

Reforms for a Smarter Probation System and Safer Streets

KEY POINTS

- By failing to fully align with research-based best practices, Pennsylvania’s probation system sends too many individuals to prison instead of community rehabilitation.
- Unlike most states, Pennsylvania probation terms can last for years, running the maximum allowed in state law for the offense committed. The resulting abnormally long probation periods both ineffectively discourage crime and divert probation officers from concentrating services on high-risk and -needs individuals.
- Between two-thirds and three-quarters of Pennsylvania voters support probation reform.
- By right-sizing probation terms, legislation to reform the state probation system can take a step toward improving public safety.

PENNSYLVANIA’S PROBATION POLICIES TRAIL OTHER STATES

Probation is a period of court supervision ordered instead of—or in addition to—a prison or jail sentence. Unlike parole imposed on individuals released from prison, the county-based probation system aims to better serve individuals who commit lower-level offenses, such as non-violent crimes like driving under the influence or illegal drug possession.

By helping these individuals maintain work and stay in their communities, probation has helped drive down incarceration while maintaining public safety. Yet, Pennsylvania’s probation system has become overburdened, keeping individuals on probation for years despite well-established research connecting long probation sentences to higher rates of recidivism.¹

¹ Harvard Kennedy School, “Toward an Approach to Community Corrections for the 21st Century,” (July 2017), https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/Consensus_Final2.pdf; Cecelia Klingele, “Rethinking the Use of Community Supervision,” *The Journal of Criminal Law and Criminology* (2013), <https://scholarlycommons.law.northwestern.edu/jclc/vol103/iss4/1/>; PEW Trusts, “State Can Shorten Probation and Protect Public Safety” (December 2020), <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety#:~:text=The%20national%20average%20probation%20term,to%20five%20years%2C%20in%20Hawaii>; Michael P. Jacobson et al. “Less is More: How Reducing Probation Populations Can Improve Outcomes,” Harvard Kennedy School (August 2017), https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/less_is_more_final.pdf.

Pennsylvania had over [95,700 individuals](#) on probation in 2021. This reflects a 15% annual decline, in line with national trends and reversing a 12% increase in calendar year 2020.² Of note, 2020 anomalies—both altered state reporting methods and the COVID-19 pandemic’s impacts on criminal justice statistics—requires a focus on long-term state trends. Despite Pennsylvania’s probation rate dipping below the national average to rank middle among states in 2021, it traditionally ranked around [eleventh highest](#) in the years preceding the COVID-19 pandemic and reporting changes.³

Too often, these probationers end up in prison. Probation violations account for up to [one-quarter of prison admissions](#), with low estimates placing the associated prison costs at [\\$334 million](#) annually.⁴

Several factors drive the probation population and high recidivism rates.

- **Long probation sentences.** Pennsylvania is an anomaly in allowing probation terms to equal the statutory maximum for a person’s offense, meaning a probation term could last decades in contrast to the [over 30 states](#) capping probation at five years or less.⁵ Research show most individuals who reoffend typically do so within the first two years of probation, and continuous supervision of individuals with low risk of reoffending actually [increases](#) their likelihood of rearrests.⁶
- **Excessive punishment for technical violations.** Probationers can be imprisoned, or have their probation extended, for committing noncriminal technical violations such as missed meetings or minor traffic offenses. Long probation sentences can increase the chances for technical violations, extending probation beyond its effectiveness and making activities like getting a job more difficult—feeding the revolving door of incarceration and crime.
- **Large caseloads for probation officers.** The long length of probation terms also burdens probation officers with difficult-to-manage caseloads. Statewide, probation officers have an average caseload of 105 probationers—double what’s recommended by the American Probation and Parole

² U.S. Department of Justice, “Probation and Parole in the United States, 2021” (February 2023), <https://bjs.ojp.gov/library/publications/probation-and-parole-united-states-2021>; U.S. Department of Justice, “Probation and Parole in the United States, 2020” (December 2021), <https://bjs.ojp.gov/content/pub/pdf/ppus20.pdf>. The 2021 probation rate was roughly 9.4/1,000 residents.

³ U.S. Department of Justice, “Probation and Parole in the United States, 2020” (December 2021), <https://bjs.ojp.gov/content/pub/pdf/ppus20.pdf>; U.S. Department of Justice, “Probation and Parole in the United States, 2019” (July 2021), <https://bjs.ojp.gov/content/pub/pdf/ppus19.pdf>. In 2020, reporting changes resulted in a decrease of 72,254 people on probation from December 31, 2019 to January 1, 2020.

⁴ The Council of State Governments Justice Center, “50-State Data on Public Safety,” (March 2018), https://50statespublicsafety.us/app/uploads/2018/06/PA_FINAL.pdf; The Council of State Governments Justice Center, “Confined and Costly: How Supervision Violations are Filling Prisons and Burdening Budgets,” (June 2019) <https://csgjusticecenter.org/publications/confined-costly/?usState=PA#primary>.

⁵ The Council of State Governments Justice Center, “50-State Data on Public Safety,” (March 2018), https://50statespublicsafety.us/app/uploads/2018/06/PA_FINAL.pdf.

⁶ Harvard Kennedy School, “Toward an Approach to Community Corrections for the 21st Century,” (July 2017), https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/Consensus_Final2.pdf.

Association.⁷ Officers struggle to prioritize time and resources on the highly intensive cases where they are most needed.

The state should not ignore probation violations, but it also should avoid imprisoning individuals for non-criminal technical violations at a cost of roughly \$50,000 per inmate per year.⁸ For individuals across Pennsylvania, probation can destabilize families for years. For instance, a woman serving a ten year probation terms summarized her struggles:

“I have been at the county office 84 times. Sometimes I wait hours before being seen, making me late to work. I’ve been denied jobs for still being on probation even though my record is from seven years ago! I have three children all under the age of five. So it is already a hassle for me to provide sufficiently for them. And I have over \$9,000 left in fines.”⁹

PROBATION REFORMS TO IMPROVE PUBLIC SAFETY

Already, “smart-on-crime” policies such as the Justice Reinvestment Initiative (2012 and 2019) and Clean Slate (2018) record clearing have improved public safety and reduced incarceration. Consistently, both crime and incarceration fell following these measured reforms. For instance, between 2012 and 2018, state crime rates decreased by nearly 30 percent simultaneous to a 7.5 percent inmate population decrease.¹⁰ While more recent, reliable statewide crime data is currently unavailable, the incarceration rate reached a 20-year low in December 2021, driven by both decreased prison entries and lower recidivism.¹¹

Research-based probation reform is the next step in effective criminal justice reform. To most effectively reduce crime and incarceration, state legislation should ideally incorporate the following elements of research-based reform.¹²

⁷ Ron Southwick, “Pa. Lawmakers Push Again to Change Probation System, But Can They Get It Done?” PennLive (October 2021), <https://www.pennlive.com/news/2021/10/pa-lawmakers-push-again-to-change-probation-system-but-can-they-get-it-done.html>; Dave Sunday, Testimony for Senate Judiciary Committee, Pennsylvania District Attorneys Association (September 2021), <https://judiciary.pasenategop.com/wp-content/uploads/sites/42/2021/09/David-Sunday-York-Co-DA-Probation-Reform-Testimony-9-20-21.pdf>; April Billet-Barclay, “The Pa. Legislature must do better on probation reform next session,” Pennsylvania Capital-Star (October 2020), <https://www.penncapital-star.com/criminal-justice/the-pa-legislature-must-do-better-on-probation-reform-next-session-opinion/>.

⁸ Gary Zajac et al., “Estimated Costs to the Pennsylvania Criminal Justice System Resulting from the Opioid Crisis,” AJMC (July 2019), <https://www.ajmc.com/view/estimated-costs-pennsylvania-criminal-justice-system-from-the-opioid-crisis>.

⁹ FAMM, “Pennsylvanians for Probation Reform: Probation Stories,” <https://famm.org/wp-content/uploads/FAMM-PA-Probation-Stories.pdf>.

¹⁰ “Criminal Justice Crime Trends,” Pennsylvania Commission on Crime and Delinquency, <https://pacrimestats.info/CrimeTrendDashboard.aspx>; “Crime in Pennsylvania,” Uniform Crime Reporting System, Office of the Attorney General, <https://www.attorneygeneral.gov/open-data-urc-crimes-overview/>; “Crime Data Explorer” Federal Bureau of Investigation, <https://crime-data-explorer.app.cloud.gov/pages/home>; “Department of Corrections Budget Testimony,” Pa. Department of Corrections (February 2020), <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Budget%20Documents/Budget%20Testimony%202020-21.pdf>.

¹¹ “Department of Corrections Budget Testimony,” Pa. Department of Corrections (2022), <https://www.cor.pa.gov/About%20Us/Statistics/Documents/Budget%20Documents/Budget%20Testimony%202022-23.pdf>.

¹² Such reform proposals can be found in Pennsylvania Senate Bill 14 and House Bill 1555 of 2019-2020 as originally filed.

- **Capping probation terms.** To align length of probation within research-based timeframes, state law should limit probation terms to five years for a felony and three years for a misdemeanor.
 - The court would further be prohibited from stacking probation sentences consecutively or imposing a probation “tail” to a prison sentence, practices that counteract the purpose of probation to avoid incarceration for lesser crimes in which community supervision proves more effective.
 - The federal crimes code already limits probation terms to five years and also allows for [early termination of probation](#).
 - Similarly, states like [Georgia](#), Louisiana, [Montana](#), and [Texas](#) have short probation terms and low crime rates.
 - Locally, [York County Probation Department](#) allows individuals in good standing to request an early end to their probation after serving two years or 50 percent of their sentence. Those granted early termination had a 5 percent recidivism rate compared to 27 percent of the general supervised population. Further, the county has cut its supervised population from 12,000 to 7,000 since the reforms, with drops in both arrests and violation reports.¹³

- **Altering technical violation conditions and penalties.** This reform implements graduated sanctions for technical violations, limited to a maximum 30 days of imprisonment. Research shows it is not the severity of a sanction, but its immediacy that can mitigate further violations, particularly when combined with incentives, as outlined below.¹⁴
 - Removing several counterproductive conditions on probation—that a probationer cannot travel outside their home county or go to “disreputable places” or visit “disreputable persons”—can reduce the likelihood an individual will return to prison when not committing another crime.

- **Limiting the length of incarceration for a probation violation.** State law should restrict imprisonment to be a penalty for only new misdemeanor convictions (capped at six months imprisonment), new felony convictions (making available the original sentencing options), or when it’s likely a probationer will commit another crime and no other condition would decrease that likelihood (limited to 30 days imprisonment).

¹³ “Celebrating Innovative Supervision Leaders During PPPS Week,” Arnold Ventures (July 2023), <https://www.arnoldventures.org/stories/celebrating-innovative-supervision-leaders-during-ppps-week>.

¹⁴ Pew Trusts, “Policy Reforms Can Strengthen Community Supervision,” (April 2020), <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/04/policy-reforms-can-strengthen-community-supervision> ; The Council of State Governments Justice Center, “50-State Data on Public Safety,” (March 2018), https://50statespublicsafety.us/app/uploads/2018/06/PA_FINAL.pdf.

- Further, the court should no longer be allowed to extend probation simply to “vindicate the authority of the court,” which currently gives the judge broad latitude to arbitrarily incarcerate individuals outside any set guidelines.
 - Probation should not be extended solely for a failure to pay a fine, court cost, or restitution if the defendant is unable to pay.
- **Incentivizing and rewarding probation compliance.** Individuals who successfully complete 18 months of probation should qualify for early termination of their sentence.¹⁵
- Individuals could further earn time off their sentence. For every calendar month successfully completed, an individual could earn 14 days off their sentence (excluding those convicted of sexual offenses). Probationers could also earn 90 days off their term for completing a high school diploma, GED, or certified vocational, technical, or career education or training program.
 - In 2012, Missouri instituted a policy known as “[earned discharge](#),” which allows defendants to serve shorter terms if they comply with all conditions. As a result, 36,000 probationers and parolees reduced their terms by an average of 14 months, and officer caseloads fell by 18 percent.¹⁶ Similarly, probationers are taking advantage of a [reform](#) in Georgia allowing defendants to end their probation terms early if they comply with conditions.¹⁷

SAVINGS AND VOTER SUPPORT FOR PROBATION REFORM

Probation reform is estimated to produce roughly [\\$7 million dollars](#) in annual savings for the commonwealth and its counties.¹⁸ Smart spending will pay dividends for years to come, as research shows that simply [focusing resources](#) on the higher-risk individuals early on [decreases](#) the likelihood of reoffending.¹⁹

¹⁵An alternative merit time reform as proposed in House Bill 1555 of 2019-2020: probationers who complete one half of the original probation sentence or two years, whichever is later, would qualify to reduce or terminate the period or conditions of probation, as long as the person is not delinquent in paying fines, costs, and restitution and has completed court-ordered counseling or treatment. If the court does not terminate probation, the court must review the person’s record every two years after that if the person is not later convicted of a felony or misdemeanor.

¹⁶ Pew Trusts, “Missouri Policy Shortens Probation and Parole Terms, Protects Public Safety” (August 2016), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/08/missouri-policy-shortens-probation-and-parole-terms-protects-public-safety>.

¹⁷ Erika Curtis, “Achieving Criminal Justice Reform in the South,” Saporta Report (July 2021), <https://saportareport.com/achieving-criminal-justice-reform-in-the-south-georgia-justice-project-and-sb-105/thought-leadership/community-foundation-for-greater-atlanta/>; Senate Bill 105, 2021-2022 Regular Session, Georgia General Assembly, <https://www.legis.ga.gov/legislation/59433>.

¹⁸ Fiscal Note Senate Bill 613, Pennsylvania General Assembly (2021), <https://www.legis.state.pa.us/WU01/LI/BI/SFN/2021/0/SB0913P1144.pdf>.

¹⁹ Vincent Schiraldi, “The Pennsylvania Community Corrections Story,” Columbia University Justice Lab, (April 2018), <https://justicelab.columbia.edu/sites/default/files/content/PACCommunityCorrections4.19.18finalv3.pdf>; The Council of State Governments Justice Center, “50-State Data on Public Safety,” (March 2018), https://50statespublicsafety.us/app/uploads/2018/06/PA_FINAL.pdf.

Most people also agree the system requires reform. Polling shows that between [two-thirds](#) and [three-quarters](#) of Pennsylvanian voters support this type of probation reform.²⁰

Pennsylvania's long probation sentences are costly. Moreover, they do not contribute to—and may undermine—public safety. Reforms to right-size the length of probation and reduce the barriers to rehabilitation can protect Pennsylvania's communities while saving taxpayer dollars.

²⁰ Pennsylvania Statewide Reform Alliance, “Key Findings Memo,” Harper Polling (January 2020), <https://www.scribd.com/document/443508956/20-01-PA-Statewide-Reform-Alliance-Key-Findings-Memo-1>. Justice Action Network, “Pennsylvania Statewide Poll Results,” Public Opinion Strategies (September 2019), https://www.commonwealthfoundation.org/docLib/20200522_JusticeActionNetworkCJRPoll2019.pdf?t=5/22/2020%2010:28:29%20AM.