

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

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.

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 Pennsylvania's probation system operate together?

Probation in Pennsylvania is an incredibly complicated and convoluted system. Elements of the process operate individually to make the system overly punitive and disproportionately burdensome for those who can least afford it. But it also works systemically to mutually reinforce and even exacerbate those punitive and inequitable outcomes. 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 sentences of probation (stacked sentences)
- Prohibit imposing probation after a period of incarceration (split sentences)
- Prohibit extending probation for people financially unable to pay fines, costs, 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 incentives and credits:

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

3. Does the bill limit the court's ability to revoke or incarcerate them 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: *Reform* conditions of probation and adjudication of technical violations of probation:

- Eliminate unreasonable conditions of probation
- Limit incarceration following a probation revocation