



Georgia Probation and Sentencing Subcommittees

Sixth Meeting

November 1, 2016

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THE COUNCIL OF STATE GOVERNMENTS

Overview



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Recap of problem statement and data analysis

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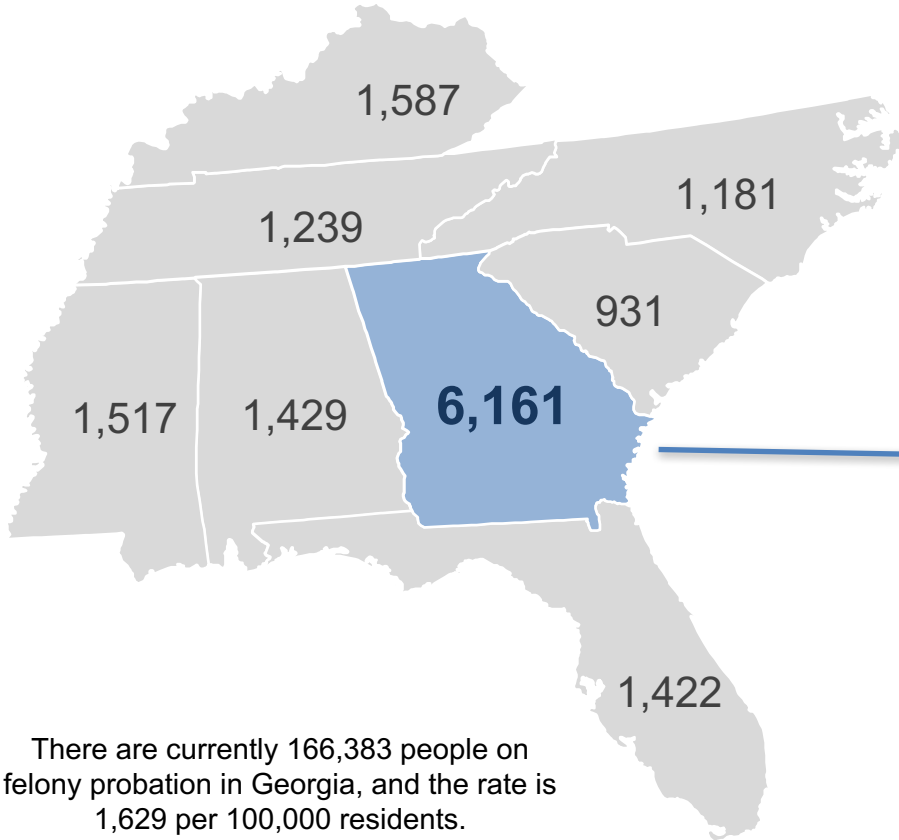
Projected impacts and five policy goals to improve Georgia's adult criminal justice system

3

Suggested reinvestments and next steps

Recap: Georgia has the highest probation rate and 8th-highest prison incarceration rate in the country

Probation Rates (misdemeanor and felony)*, 2014



Probation and Prison Rates,** 2014

Southeast States	Probation Rate	Prison Rate
Georgia	6,161	686
Kentucky	1,587	615
Mississippi	1,517	788
Alabama	1,429	820
Florida	1,422	644
Tennessee	1,239	566
North Carolina	1,181	465
South Carolina	931	552

There are currently 166,383 people on felony probation in Georgia, and the rate is 1,629 per 100,000 residents.

Comparatively, North Carolina's felony probation rate is 388 per 100,000 residents while Texas has a felony probation rate of 724 per 100,000 residents.

* Georgia's misdemeanor probation rate is counted by cases and not people

** All rates are per 100,000 adult residents, ages 18 years or older

Source: Bureau of Justice Statistics, "Prisoners in 2014", and "Probation and Parole in the US, 2014"

Recap: Two main drivers of high felony probation rate

1. Use of felony probation in lieu of incarceration, and in addition to incarceration as split sentences

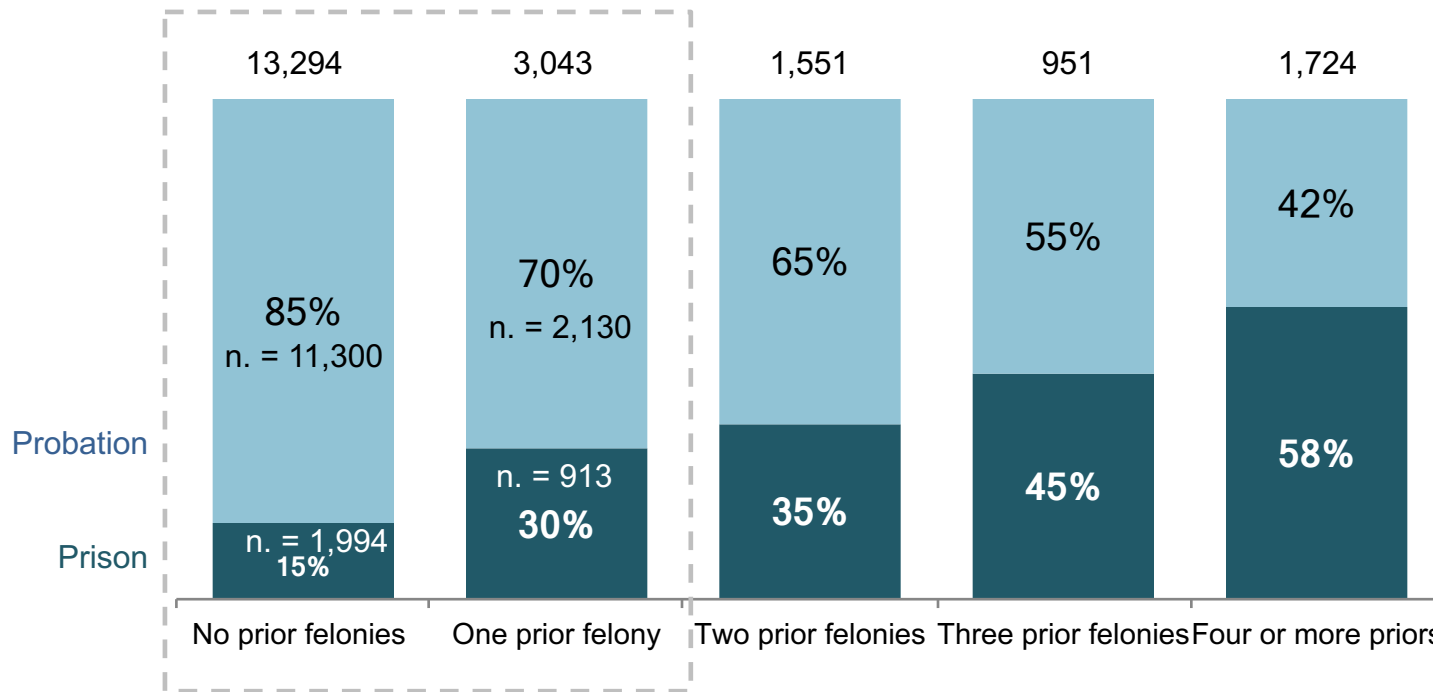
- In FY2015, 83 percent of prison admissions were split sentences

2. Lengthy felony probation terms

- The average length of direct probation sentences for felony property and drug convictions is 5 years, regardless of criminal history
- The average length of the probation portion of split sentences for felony property and drug convictions is 7.5 years, regardless of criminal history

Recap: The majority of 1st and 2nd drug and property felony convictions receive a direct felony probation sentence, but there are still close to 3,000 people that receive a prison sentence

New Placements to Probation or Prison by **Criminal History**,
by **Property and Drug Offenses**,* FY2015

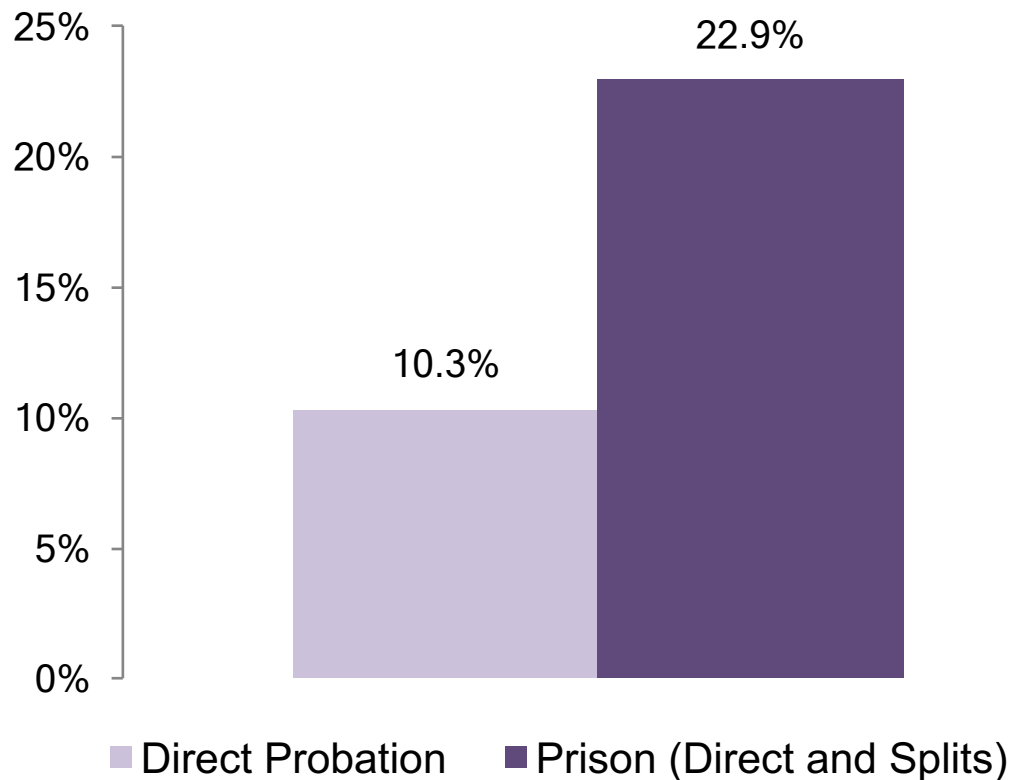


*Excludes 1st degree burglary and drug trafficking

Source: CSG Justice Center Analysis of Inmate Data and Probation Data, FY2015

Recap: People convicted of property and drug offenses with no more than one prior felony conviction who were sentenced to probation had significantly lower rates of reconviction than people sentenced to prison

Three-Year Felony Reconviction Rates
for **Property and Drug Convictions**,* FY2011–FY2013



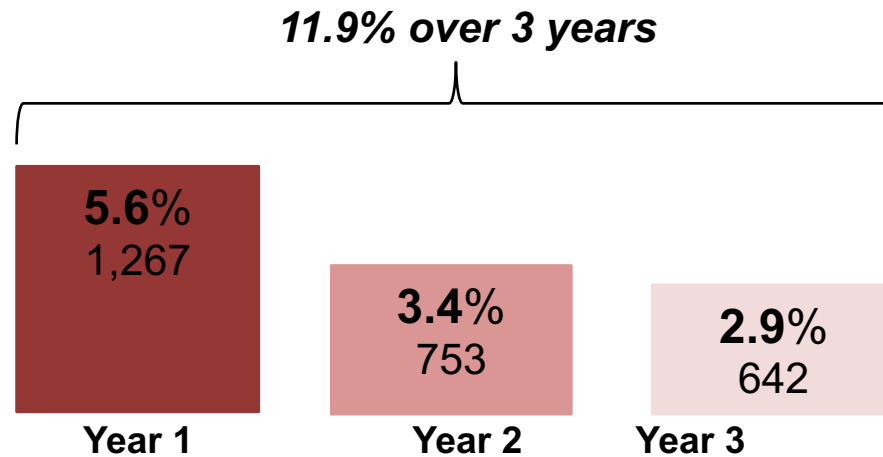
*Excludes 1st degree burglary and drug trafficking

Source: CSG Justice Center Analysis of Probation and Inmate research files

Recap: Recidivism rates for people sentenced to direct probation decrease over time, and research shows that supervision resources must be frontloaded to reduce recidivism

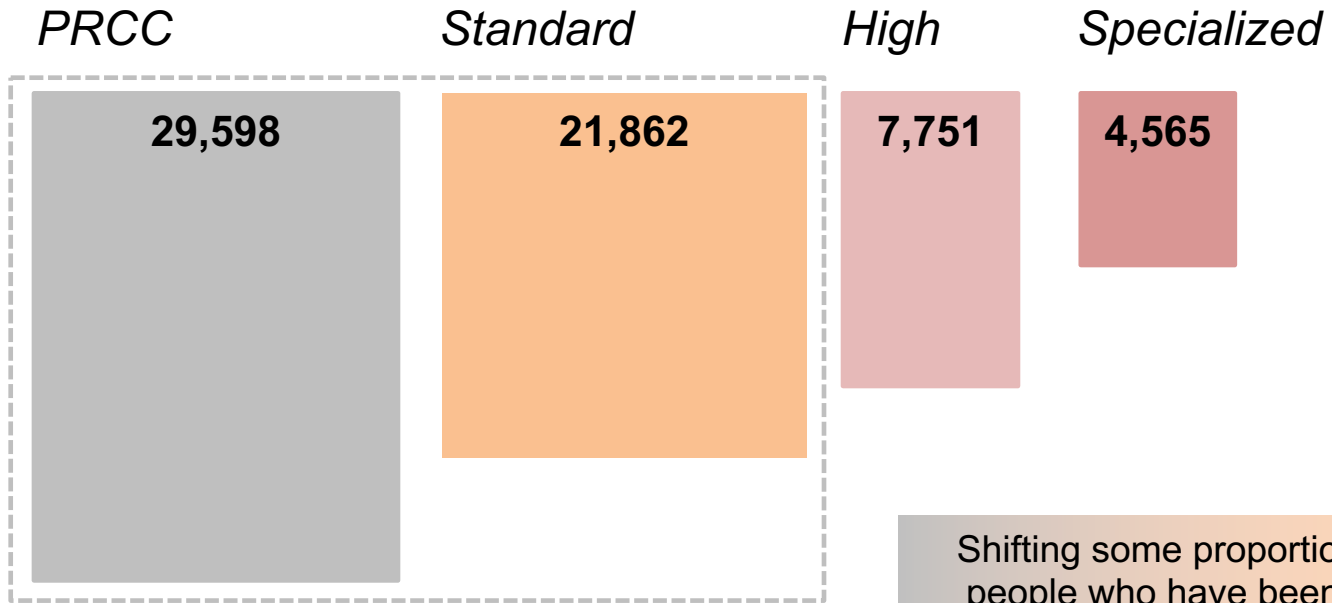
22,347
Direct to
Probation
Placements

Averages of People Sentenced to Probation with Felony Reconvictions
in first three years of supervision, FY2009 to FY2012



Source: CSG Justice Center Analysis of Probation and Inmate research files

Recap: About 50,000 people on felony probation cannot transition to unsupervised status mostly due to unpaid fines, fees, and surcharges



Over 2 years on Probation:

Sample of active cases on supervision for at least 2 years:

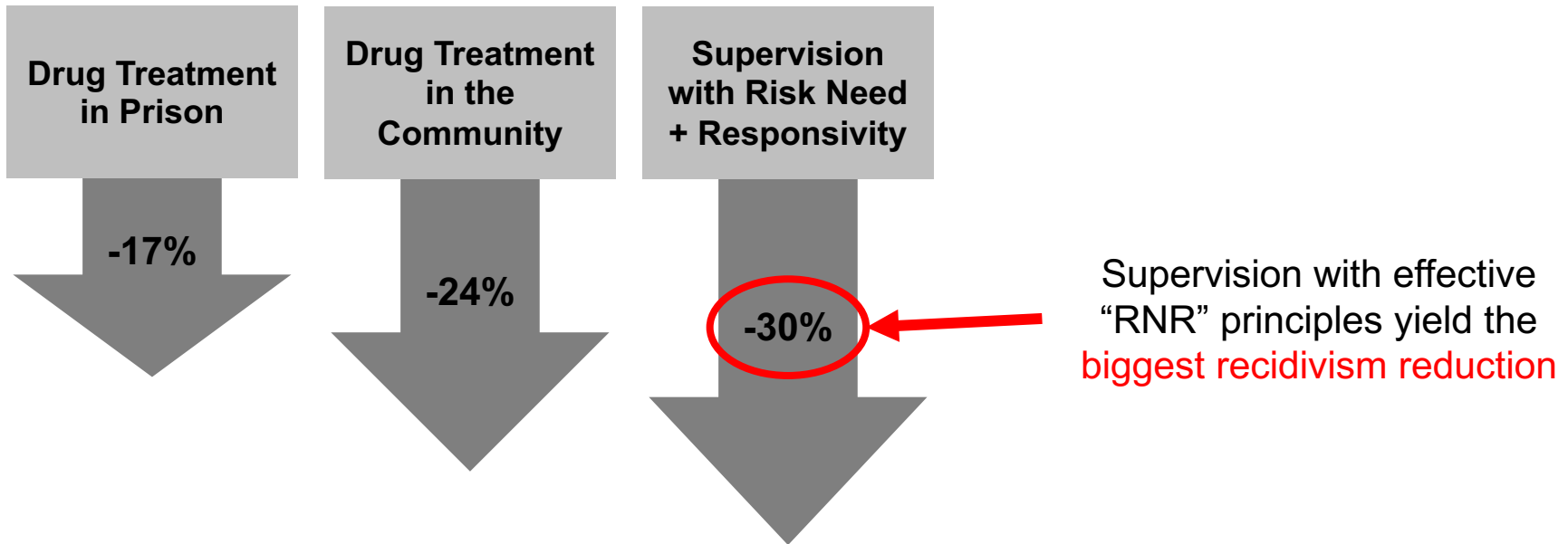
- PRCC: Median amount owed \$1,589
- Standard: Median amount owed \$1,696
- Cases that expired in 2015: Median amount owed \$657
 - Balances under \$1,000 typically involved outstanding FFS
 - Balances over \$1,000 typically included restitution obligations

Shifting some proportion of people who have been on PRCC and Standard supervision for longer than 2 years to unsupervised status would reduce caseloads and allow officers to focus more on higher-risk people

Note: About 30,000 people are on unsupervised status, with an average length of stay of 8.6 years

Source: CSG Justice Center analysis of Probation Research file; Georgia Department of Corrections special data analysis, October 2016 and CSG Analysis of Probation data

Recap: What works in probation supervision? Risk-Need-Responsivity (RNR) principles are key to containing costs and reducing recidivism



Studies have shown that treating **low-risk** people actually *increases recidivism*, while treating **high-risk** people with high-intensity programming dramatically *decreases recidivism*. Further, providing very low-intensity programming to high-risk people does little, if anything, to reduce recidivism.

Source: Donald Arthur Andrews and James Bonta, *The Psychology of Criminal Conduct* (Cincinnati: Anderson, 2010); Lee, S., Aos, S., Drake, E., Pennucci, A., Miller, M., & Anderson, L. (2012). *Return on investment: Evidence-based options to improve statewide outcomes*, April 2012 (Document No. 12-04-1201). Olympia: Washington State Institute for Public Policy.; Latessa, Lovins, and Smith, “Follow-up Evaluation of Ohio’s Community Based Correctional Facilities, Outcome Study, February 2010

Recap: Probation practices are progressing, and Georgia has the opportunity to build on these successes to address challenges that still remain

Examples of progress:

- ✓ **Risk assessments** intended to inform supervision intensity level & contact standards
- ✓ Use of cognitive-behavioral **programming** to address criminal thinking
- ✓ Capacity to **respond to technical violations** with short sanctions and some risk-reduction programming
- ✓ **Trained** officers that are highly motivated and spoke of “dual role” of protecting the public & reducing recidivism
- ✓ Day Report Center program has undergone an **evaluation**

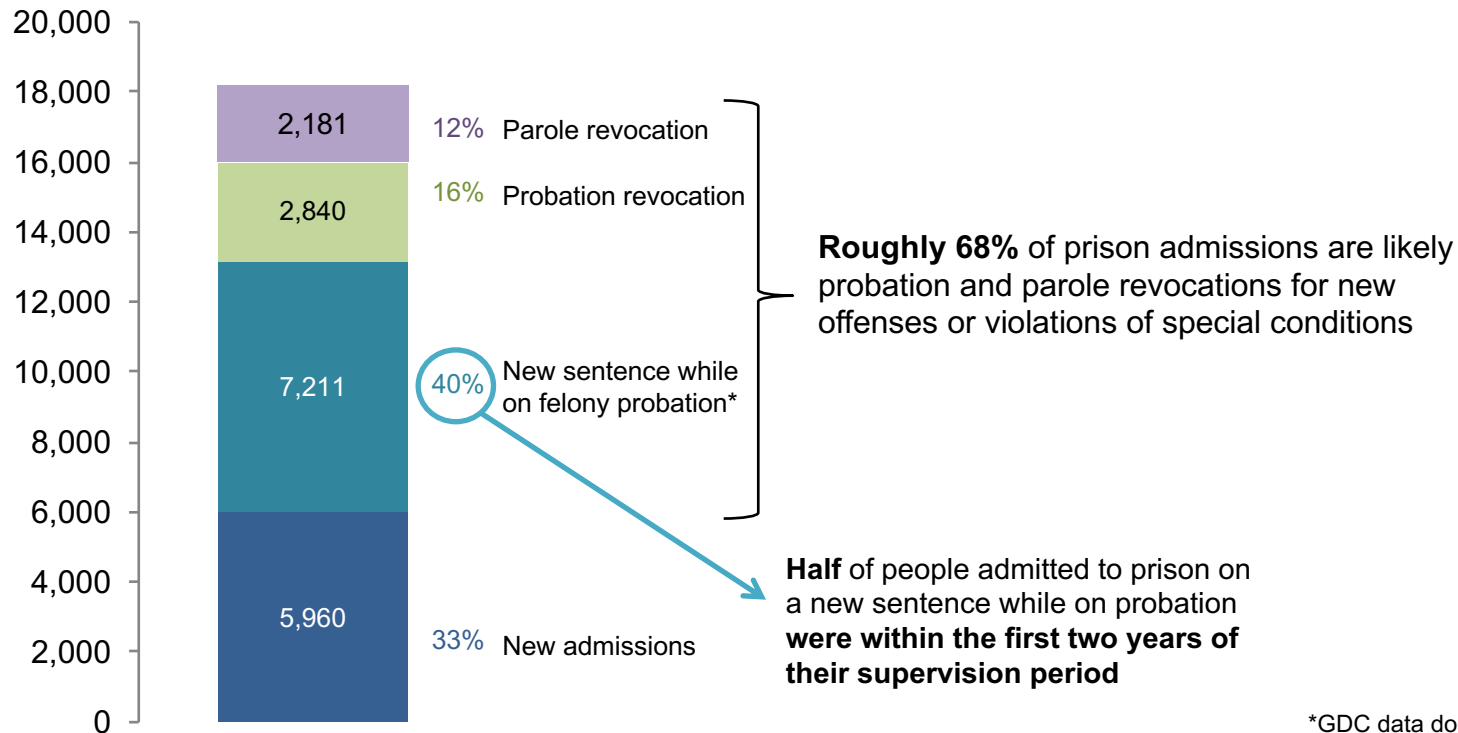
Three key challenges:

1. DCS is not able to frontload supervision resources on those who pose the highest risk
2. Intensity of supervision for people with the highest risk may not be sufficient to change behavior
3. Due to high caseloads, supervision follows a reactive approach

Recap: Reducing recidivism among those on probation and parole can increase public safety and reduce prison admissions

The estimated 10,051 people admitted to prison while on probation is only 6% of the FY15 felony probation population

Prison Admissions (New Admission or Revocation), FY2015



*GDC data does not capture cases where probationers were reconvicted with a new offense and subsequently admitted to prison; the values presented here are estimates based on matching probation terminations to prison admissions where the termination was close to the admission date.

Source: CSG Justice Center Analysis of Prison Admissions and Probation Terminations Data

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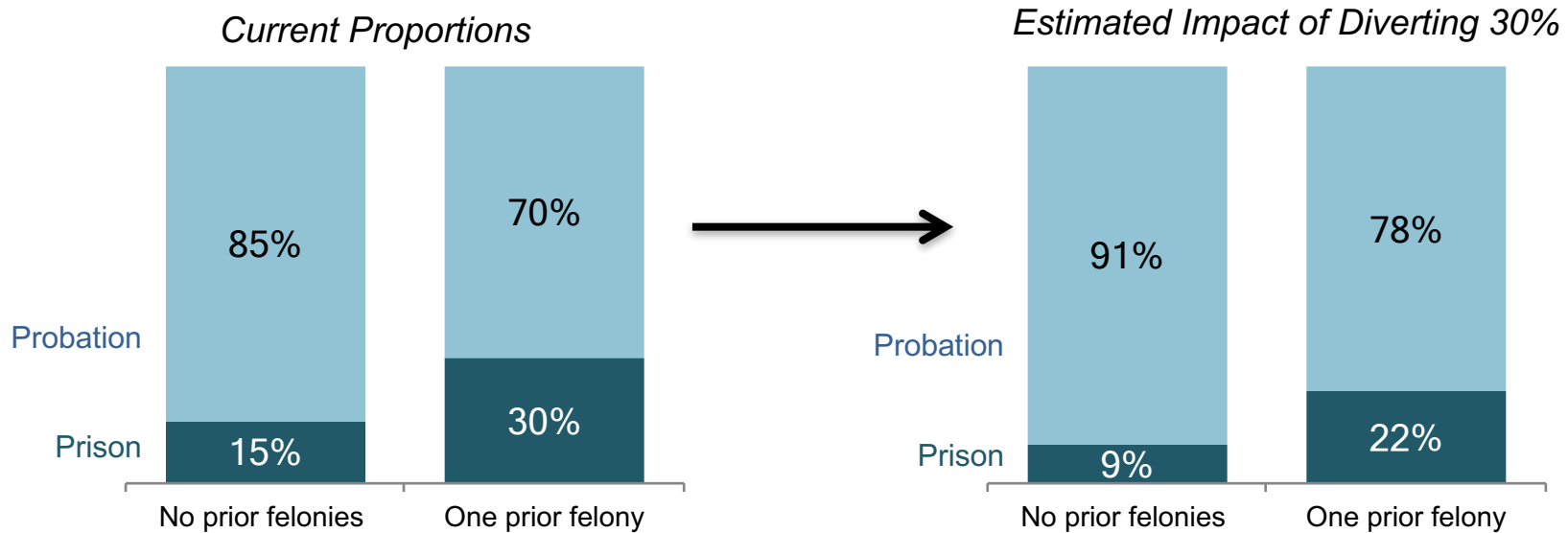
Projected impacts and five policy goals to improve Georgia's adult criminal justice system

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Suggested reinvestments and next steps

Policy Goal 1: Use probation, programming, and treatment to reduce recidivism among people convicted of a 1st or 2nd felony drug or property offense

- A. Create a rebuttable presumption of probation upon the 1st or 2nd conviction for certain felony drug and property offenses, excluding drug trafficking and 1st degree burglary.



- Assumes 30% of people currently sentenced to prison for a property or drug offense with no more than one prior will be sentenced instead to probation supervision.
- Over a five-year period of successful probation diversion for this group, the state could save up to 3,000 prison beds.
- Bed savings are based on an average length of stay in DOC of approximately 2.7 years.

Source: CSG Analysis of Inmate Research file

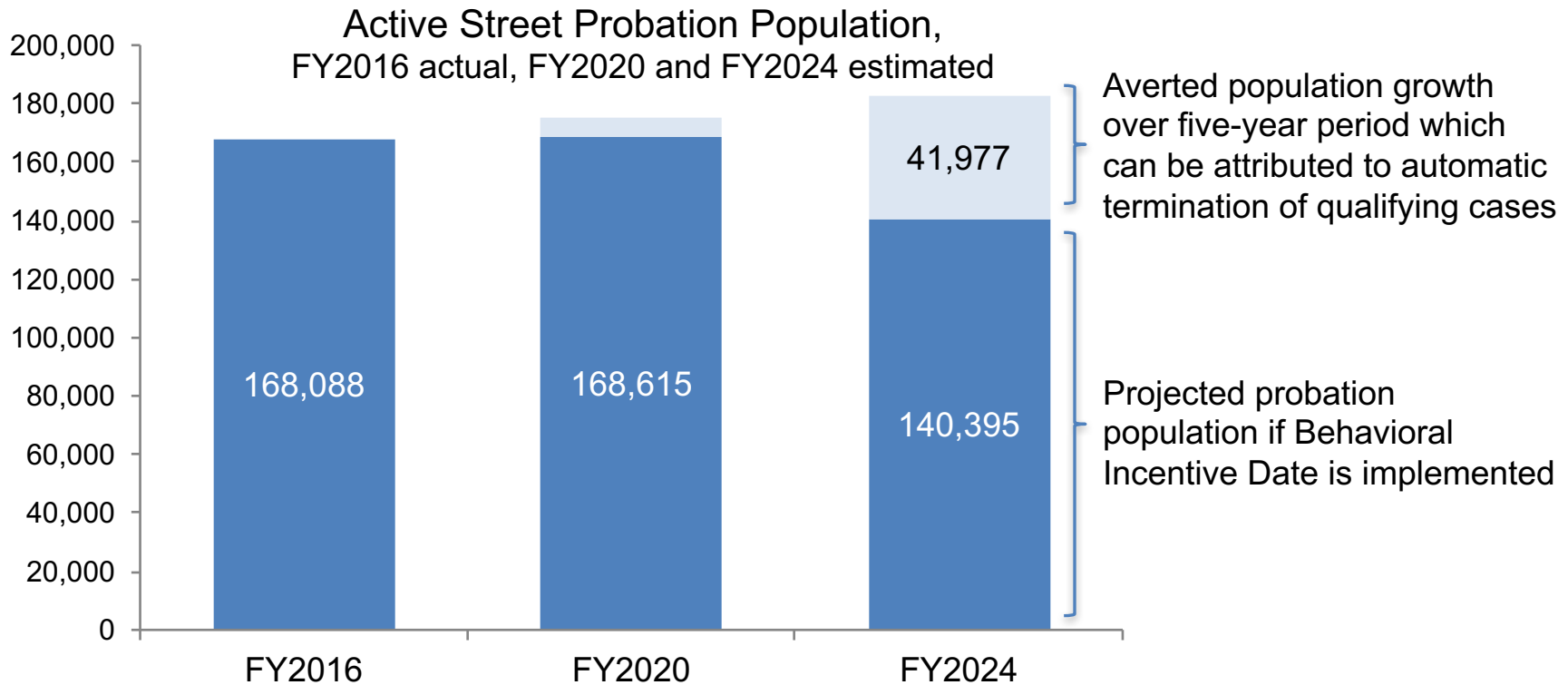
Policy Goal 2: Enable the reduction of lengthy probation sentences in certain offenses and as an incentive

- A. For people who commit nonviolent offenses with no more than one prior felony conviction, direct probation sentences shall establish a behavioral incentive date (BID) not to exceed three years. If the person remains in compliance, achieves case plan objectives, has no new arrests, and has paid all restitution prior to reaching the BID, notice shall go to the court and supervision shall be automatically terminated.
 - i. This approach could be automatic, unless the prosecuting attorney requests a hearing and upon showing of good cause.
 - ii. Define nonviolent offenses as property and drug offenses, excluding 1st degree burglary and drug trafficking.

- B. The Department of Community Supervision (DCS) shall file a petition to the court for early termination of probation sentences (direct or split) after the person serves three years on supervision or 50 percent of their probation sentence, whichever comes first, if the following conditions apply: 1) The person has been compliant with general and special conditions of probation while on active supervision; and, 2) Any restitution ordered has been paid in full or a judgment of fieri facias (fi fa) shall be imposed.
 - i. This approach could be applied retroactively.
 - ii. Hearing on petition could be waived if prosecuting attorney and judge consent.

Policy Goal 2: Enable the reduction of lengthy probation sentences in certain offenses and as an incentive

2A. Behavioral Incentive Date



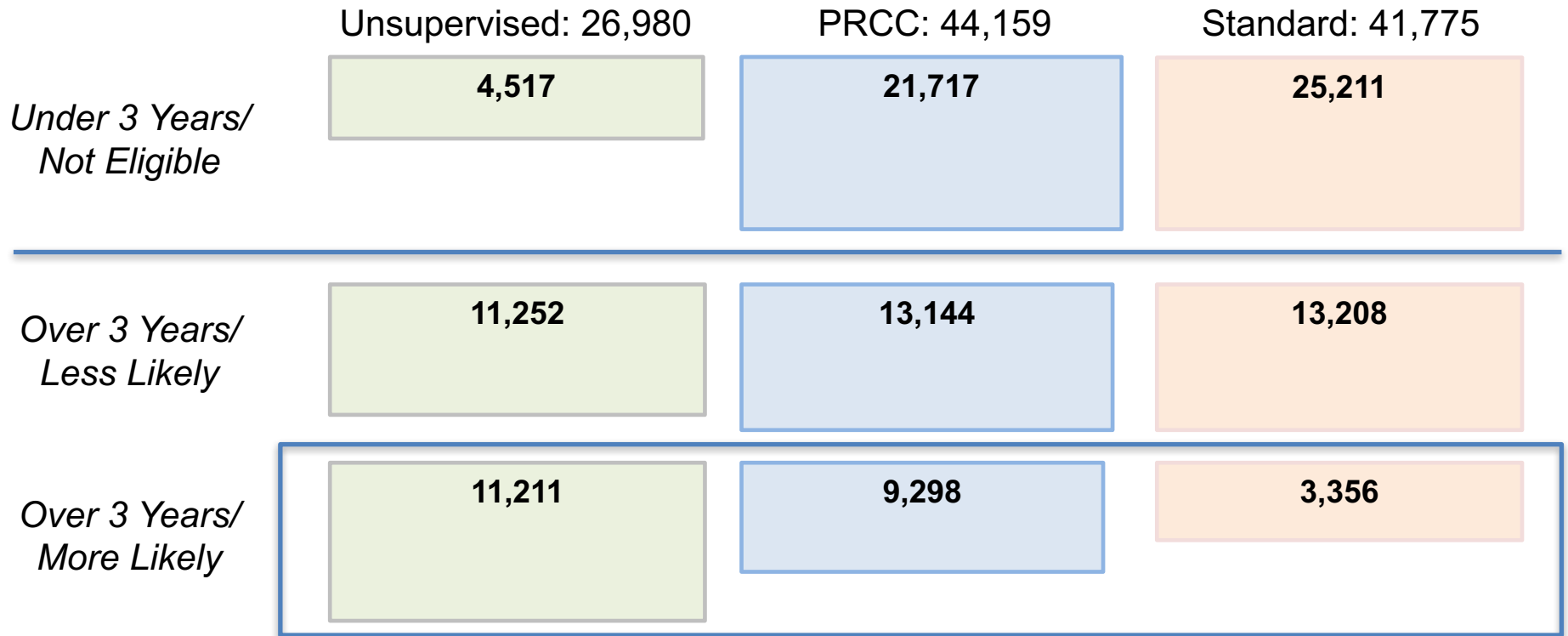
- Assumes all of the eligible cases would have a BID at 3 years, suggesting impacts would be realized in FY2020
- This impact has been developed for direct placements to probation, and does not include split sentencing.
- Annual reduction in probation population of approximately 6,900 individuals convicted of an eligible property or drug offense

Source: CSG Analysis of Probation Research file

Policy Goal 2: Enable the reduction of lengthy probation sentences in certain offenses and as an incentive

2B. DCS Petition to Courts in FY2017

Estimated 23,865 cases could be terminated early by petitioning the court



- Estimates are based on caseload type and offense of conviction
- Assumes DCS will have more success with the unsupervised cases, because no LFOs are outstanding
- Represents approximately 14% of active street population, and excludes all warrant cases

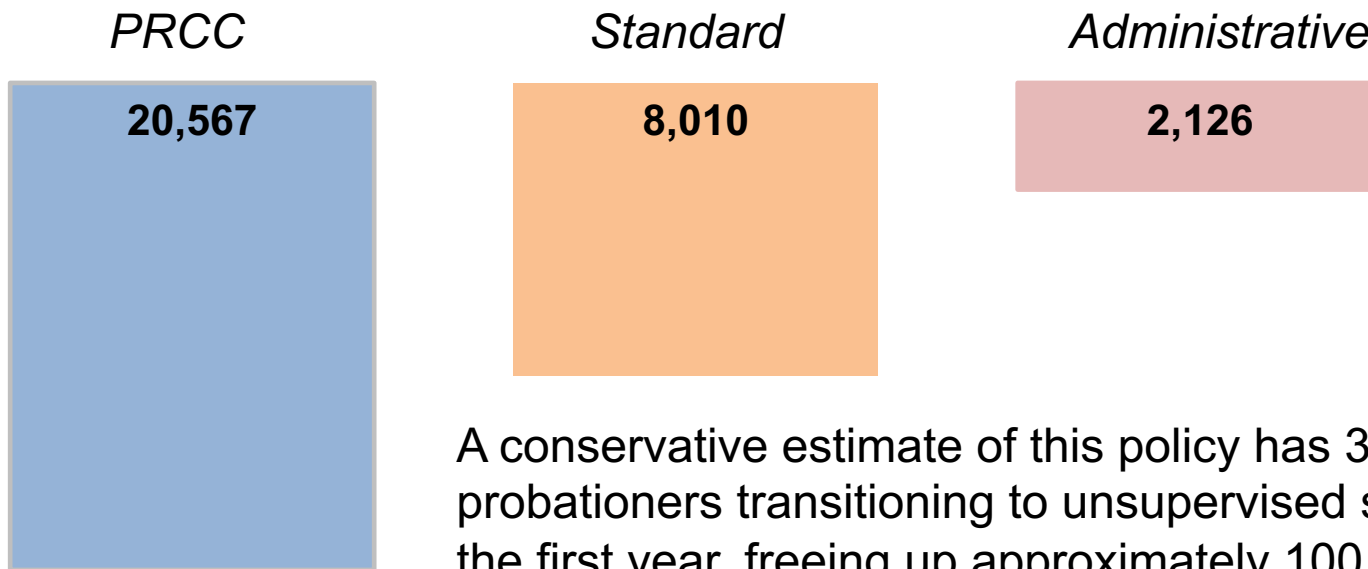
Source: CSG Analysis of Probation Research file

Policy Goal 3: Frontload active probation supervision to reduce caseloads and deliver more meaningful supervision

- A. Reduce recidivism by ensuring that higher-risk people on probation receive intensive, meaningful engagement in the first two years on supervision.
 - i. Reduce caseloads for probation officers supervising people on probation who are high risk.
- B. Move people on probation to unsupervised status after two years as suggested by current statute, regardless of outstanding fees and fines. If the person owes restitution, require a judgment of fi fa to be imposed prior to being moved to unsupervised status.
 - i. This approach could be applied retroactively.

Policy Goal 3: Frontload active probation supervision to reduce caseloads and deliver more meaningful supervision

Move people onto unsupervised status after two years in order to reduce caseload sizes for current officers



A conservative estimate of this policy has 31,265 probationers transitioning to unsupervised status in the first year, freeing up approximately 100 officers.

- Estimate based on analysis of offense of conviction and prior criminal history, as well as assumptions about LFOs
- Assumes outstanding restitution orders can be handled via fi fa
- Represents about 18% of the Active Street Population; excludes all warrant cases; note that there is some overlap between impact of 3B and 2B

Policy Goal 4: Improve the cost-effectiveness of responses to probation and parole violations

- A. For people sentenced to split sentences, require parole supervision to follow probation conditions set by the judge in addition to any conditions set by the parole board, and enable parole to use responses to violations that are open to people on probation.
- B. Require that a proactive case plan to reduce recidivism be developed for any person on probation who is assessed to have a likelihood of recidivism greater than 60 percent. The proactive case plan should be adjusted as the likelihood of recidivism changes.
- C. Continue the total Residential Substance Abuse Treatment (RSAT) program at 15 months (residential and aftercare). Increase the number of people in the existing capacity by reducing the RSAT program from 9 to 6 months, and expand RSAT aftercare program in the community from 6 months to 9 months.
 - i. Improve criteria for RSAT placement, such as in response to probation violation behavior for people who are moderate to high risk.
 - ii. Require a risk and needs assessment to be conducted prior to placement on RSAT.
- D. Expand state-funded community-based access to treatment for people on probation with a high risk of reoffending and substance use issues who may not require a full RSAT model.

Policy Goal 4 (continued): Improve the cost-effectiveness of responses to probation and parole violations

- E. Provide judges and DCS with the tools needed to reduce the number of probation condition violators from being sentenced to prison by 50 percent by reinvesting in expanding accountability court capacity in lieu of revocation as well as a specialized probation revocation caseload.
 - i. For counties where accountability courts and Probation Detention Centers (PDCs) exist, judges can reduce the number of people revoked to prison by receiving additional funding to support the cost of either putting that person into an accountability court (with PDCs as a sanctioning option) and/or revoke the person onto a specialized probation revocation caseload.
 - ii. A specialized probation revocation caseload should be limited to no more than 30 people, and officers should have access to state-funded vouchers for services and programs to address the person's risk and needs and stabilize them in the community (electronic monitoring, transitional housing, intensive outpatient, transitional employment, and education).
 - Being moved to a specialized probation revocation caseload should also enable swift and certain, short, sanctions in response to violations. This could be piloted using PDCs.
- F. Require the Department of Corrections (GDC) and DCS to collaborate and enhance the impact of PDCs, including appropriate guidance on length of stay and adding cognitive behavioral treatment programming.

Policy Goal 4: Improve the cost-effectiveness of responses to probation and parole violations

4E. Reduce probation technical revocations by 50%

Estimated Prison Bed Savings

FY2020	170
FY2021	517
FY2022	1,048
FY2023	1,685
FY2024	2,347

- Assumes very gradual implementation as state moves to increase capacity of Accountability Courts and Day Reporting Centers
- By the 5th year of implementation, the state could realize a 50% reduction in the number of technical revocations going to prison
- Estimates limited to reducing revocations of property and drug crime types, excluding 1st degree burglary, violent, and sex offenses

Policy Goal 5: Improve handling and tracking of legal financial obligations; adjust the recidivist sentencing statute; and consider policy options to sustain improvements

- A. Establish presumption of indigency and waiving fines/fees/surcharges and supervision fees for felony sentences, similar to misdemeanor approach.
- B. Confirm the prioritization payment of restitution owed to individuals (and/or small businesses), prior to payment of outstanding fines, fees, and surcharges on the county level.
 - i. Establish a statewide financial database to track any and all restitution, fines, fees, and surcharges ordered, what's been collected, and individual indigency. Require the database to be able to crosscheck state and county levels of collection and consolidate orders by individual, not just case.
 - ii. Streamline the process for victims to receive the restitution that has been collected.
- C. Restore parole eligibility for certain property offenses sentenced under the recidivist sentencing statute.
- D. Establish a unified data system to collect information about people on misdemeanor probation.
- E. Evaluate quality of programming in PDCs, RSATs, Integrated Treatment Facilities (ITFs), Day Reporting Centers (DRCs), and DRC Lites at least every five years.
- F. Require that risk assessment instruments used within the corrections system be re-validated at least every five years.

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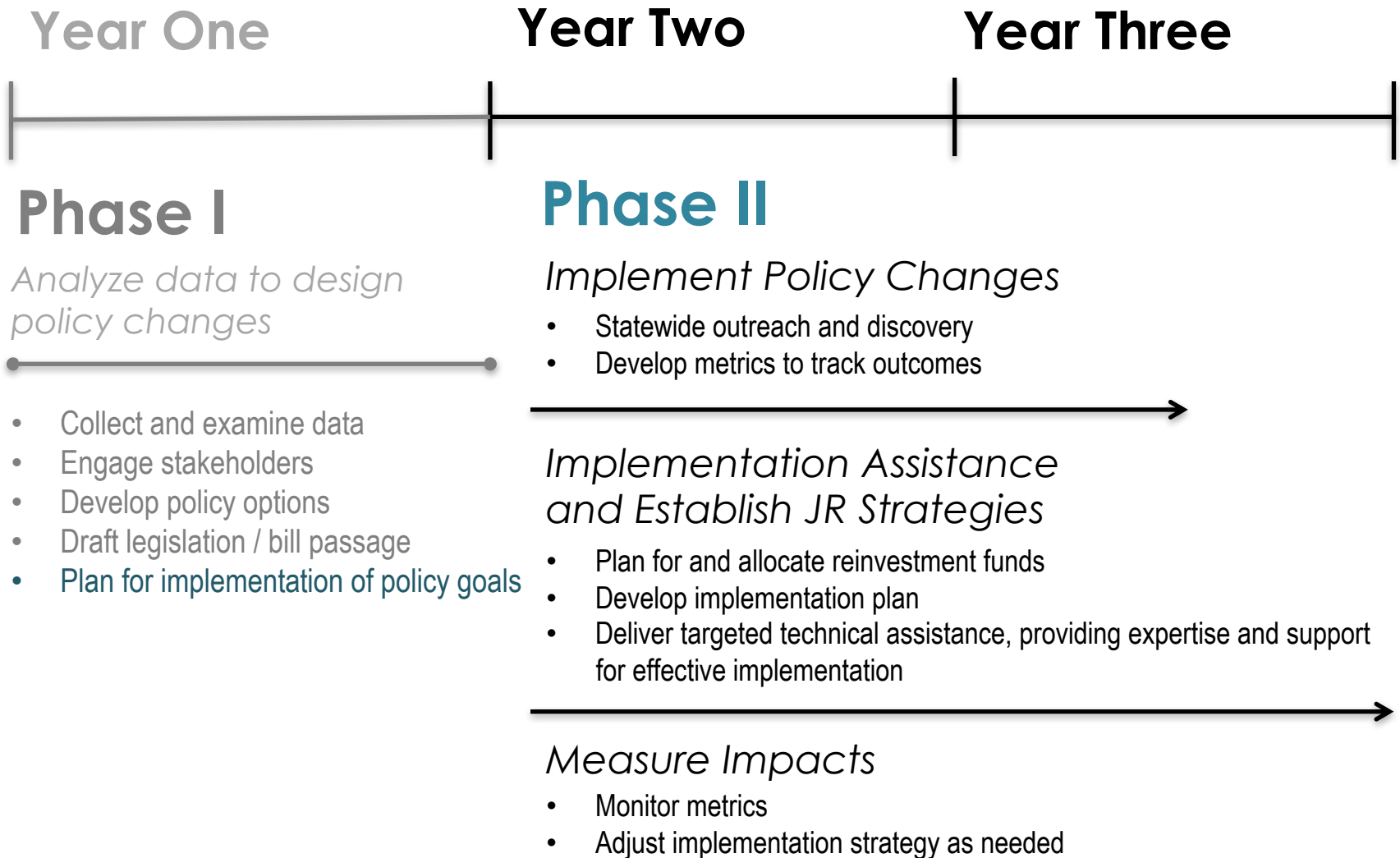
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Suggested reinvestments and next steps

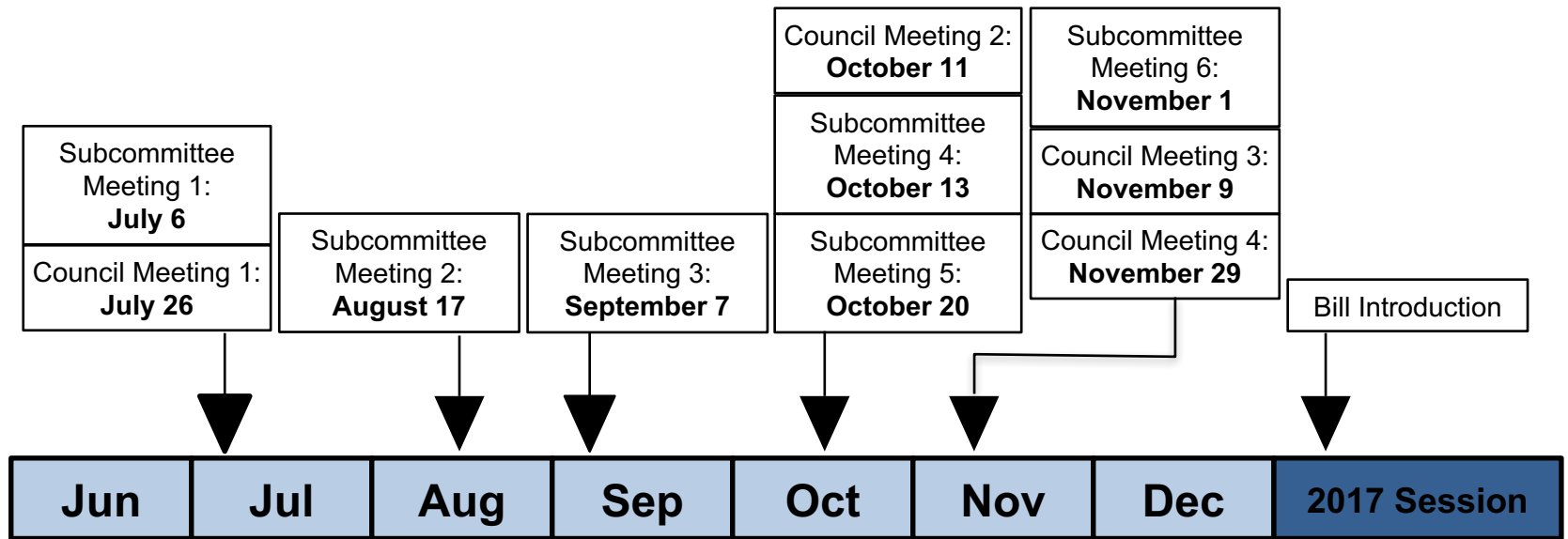
Suggested areas for reinvestment to further reduce recidivism and increase public safety

- ❑ Expanded RSAT aftercare
- ❑ Community-based substance use treatment
- ❑ Accountability courts with PDCs nearby
- ❑ CBT programming in PDCs for high-risk probation violators
- ❑ Training for officers and services for probation revocation caseloads
- ❑ Evaluation of PDCs, ITFs, RSATs, DRCs, and DRC Lites
- ❑ Validation of GDC and DCS risk and needs assessments

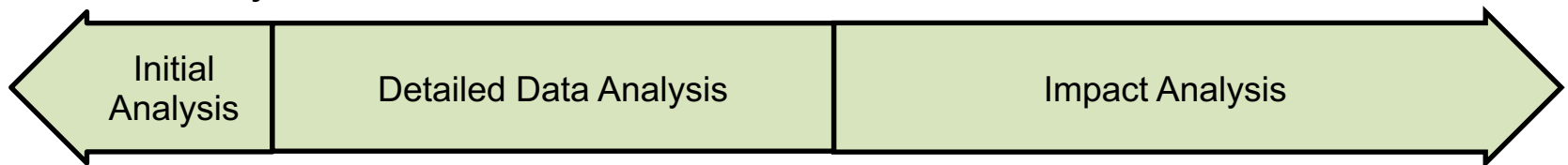
If enacted, state leaders will have the opportunity to request additional technical assistance & resources to implement these policies



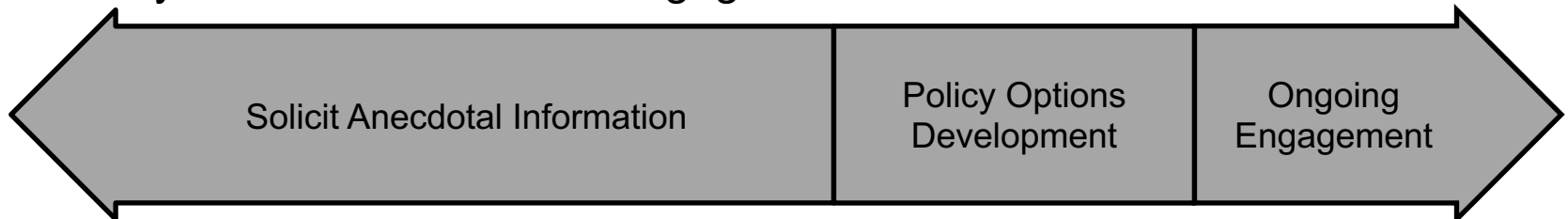
Proposed timeline for Georgia's Justice Reinvestment project



Data Analysis



Policymaker & Stakeholder Engagement



Thank You

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