Jones	Executive Director
HIAS Pennsylvania	Cathryn Miller-Wilson	Executive Director
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League of Women Voters of Pennsylvania	Sarah Miller	Director, Social Policy
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Mary's Daughter for the Formerly Incarcerated	Madusa Carter	Founder & Executive Director

Maternity Care Coalition	Sara Jann	Director of Policy & Advocacy
National Clearinghouse for the Defense of Battered Women	Jenn Richards	Interim Executive Director
Nationalities Service Center	Steven Larin	Deputy Director
New Voices for Reproductive Justice	Carmen Alexander	Deputy Director of Operations
Ortiz Ark Foundation	Jessica Lee Ortiz	Executive Director
PA Budget and Policy Center	Nick Pressley	Director of Campaigns
PA Council of Churches	Rev. Sandy Strauss	Director of Advocacy & Ecumenical Outreach
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Philadelphia Bail Fund	Malik Neal	Executive Director
Philadelphia Community Bail Fund	Candace McKinley	Lead Organizer
Philadelphia Justice Project for Women & Girls	Jill McCorkel, Ph.D.	Founder & Executive Director
Philadelphia Lawyers for Social Equity	Renee Chenault Fattah	Executive Director
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Power Lehigh Valley—End Mass Incarceration	Robert Walden	Chair
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Reclaim Philadelphia	A'Brianna Morgan	Mass Liberation Organizer
Sankofa Healing Studio	Jacqui Johnson	Founder & Clinical Director
SEAMAAC, Inc.	Thoai Nguyen	CEO
SELF! Lehigh Valley	Enid Santiago	Board Chair
Sisters Returning Home	Peggy Simms	Executive Director
Sound Community Solutions	Min. Vladimir Beaufills, CRS, CGS, OWDS	Founder/President & CEO
Support Center for Child Advocates	Frank Cervone	Executive Director
Take Action Mon Valley (TAMV)	Fawn Montgomery	Executive Director
The Wardrobe (formerly Career Wardrobe)	Sheri Cole	Executive Director
We the People—PA	Nick Pressley	Campaign Director
West End P.O.W.E.R.	Terri Minor Spencer	President
West Philly Participatory Defense Hub	Betsy Elliot	Core Member
Why Not Prosper	Rev. Dr. Michelle Simmons	Founder & CEO
Women's Medical Fund	Elicia Gonzales	Executive Director