

Joint statement | **Opposition to Senate Bill 838 (PN 993)**

Probation was originally intended to be 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](#). Pennsylvania is clearly in desperate need of probation reform.

Unfortunately, [Senate Bill 838 \(PN 993\)](#) 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, SB 838 squanders a rare opportunity to meaningfully improve probation in PA while threatening to exacerbate the problems that drive its dysfunction. When it comes to probation, we can't make the system worse and call it reform.

Below is our assessment of Senate Bill 838.

Based on this assessment, we urge our state legislators to oppose Senate Bill 838 (PN 993).

REAL REFORM: Would proposed reforms actually 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 limit, reduce, or restrict probation terms and/or probation revocation.

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.

- x** SB 838 fails to cap the amount of time people can be sentenced to probation.
- x** SB 838 does not prohibit consecutive sentences of probation (sentences served back-to-back).
- x** SB 838 does not prohibit split sentences (sentencing someone to a probation term to be served *after* incarceration). In fact, SB 838 *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.

- x** **SB 838 fails to provide an *automatic*, or even efficient, way to terminate probation early.** Probation "review conferences" Instead, SB 838 presumes that judges will accept recommendations from probation officers, including for early termination, as long as no one objects and the person meets the eligibility requirements to even be considered for termination.
- x** Many states reduce the *length of a probation sentence* upon completion of educational or vocational achievements. SB 838 includes similar "incentives," but **SB 838 would only permit 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.**

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 incarcerating them for weeks, months, or years.

X SB 838 may be interpreted to *recommend* incarceration for certain rule-based technical violations.

SB 838 *does* limit the amount of time someone can be jailed for a first or second technical violation. However, it also enumerates a list of technical violations that warrant revocation and incarceration (some of which are the most common and routine rule violations). As such, judges may interpret the list of violations under SB 838 as **recommendations to revoke and/or incarcerate**. This would capture the vast majority of people on probation in PA without providing meaningful protections.

DO NO (MORE) HARM: Do any of the bill's provisions make current probation worse?

Any reform proposal must avoid creating new punishments or provisions that put more people in jail or prison or make an already punitive process even worse.

X SB 838 would enable 'debtors' probation.' Under SB 838, administrative probation provides for reduced supervision that only requires contact once a year, providing updated information when residence or employment changes, and no supervision fees. Following a 'probation review conference,' SB 838 would place a defendant on administrative probation if they have paid at least 50% of the restitution owed or made a good faith effort to pay. But SB 838 does not distinguish between people who are *unable* to pay and those who can pay, but have not. And because SB 838 doesn't address what happens if someone falls behind on restitution payments while on administrative probation, a judge could still revoke probation for failure to pay and resentence the defendant to a new term of "regular" (non-administrative) probation, thus trapping them on probation indefinitely.

X SB 838 would create a presumption of guilt for technical violations, making it easier to incarcerate someone, even if they are found not guilty of new charges. Under current law, 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. SB 838 is structured to take advantage of these hearings, **making it easier to revoke probation and incarcerate someone** 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 allegations* of criminal misconduct, even if the underlying charges have been dismissed.

CLEAR: 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 make successful implementation less likely and reform measures largely meaningless.

X SB 838 would create 'probation review conferences' to consider early terminations of probation.

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. By contrast, SB 838 creates 'probation review conferences,' which are difficult to navigate and limited by numerous exceptions and conditions. It's a process that needlessly complicates an already complex system and distracts from tackling the core problems of our broken probation system.

We, the undersigned, urge our state legislators to oppose Senate Bill 838 (PN 993):

Signatories to Joint Statement in Opposition to Senate Bill 838 (PN 993)

Organization	Name	Title
1 1Hood	Miracle Jones	Director of Policy & Advocacy
2 7'G's	Regina Ennis	Secretary/Treasurer
3 Abolitionist Law Center	Robert Saleem Holbrook	Executive Director
4 ACLU of Pennsylvania	Elizabeth Randol	Legislative Director
5 Alyssa Rodriguez Center for Gender Justice	Pooja Gehi	Co-Founder
6 Amistad Law Project	Sean Damon	Organizing Director
7 Casa San Jose	Monica Ruiz	Executive Director
8 Central Pennsylvania National Lawyers Guild	Leslie Herrmann	Secretary
9 Coalition for Parole Justice	Reuben Jones	Campaign Lead
10 Covenant Training Service	Josanne Ford	Owner/Founder
11 Dauphin County Bail Fund	John Hargreaves	Executive Director
12 Defender Association of Philadelphia	Kate Parker	Director of Policy and Practice
13 Dignity Act Now Collective	Rachel Santiago	Co-Founder
14 Dignity and Power Now	Reuben Jones	Co-Founder
15 Educating Communities for Parenting	Anita Kulick	President & CEO
16 Family Solutions CDC	Anna Grant-Borden	President
17 Forward Allies	Maria Salazar	Community Engagement Manager
18 Frontline Dads	Reuben Jones	Executive Director
19 Germantown Mennonite Church	Rev. Jay Bergen	Pastor
20 Greene Key Consulting, LLC	Marcus H Greene, Sr.	President/CEO
21 Hope and Help Network	Marian Stroup	Director/Co-Founder
22 House Of Houetchi	Nan Dannon Sechemin	Queen Mother
23 Human Rights Coalition	Patricia Vickers	Finance Administrator
24 Incarcerated Women Working Group–Now We Rise	Yvonne L. Sawyer	Member
25 Legal Services for Prisoners with Children–All of Us Or None	Jeronimo Aguilar	Policy Analyst
26 Liberty Resources	Christina Morton	NHT Coordinator
27 Maternity Care Coalition	Sara Jann	Director of Policy & Advocacy
28 New Voices for Reproductive Justice	Kelly Davis	Executive Director
29 North Broad Renaissance	Shalimar Thomas	Executive Director
30 PA Harm Reduction Network	Carla Sofronski	Executive Director
31 PENNfranchise Project	Leigh Owens	Executive Director

32	Pennsylvania Alliance of Recovery Residences	Fred Way	Executive Director
33	Pennsylvania Stands Up	Pele IrgangLaden	Organizing Director
34	People's Paper Co-op	Courtney Bowles	Co-Director
35	Philadelphia Bail Fund	Fred Ginyard	Director of Organizing and Community Engagement
36	Philadelphia Justice Project for Women & Girls	Jill McCorkel, Ph.D.	Executive Director
37	Philadelphia Lawyers for Social Equity	Renee Chenault Fattah	Executive Director
38	Philadelphia Reentry Think Tank	Mark Strandquist	Co-Director
39	Philly Muslim Freedom Fund (PMFF)	Imrul Mazid	Core Organizer
40	Public Defender Association of Pennsylvania (PDAP)	Sara Jacobson	Executive Director
41	Restorative Norristown	Maati Y Platts	PeaceKeeper/Trainer
42	Sankofa Healing Studio	Jacqui Johnson	Clinical Director
43	Sisters Returning Home	Peggy Sims	Director
44	Straight Ahead	Robert Saleem Holbrook	Executive Director
44	SWAG (Sisters With A Goal)	Faith Bartley	Co-Founder
45	Take Action Advocacy Group	Fawn Walker Montgomery	CEO
46	Unitarian Universalist Justice PA	Rev. Joan Sabatino	Director
47	Unity Recovery	Joaquin Serrano	Peer Specialist
48	Why Not Prosper	Kaleyna Tabb	Director of Case Management & Community Partnerships
49	Why Not Prosper Workforce Academy	Josanne M Ford	Education Coordinator
50	Women's Way	Diane Cornman-Levy	Chief Disruptor