



## MEMORANDUM

**TO:** The Pennsylvania House Judiciary Committee

**FROM:** Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

**DATE:** January 24, 2022

**RE: OPPOSITION TO SB 913 PN 1282 (BAKER)**

Probation was originally intended to serve as an alternative to incarceration. And yet, Pennsylvania's probation system feeds our mass incarceration problem. 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](#). And as one of just a [handful of states](#) that does not limit terms of probation, mass supervision in Pennsylvania is driving our mass incarceration problem.

Probation is also marked by significant racial disparities. Black people are [less likely](#) to be sentenced to probation and more likely to be sentenced to jail or prison instead. When they are sentenced to probation, Black people are often required to abide by [more conditions](#) and to be on probation [longer](#). Black people are [more likely](#) to have technical violations and, due to heavier policing of Black neighborhoods, are more likely to be rearrested while on probation. They are also more likely to be [sentenced](#) to incarceration and to be [revoked](#) for violations. Historic and structural racism erodes Black people's capacity to complete probation, leaving them with [fewer resources](#) to navigate supervision, such as financial security, stable housing, reliable transportation, and access to drug treatment and mental health services, compared to their white counterparts. Nationally, 1 in 81 white people are under criminal supervision compared to 1 in 23 Black people. In Philadelphia, 1 in 14 Black people are under supervision. And in Allegheny County, Black people comprise 13 percent of the population but 42 percent of the supervision population.<sup>1</sup> [Disproportionate](#) probation supervision damages Black communities.

SB 913 fails to reform any of the structural problems that plague Pennsylvania's probation system. SB 913 does nothing to limit the amount of time someone can be sentenced to probation. It continues to permit judges to stack probation sentences and to impose probation "tails"—a term of probation imposed after a period of incarceration. It fails to provide an automatic, or even efficient, way to terminate probation early—doing little to reduce the number of people under supervision. And it would amend current law in ways that ***risk making probation worse*** in Pennsylvania.

**On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose Senate Bill 913.**

**"Something is better than nothing" is only true if the 'something' is good.**

There is no such thing as a perfect bill, but something *isn't always* better than nothing—that only holds true if the "something" is good. There are four reasons why SB 913 would be worse than nothing:

1. [SB 913 would keep people too poor to pay restitution on probation indefinitely.](#)
2. [SB 913 would make it easier for judges to revoke probation and incarcerate someone who violated probation.](#)
3. [SB 913 would expand the authority to detain people pretrial for probation violations.](#)
4. [In exchange, the core "reforms" proposed under SB 913—limits on incarceration following revocation and probation review conferences—will have little to no effect on most people on probation.](#)

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<sup>1</sup> Human Rights Watch & ACLU, [Revoked: How Probation and Parole Feed Mass Incarceration in the United States](#), July, 2020.

## #1 | SB 913 would keep people too poor to pay restitution on probation indefinitely.

**Under current law**, fines or restitution imposed as a condition of probation must be based on the defendant's ability to pay.<sup>2</sup> <sup>3</sup> Nonpayment of fines or restitution is a technical violation of probation *only if* the defendant has the ability to pay and has willfully refused to pay.<sup>4</sup> In addition, probation is routinely terminated even when defendants still owe restitution. Unpaid restitution is commonly converted to a civil judgment, enforceable by the court's use of its contempt power.<sup>5</sup>

### What SB 913 does:

- **Protects people who cannot afford to pay fines and costs:** SB 913 prohibits the court from extending or revoking probation solely due to nonpayment of fines or costs unless the court finds that the defendant is financially able to pay the fines and has willfully refused to pay.
- **Imposes indefinite probation for people who owe restitution:** However, SB 913 fails to protect people who owe restitution. SB 913 creates "administrative probation" to allow judges to keep people who owe restitution on probation indefinitely until restitution is paid in full.
- **Creates 'administrative probation':** If termination of probation is denied solely due to the failure to pay restitution, SB 913 would place a defendant on administrative probation if the defendant has paid at least 50% of the restitution or if the defendant has made a good faith effort to pay. Administrative probation requires supervision contact once a year; updated contact information on change of residence or employment; and full payment of restitution. No other conditions are permitted.

### Why this would make probation worse in PA:

- **Likely unconstitutional:** "Administrative probation" does not currently exist in Pennsylvania. Because SB 913: (1) omits restitution from the provision that prohibits extending or revoking probation for nonpayment of fines and costs, and then (2) creates "administrative probation," SB 913 would **fundamentally alter probation** by establishing an entirely new category of probation for the express purpose of **keeping people on probation indefinitely because they have not paid or cannot afford to pay restitution**. And denying termination to those who have not paid restitution in full (or denied administrative probation if they haven't paid 50%) is almost certainly **unconstitutional**.<sup>6</sup>
- **No clarity for failure to pay:** SB 913 provides no guidance as to what happens if someone on administrative probation fails to make restitution payments. Although the terms of administrative probation may seem like a reasonable reduction in supervision requirements, as long as a person is on probation **of any kind**, if they violate a probation rule or get charged with a new offense, they can be **detained indefinitely**<sup>7</sup> in jail pending a hearing, where they are **unconstitutionally denied pre-hearing release**.
- **Supervision fees would still apply:** Keeping people on indefinite probation would still require defendants to pay supervision fees, money better spent directly on restitution payments.
- **Includes restitution owed to corporate 'victims':** Following a recent amendment to the restitution statute<sup>8</sup> granting corporate entities victim status for the purposes of restitution, some people may remain on indefinite probation due to restitution owed to a Walmart or CVS and not a human victim.

<sup>2</sup> See [§ 9763\(b\)\(10\)](#); [Commonwealth v. Melnyk](#), 548 A.2d 266, 268 (Pa. Super. 1988) (explaining that restitution imposed under § 9754 (now § 9763) cannot exceed the defendant's ability to pay).

<sup>3</sup> In contrast to fines and restitution, the payment of costs cannot be a lawful condition of probation because costs are essentially a reimbursement to the government for the expense of prosecution—they are "a mere incident to judgment" and "are not part of the criminal's sentence." As a result, a court cannot order that a defendant pay costs as part of their probation. [Commonwealth v. Rivera](#), 95 A.3d 913, 917 (Pa. Super. Ct. 2014).

<sup>4</sup> [Bearden v. Georgia](#), 461 U.S. 660, 672 (1983).

<sup>5</sup> See [18 Pa.C.S. § 1106 \(f\)](#)—relating to non-compliance with a restitution order.

<sup>6</sup> See [ACLU-PA FAQs Probation—Payment of Fines, Costs, and Restitution](#).

<sup>7</sup> Melamed, S., & Purcell, D. (2019, December 27). [Everyone is Detained: How probation detainers can keep people locked up indefinitely — even when they haven't committed a crime](#). The Philadelphia Inquirer.

<sup>8</sup> [Act 145 of 2018](#).

## #2 | SB 913 would make it easier for judges to revoke probation and incarcerate someone who has violated probation.

**Current law**<sup>9</sup> allows confinement following revocation if any of the following apply: (1) the person has been convicted of a new crime (aka, a direct violation); (2) the person's conduct demonstrates they're likely to commit a crime in the future; or (3) such a sentence is necessary to vindicate the authority of the court.

### What SB 913 does:

- **Strikes, but replaces, the 'vindication provision':** The ability of courts to incarcerate for a probation violation simply to "vindicate the authority of the court" is a widely abused provision<sup>10</sup> used to incarcerate people for any number of reasons, including perceived slights against the court. Striking the 'vindication' language would permit incarceration only for direct violations or instances where a person is likely to commit a crime in the future. Fortunately, SB 913 eliminates the vindication provision. However, SB 913 then effectively **nullifies the benefit of this reform** by introducing a section that codifies the authority to incarcerate people for the six violations listed below. Consequently, removing the 'vindication' provision turns out to be a hollow victory.
- **Weakens the presumption against incarceration and explicitly codifies the authority to incarcerate for technical violations:** SB 913 strikes the strong presumption against incarceration ("the court **shall not** impose a sentence of total confinement upon revocation...") and replaces it with "**may**" incarcerate. SB 913 then creates new explicit authority to incarcerate people in ways currently permitted under the vindication language. SB 913 grants courts permission to incarcerate people for technical violations that are:
  1. Sexual in nature;
  2. Involved assaultive behavior or included a credible threat to cause bodily injury to another;
  3. Involved possession or control of a weapon;
  4. The defendant absconded and cannot be safely diverted from total confinement;
  5. There exists an identifiable threat to public safety and the defendant cannot be safely diverted through less restrictive means;
  6. Intentional and unexcused failures to adhere to programming or conditions on more than three occasions and the defendant cannot be safely diverted through less restrictive means.

### Why this fails to meaningfully reform, if not make probation worse than, current law:

- **Repeals—but replaces—bad practice:** Rather than limiting violations that warrant revocation or incarceration, these changes codify bad practice, giving judges explicit permission to punish people for reasons that are both *more specific* AND similarly *broad and vague* as the vindication provision.
- **May be interpreted to *recommend* incarceration:** By enumerating a list of technical violations that warrant revocation and incarceration, judges may interpret this list of violations as **recommendations to revoke and/or incarcerate**.
- **Permits incarcerating people for 'public safety' reasons:** SB 913 inserts a vague, undefined justification for incarceration that doesn't even require a threat to another person, just "public safety." It is an exception so broad that it swallows the rule. Not unlike the 'vindication' provision, this violation is ripe for abuse, disparate interpretation, and disproportionate application.
- **Permits incarcerating people for purely rule-based technical violations:** SB 913 would allow people to be incarcerated for the most common technical violations without providing meaningful protections. "Intentional and unexcused failure to adhere" is basically the definition of a technical violation. This provision would now explicitly grant courts permission to incarcerate people for three or more technical violations. Is there a time limit? Is it more than three technical violations within a year or

<sup>9</sup> 42 Pa.C.S. § 9771(c).

<sup>10</sup> Melamed, S., & Purcell, D. (2020, February 17). [When it comes to probation, Pennsylvania leaves judges unchecked to impose wildly different versions of justice](#). The Philadelphia Inquirer.

over a term of probation? Is it more than three violations of the same condition? Or is it more than three violations of any number of different conditions?

- **Some violations appear to address direct, not technical, violations:** The first three violations above identify conduct that would qualify as new criminal behavior, but are framed as technical violations, which suggests they are meant to apply to Daisey Kates hearings.<sup>11</sup> Arrests (not just convictions) for new criminal conduct are considered violations of probation. And even though an arrest for an alleged criminal offense is not a conviction, Pennsylvania permits prosecutors to ask the court to revoke an individual's probation based on an arrest alone. Because people of color are more likely to be arrested, this further exacerbates the racial disparities already present in the criminal legal system. SB 913 is structured to take advantage of these hearings, which permits courts to proceed with a probation revocation hearing *prior to a trial* on the new criminal charges and with a lower standard of evidence. By introducing a set of "technical violations" that are more properly charged as new offenses, SB 913 would codify the use of Daisey Kates hearings to incarcerate people based on mere allegations, even if the underlying charges have been dismissed.
- **Broadly defines 'weapon':** SB 913 uses [18 § 907\(D\)](#) to define "weapon," which means anything capable of lethal use (which could include bottles, bats, or a crowbar) could constitute a weapon under this bill. If the "weapon" was a firearm, unlike crimes under Pennsylvania's Uniform Firearms Act, firearms or guns under § 907 do not need to be functional or even capable of being made functional. Relying on § 907 to define "weapon" may further expand what can count as a technical violation and could be applied inconsistently and/or disproportionately.

### #3 | SB 913 would expand the authority to detain people pretrial for probation violations.

Probation detainers are one of the primary [drivers of incarceration](#) in PA. When a person on probation gets charged with violating a condition of probation or a new offense, they can be detained while they wait for their probation revocation hearing. This often means [weeks, months, or even a year or more in jail](#).<sup>12</sup> Probation detainers are a form of pretrial detention (incarceration prior to being convicted of a crime), only more punitive, because people held on detainers have no right to bail.

**Currently**, only probation officers have the authority to arrest for probation violations.<sup>13</sup> The PA Superior Court has explicitly held that police officers do not have the authority to arrest a person for supervision violations.<sup>14</sup>

#### What SB 913 does:

- SB 913 would permit "a probation officer or *any other relevant officer or entity* from *levying or requesting a probation detainer* in the event that new criminal charges are filed against an individual serving a term of probation."<sup>15</sup> (emphasis added)
- SB 913 does not define what "levying or requesting a probation detainer" means, nor does it specify what other "relevant officer or entity" would be granted the authority to detain.

<sup>11</sup> [Commonwealth v. Kates](#) affirmed a practice, referred to as a Daisey Kates hearing, where a person's probation can be revoked based on new criminal conduct either *before* a trial occurs, or *after* a case is dismissed, as long as the person is not acquitted. This existing practice makes it far easier to revoke probation for a new **alleged** crime by pursuing it via a technical violation, primarily by (1) dramatically lowering the burden of proof from beyond a reasonable doubt to a **preponderance of the evidence**; and (2) reducing procedural protections at revocation hearings.

<sup>12</sup> See [El v. 38th Judicial District et al](#); and Melamed, Samantha (2021, October 26). [The ACLU is suing Montgomery County, saying it's illegally jailing people without hearings](#). The Philadelphia Inquirer.

<sup>13</sup> [42 Pa.C.S. § 9913](#).

<sup>14</sup> See [Com. v. Pincavitch](#), 214 A.2d 280, 282 (Pa. Super. 1965).

<sup>15</sup> [SB 913 PN 1282](#), page 16, lines 20-26.

### Why this would be worse than current law:

- **Grants undefined authority to detain for revocation:** PA's Rules of Criminal Procedure require that prior to revocation, "a written request for revocation shall be filed with the clerk of courts."<sup>16</sup> Granting officers the authority to detain for an alleged probation violation, without any requirement that the officer notify the clerk of courts, would result in people languishing indefinitely in county jails.
- **Expands probation officers' authority to *arrest* into a much broader authority to *detain* for supervision violations:** Currently, only probation officers have the authority to *arrest* for probation violations. The law does not define probation detainers, nor does it grant probation officers the authority to detain. Detainers are currently understood as an arrest warrant to commit and detain issued by a court or by the probation department. Because SB 913 fails to define what "levying or requesting a probation detainer" means, it would give *individual* police or probation officers the authority to hold people indefinitely on an undefined "detainer."
- **Expands *who* has the authority to arrest and detain people for probation violations, potentially including police officers:** Because SB 913 fails to define "relevant officer or entity," this provision could expand *detention* authority to police officers (police officers cannot *arrest* for supervision violations). For example, a police officer could pick someone up in the officer's county, discover that they are on probation in another county, and detain them until they contact the probation department in the defendant's home county, effectively functioning like a domestic ICE detainer.
- **Expanding detention authority could increase the number of people incarcerated pretrial.** And any provision that expands discretionary detention (i.e., detainers) would only exacerbate existing racial disparities in our criminal legal system.
- **Invites conflicts with county-specific detention policies:** Detainer practices vary widely in PA. Counties throughout the commonwealth set their own policies about when to incarcerate someone on probation following a new arrest. For example, according to their policies, Allegheny, Philadelphia, and Lancaster counties (to name a few) do not lodge probation detainers for people charged with summary or misdemeanor offenses. Giving individual officers the authority to detain people for a probation violation may invite some probation officers to disregard county-specific policies regarding detainers. For example, a probation officer could decide to arrest someone for a misdemeanor offense in a county that doesn't lodge detainers for misdemeanors.

### **#4 | Core "reforms" proposed in SB 913 would have little to no effect on most people on probation.**

There are two changes in SB 913 most frequently cited as the bill's core reform provisions: (1) limitations on incarceration after probation has been revoked and (2) probation review conferences to consider early termination of probation. **These two 'reforms' arguably justify any problematic changes SB 913 would make to probation; unfortunately, neither offer meaningful reform for those who need it the most.**

#### **(1) Limits on incarceration following revocation**

Currently, there are no limits on how long someone can be incarcerated after probation has been revoked. There is no question that Pennsylvania needs to limit incarceration following revocation, but the limits established under SB 913 will have extremely limited impact.

#### What SB 913 does:

- SB 913 would limit incarceration to 14 days after a 1st technical violation and 30 days after a 2nd violation, and no limits for a 3rd or subsequent violation. For certain technical violations, SB 913 permits 44 days for the 1st technical violation and 75 days for the 2nd technical violation, with no limits on the third. SB 913 does not limit incarceration for new convictions.

<sup>16</sup> [Pa. R. Crim. P. 708](#).



### Why this fails to offer meaningful reform:

- **Limitations under SB 913 would help very few people:** Most people under supervision for long periods of time would easily have three or more violations, which means that these limits would not apply to most people on probation.
- **Permits prolonged incarceration for people in need of drug or mental health treatment:** The limits on incarceration do not apply to defendants ordered to get a drug, alcohol, or mental health evaluation, placement in a treatment program, or a problem-solving court—and waiting periods vary by county. In many instances, it can take **months** to get an evaluation and/or be placed in a program or problem-solving court, which means that SB 913 would **allow county-specific wait times for an evaluation and/or placement to dictate how long a person can be incarcerated**. And these delays have only increased during the pandemic. This exception unreasonably allows those most in need of treatment to dangerously languish in jail without it.
- **May disincentivize judges from participating in the swift and certain program:** Currently, courts are permitted to adopt much more restrictive limits to incarceration for technical violations under the “swift and certain” program under [§ 9771.1](#). Introducing a different set of limits would likely disincentivize judges from adopting the shorter periods of incarceration under this program.

### (2) Probation review conferences

Under [current law](#),<sup>17</sup> 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 person on probation. And to be eligible for these hearings, all you need is to be on probation. Pennsylvania’s probation problem is NOT a lack of access to termination hearings or reviews—it’s the excessive time people spend under supervision.

### What SB 913 does:

SB 913 would establish a process to obtain a “probation review conference” after completing 3 years on probation for a misdemeanor offense and 5 years for a felony. These conferences are arguably offered as a way to terminate probation early. Probation review conferences would be scheduled within 60 days from the eligibility date under the following conditions:

- Review conferences are **denied** to defendants who have been convicted of:
  - A sexual offense that requires registration or convicted of a reporting failure for a sex offense;
  - A crime of violence ([42 § 9714 \(g\)](#)); or
  - [Stalking](#) or [simple assault](#) against a family or household member.
- **Termination of probation is prohibited** if a defendant committed one of the following technical violations within 9 months of the review conference eligibility date:
  - Violation that was sexual in nature;
  - Involved assaultive behavior or included a credible threat to cause bodily injury to another;
  - Involved possession or control of a weapon;
  - The defendant absconded and cannot be safely diverted from total confinement;
  - There exists an identifiable threat to public safety and the defendant cannot be safely diverted through less restrictive means;
  - Involved intentional and unexcused failure to adhere to programming or conditions on more than three occasions and the defendant cannot be safely diverted through less restrictive means.
- **Termination of probation is prohibited** if a defendant committed any technical violation within six months of the probation review conference.
  - If the person is ineligible for a scheduled review conference as a result of a technical violation, then if all other conditions are satisfied, a probation review conference will be held 6 months after the date that the technical violation occurred.

<sup>17</sup> [Pa.C.S. § 9771\(a\)](#).

- **Termination of probation is prohibited** if a defendant was convicted of a misdemeanor or felony offense committed while either incarcerated or serving probation.
- Probation shall be terminated, **unless**:
  - The conduct of the defendant creates an identifiable threat to public safety, including consideration of whether the defendant is the subject of an active [protection from abuse order](#) or an active [protection from intimidation order](#);
  - The defendant has failed to complete all mandated treatment (which is often paid out of pocket by the defendant and can be quite expensive, e.g. \$75/class for anger management classes, \$1000+ for DUI stipulations, etc.);
  - The defendant has failed to pay the total amount of restitution owed.
- **Accelerated review conference:** Defendants can reach the eligibility date for their probation review conference sooner by:
  - 6 months for successfully completing a high school diploma or GED; an associate's, bachelor's, or graduate degree; or a vocational or occupational license, certificate, or program; or
  - 2 months credit for every 6 consecutive months served on probation without a violation; 2 months for every 6 consecutive months where the defendant works at least 80 hours per month; or 2 months for every 6 consecutive months that a defendant completes at least 80 hours per month community service (approved by the Pennsylvania Commission on Crime and Delinquency), not to exceed a total of 6 months credit.
- **Probation after parole:** If a defendant serves the last 12 months of parole without violation, they would be eligible for a review conference 12 months sooner than otherwise eligible.
- **Probation status report:** Early termination must be recommended by the probation officer in a status report filed 30 days before a review conference and is subject to objections by the district attorney and/or victim(s).

#### **Why this will have little to no effect on reducing the length of probation terms:**

- **'Review conferences' do not create anything that is not already available under current law:** Review conferences would, at most, have a minimal impact, and should not be considered in any way a substitute for probation caps or automatic early termination. Far simpler and more effective means exist to reduce a sentence of probation. And the "incentives" offered under SB 913 (e.g. good behavior or vocational degrees) fail to reduce probation sentences; they merely reduce the time until a defendant reaches the 3- or 5-year mark for a review conference (assuming they are even eligible).
- **3 and 5 years is far too long to wait for an initial review:** All available data on probation shows that supervision is increasingly ineffective after 1 to 2 years.<sup>18</sup> Why wait so long for a review? Why not provide the first review at 12, 18, or even 24 months?
- **SB 913 would apply to almost no one:** The statewide average length for all probation sentences (felonies and misdemeanors) is 16.9 months and the average length for a felony conviction is 32.1 months.<sup>19</sup> Most people on probation for several years or more are on probation due to the *imposition of new probation terms after revocation*, not necessarily because of lengthy probation sentences. Many people will not even reach the 3 or 5 year mark for a review conference. For those who are on probation for that long, most will have had their probation revoked and extended due to a violation. And because SB 913 prohibits terminating probation for technical violations, the probation review conferences will have little to no impact on getting people off probation early.
- **Explicitly prohibits termination of probation:** The review conferences under SB 913 are narrowly applicable—they are categorically denied to some and conditional for others. Worse, SB 913 would

<sup>18</sup> See Columbia University Justice Lab, [The Pennsylvania Community Corrections Story](#) (April 2018); Pew Charitable Trusts: [States Can Shorten Probation and Protect Public Safety](#) (December 2020); [Comprehensive Policies Can Improve Probation and Parole](#) (April 2020) and Council of State Governments, [50-State Report on Public Safety](#), among many others.

<sup>19</sup> Pennsylvania Commission on Sentencing, [2019 Annual Report](#), Tables 6 and 6a.

deny early termination to those who committed a technical violation prior to their review conference, which **fatally undermines any argument that the probation review conferences offer “presumptive termination” of probation.**

- **Invites challenges to the court’s authority to terminate probation:** By prohibiting termination for those who violate one of the six criteria under § 9771, SB 913 risks interfering with the court’s inherent power to terminate probation under [§ 9771 \(a\)](#): “The court has inherent power to at any time terminate continued supervision, lessen the conditions upon which an order of probation has been imposed or increase the conditions under which an order of probation has been imposed....” Although SB 913 reiterates the court’s inherent power to terminate,<sup>20</sup> prohibiting the termination of probation could be interpreted as an attempt to limit judges’ “inherent power” via legislation.
- **May justify denying petitions for early termination:** Despite language affirming a defendant’s existing right to file for early termination,<sup>21</sup> some judges might use the review conference provision as justification/permission to deny petitions for early termination and instead wait 3-5 years for a review conference.
- **‘Review conferences’ appear to function as hearings, but without a guarantee to counsel:** Instead of simply considering whether or not to terminate probation, the “review conferences” include processes that make them operate more like revocation hearings.<sup>22</sup> Hearings that expose people to revocation and incarceration must provide public defense or court-appointed counsel. However, SB 913 says nothing about counsel’s presence, leaving it to the already cash-strapped counties to fill this gap and ensure the appointment of counsel. **Creating additional adversarial processes without a meaningful guarantee of counsel undermines due process and will make revocation and incarceration even MORE likely.**
- **More restrictive than what other counties are currently doing:** For example, the [Philadelphia district attorney’s office](#) has issued guidance that prosecutors will consent to an early termination of probation petition at 6 months for misdemeanors and 18 months for felonies for most charges, as long as the defendant remains free of a new conviction during that time. And in York County, the [county probation department](#) and [district attorney’s office](#) cooperate to automatically terminate probation at 2 years or at the halfway mark of the person’s probation sentence for those with no violations and all conditions met.

### SB 913 squanders a rare opportunity to meaningfully improve probation in Pennsylvania.

Any probation reform bill should, at a minimum, either limit probation sentences or reduce the amount of time people spend on probation. If that is the goal, SB 913 fails to achieve it.

SB 913 risks making probation **worse** in Pennsylvania by making dangerous changes to current law that will likely result in more people incarcerated after violating probation, longer pretrial incarceration for probation detainees, and keeping poor people on probation indefinitely until they can pay their restitution in full. In exchange, the core “reforms” proposed under SB 913—limits on incarceration following revocation and probation review conferences —will have little to no effect on most people on probation.

**For these reasons, we urge you to oppose Senate Bill 913.**

<sup>20</sup> [SB 913 PN 1282](#), page 15, line 14 through page 16, line 3.

<sup>21</sup> *Ibid.*

<sup>22</sup> “NO DEFENDANT SHALL HAVE THE DEFENDANT’S PROBATION TERMINATED AT A PROBATION REVIEW CONFERENCE [...], IF: A court determines AT THE PROBATION REVIEW CONFERENCE by a preponderance of the evidence that the defendant committed [a technical violation].” [SB 913 PN 1282](#), page 12, lines 2-6; and lines 21-26.