

Improving Probation and Alternatives to Incarceration in New York State:

**INCREASING PUBLIC SAFETY &
REDUCING SPENDING ON PRISONS AND JAILS**

February 2013

*This project is a partnership between the
Council of State Governments Justice Center and the
New York Division of Criminal Justice Services*

Building on Probation's Strong Foundation

2012. Deputy Secretary for Public Safety, Liz Glazer, requests a review of New York's Probation and ATI system.

New York has a strong probation and ATI system.

- ✓ Between 2002 and 2011, the percentage of adults on probation who were **rearrested declined 31 percent.**
- ✓ New York has a robust community of ATIs, who have largely been successful in reaching and treating clients with a high risk of recidivism.

New York state and counties spend **\$280 million** each year to supervise **117,000 probationers**.

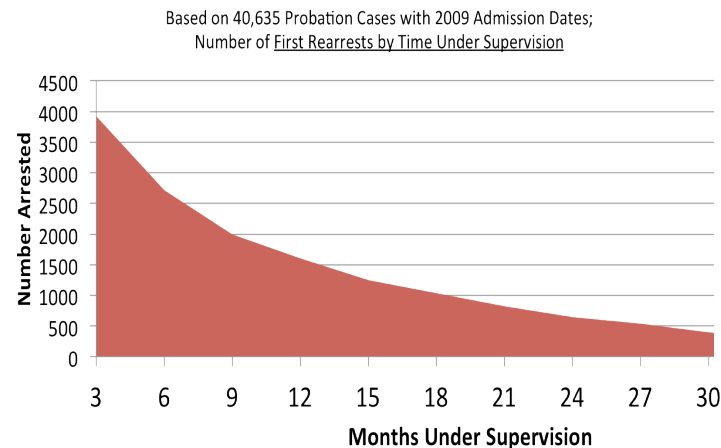
When probationers fail on supervision, New York state and counties spend approximately **\$100 million on jail and prison costs**.

- ✓ More than **one out of every six** (17 percent) adults admitted to prison committed a crime or a condition violation while **under probation supervision**.
- ✓ Approximately 6,100 probationers were resentenced to jail in 2011 because they committed a new crime or violated conditions of probation while under supervision.
- ✓ In New York City, 80 percent of probationers successfully completed probation; probationers in the rest of the state had a 65 percent success rate.

New York statutes **require probationers to be supervised longer** than many other states:

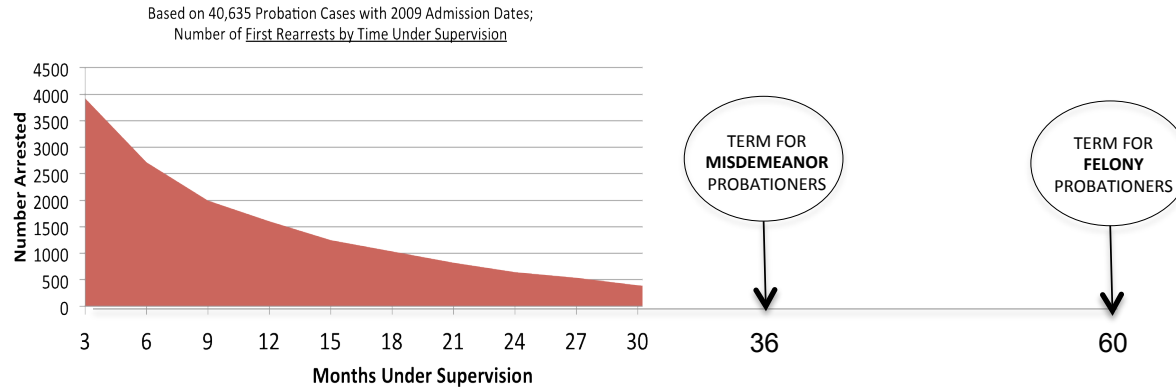
- ✓ Felony probation terms are fixed at 5 years in New York.
Other states typically give judges discretion to set terms between 2-5 years.
- ✓ Misdemeanor probation terms are fixed at 3 years in most cases, 1 year in others.
Other states set terms of 6 months to 24 months.

New York's longer probation sentences tie up probation supervision resources on individuals long after they are likely to be rearrested.



1. Reduce Probation Terms

BACKGROUND



Most probationers who will be rearrested do so during the first 6-12 months on supervision, limiting the value of the much longer supervision terms required by New York’s current statutes.

PROPOSAL

Offense Level	Current	Proposed
Felony A	5 years	3, 4, or 5 Years
Felony B	5 years	3, 4, or 5 Years
Felony C	5 years	3, 4, or 5 Years
Felony D	5 years	3, 4, or 5 Years
Felony E	5 years	3, 4, or 5 Years
Misdemeanor A	3 years	2 or 3 Years
Uncl. Misdemeanor	3 years	2 or 3 Years
Misdemeanor B	1 year	No change

IMPACT

Proposal will reduce probation population by **8,305** by 2018 which will strengthen probation by reducing caseloads and contribute to reductions in reconvictions.

2. Eliminate PSI Requirement for cases facing 1 year or less

BACKGROUND

24,000 PSIs are completed each year for individuals facing jail sentences of one year or less.

6.3 HRS Each PSI takes an average of 6.3 hours to complete

PROPOSAL

Eliminate the mandate that PSIs must be conducted whenever someone is facing a jail sentence of one year or less, but ensure the court still has the option to order a PSI when it is appropriate.

IMPACT

151,200 HRS

PROBATION OFFICER HOURS SAVED BY
ELIMINATING THIS REQUIREMENT

These hours should be reallocated to strengthen probation by increasing supervision for higher-risk probationers.

3. Require counties develop swift, certain, graduated responses

BACKGROUND

69% of probation revocations are for technical violations.

1/3 of probation departments reported that they do not have a written policy defining their department's use of graduated sanctions (CSG Justice Center Survey, 2012)

PROPOSAL

Require counties to develop swift, certain graduated responses to hold probationers more accountable and provide them the authority to address non-compliance.

> For certain sanctions (in-patient treatment, house arrest, curfew, 1-3 day jail stay) establish an expedited process to allow probation and the court to respond swiftly to noncompliance.

> For other sanctions that are more restrictive (GPS, incarceration, extension of probation terms, within 90 days), follow standard VOP process (i.e within 90 days).

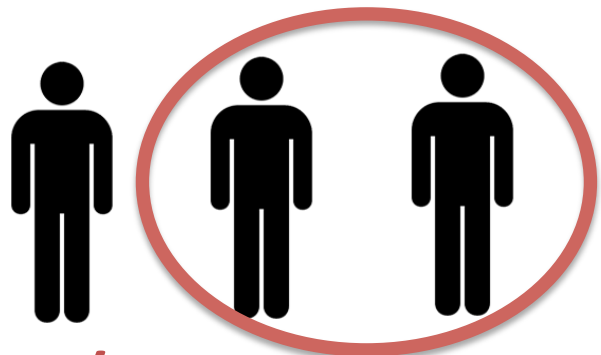
Sanction/Incentive	Imposed Administratively and Filed With Court	Expedited Judicial Approval Beforehand	Requires Standard Judicial Approval Beforehand
Increase or decrease level of supervision	X		
Official written reprimand/warning	X		
Increase or decrease in frequency of reporting	X		
Change in treatment provider	X		
Increase or decrease in drug/alcohol testing	X		
Probation Violation Residential Center	X		
Community Service	X		
Requirement to enter drug/alcohol tx	If outpatient	If inpatient	
House Arrest (Impose or Release)		X	
Curfew (Establish or Remove)		X	
1-3 day jail stay		X	
Restrict or allow movement (i.e. GPS)			X
Incarceration - Up to 90 days in jail			X
Extension of probation term			X

IMPACT

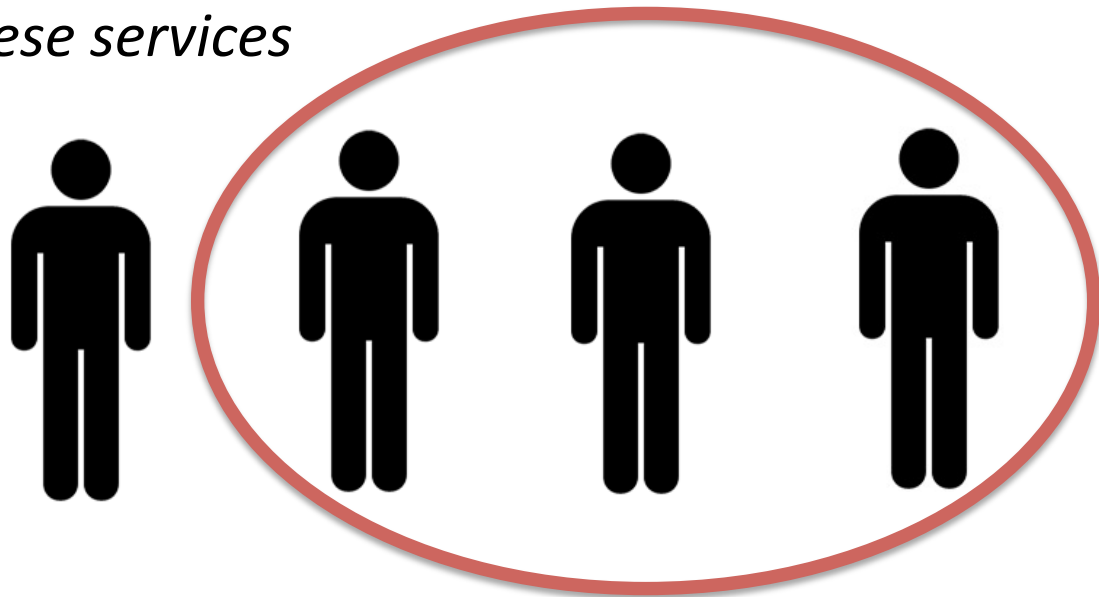
Strengthen probation and contribute to reductions in reconvictions.

4. Reinvest and Improve ATIs/Risk Reduction Programs

Intensive community-based services are not always available for people who might otherwise be incarcerated (i.e. felony cases) or who would benefit from these services (i.e. higher risk cases).



2/3 OF ALL ATI PROGRAM PARTICIPANTS
ARE **LOW RISK**



75% OF ALL ATI PROGRAM DISCHARGES
ARE **MISDEMEANORS**

4. Reinvest and Improve ATIs/Risk Reduction Programs

BACKGROUND

33% (10,318) of all probationers are reconvicted within 5 years.

PROPOSAL

Reinvest \$5 M/year of state savings in effective, risk-reduction programs in order to achieve a 10% reduction in reconvictions over 5 yrs. through policies strengthening probation:

- Reduced caseloads (probation terms + PSI policy)
- Graduated responses
- Improvements in ATIs + targeting resources to high risk offenders

10%



1,032

REDUCTION IN RECONVICTIONS
OVER 5 YEARS

FEWER RECONVICTIONS
by 2019

IMPACT

\$3.8 Million
ANNUAL PRISON SAVINGS
FULLY REALIZED IN 2019

\$4.5 Million
ANNUAL JAIL SAVINGS FULLY
REALIZED IN 2019

	2015	2016	2017	2018	2019
Percent Recidivism Reduction	2%	4%	6%	8%	10%
Avoided Reconvictions	206	413	619	825	1032

5. Limit jail stays for the first resentence for technical violations and require violators return to probation supervision after release *(misdemeanor and non-violent, non-DWI felony probationers)*

BACKGROUND

\$100M Annual cost to incarceration (Prison + Jail) probationers who committed new crimes or violated supervision conditions.

1/3 or \$33 million is spent on technical probation violators alone.

PROPOSAL

First-time resentences for technical probation violators



IMPACT

\$5 Million
ANNUAL PRISON SAVINGS
FULLY REALIZED IN 2017

\$6 Million
ANNUAL JAIL SAVINGS FULLY
REALIZED IN 2017

Increase probation
population by
1,591 by 2016

	savings <small>ANNUAL SAVINGS AFTER FULL IMPLEMENTATION</small>	costs	public safety
1. Reduce length of felony probation terms from fixed 5 yrs. to a 3, 4, or 5 yr. term. Reduce length of misdemeanor terms from a fixed 3 yr. to 2 or 3 yrs.	REDUCE PROBATION POPULATION BY 8,305 BY 2018		STRENGTHENING PROBATION SUPERVISION, REDUCING CASELOADS, IMPROVING RESPONSES TO VIOLATIONS AND REINVESTING IN PROGRAMS, A 10% REDUCTION IN PROBATION RECONVICTIONS IS EXPECTED BY 2019.
2. Eliminate the Pre-Sentence Investigations (PSI) requirement for cases facing one-year of jail or less.	FREE UP 151,200 HOURS OF PROBATION OFFICER TIME EACH YEAR		
3. Require counties to develop swift, graduated responses to hold probationers more accountable	\$3.8 Million <small>ANNUAL PRISON SAVINGS FULLY REALIZED IN 2019</small>	\$4.5 Million <small>ANNUAL JAIL SAVINGS FULLY REALIZED IN 2019</small>	
4. Reinvest and improve cost-effective, risk reduction and ATI programming		\$5 Million <small>EACH YEAR 2014-2018</small>	
5. Limit jail stays for the first resentence for technical violations and require violators return to probation supervision after release (<i>misdemeanor and non-violent, non-DWI felony probationers</i>)	\$5 Million <small>ANNUAL PRISON SAVINGS FULLY REALIZED IN 2017</small> \$6 Million <small>ANNUAL JAIL SAVINGS FULLY REALIZED IN 2017</small>	INCREASE PROBATION POPULATION BY 1,591 BY 2016	



Thank You

If you have questions or would like a more detailed description of these policy recommendations, please contact:

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