



MAKING PROBATION TERMS, RESPONSES, AND CONDITIONS EFFECTIVE AND FAIR

The Give Life Back Act of [*year*] Give Liberty, Individuality, Fiscal Responsibility, and Efficacy (LIFE) Back

To significantly reduce unnecessary supervision conditions and years spent on probation, to properly focus on accountability and effectively advance lasting rehabilitation, to reward individual growth, and to reduce wasteful spending while increasing public safety and community stability.

Whereas, a term of probation is the sentence most commonly handed down by local courts.

Whereas, approximately 3.5 million people were on probation at year-end 2018¹ and [*insert state probation population*] were on probation in [*insert state*] in 2018 [or most recent year for which complete and accurate data is available].

Whereas, research suggests many people remain on probation for far too long, with little to no benefit for public safety.²

Whereas, studies have shown that extended periods of supervision (of over 3 years) can actually have a negative impact on public safety and increase recidivism.³

Whereas, conditions of probation are often too numerous, overly burdensome, generalized, and focused on rote compliance rather than promoting individual growth.

Whereas, probation often serves as a revolving door to prison rather than a path to accountability, work, and wellbeing, with an estimated 45% of nationwide state prison admissions in 2017 due to a supervision violation⁴ and an estimated [*insert state percentage*] of [*insert state*] prison admissions due to a supervision violation.

Whereas, many individuals are needlessly imprisoned for “technical” supervision violations, which do not constitute a new criminal offense, costing states millions of dollars in incarceration and families critical time away from loved ones.⁵

1. <https://www.bjs.gov/content/pub/pdf/ppus1718.pdf>, p. 16.

2. <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./>

3. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/09/probation-and-parole-systems-marked-by-high-stakes-missed-opportunities>

4. <https://csgjusticecenter.org/publications/confined-costly/>

5. <https://csgjusticecenter.org/publications/confined-costly/>

Whereas, technical violations, such as missing an appointment with a supervision officer or traveling outside of the jurisdiction, account for nearly 1 out of 4 of all state prison admissions and cost 2.8 billion annually.⁶

Whereas, probation should be focused on promoting accountability, increasing pathways to work and wellbeing, and community safety, and individuals need not remain on probation once they have demonstrated fulfillment of these goals.

Whereas, fines and fees should be calculated according to an individual's ability to pay and should not lead to unnecessarily long terms of probation or a period of incarceration, so as to increase successful collection and reinvestment and decrease cycles of poverty and incarceration.

Whereas, rather than investing in failed use of incarceration, states should invest in community services, programs, and resources which prevent a return to crime and build stronger, vibrant communities.

Whereas, states can encourage practitioners, organizations, and individuals to reduce crime, revocations, and the use of incarceration through performance-based incentives.

Whereas, over 15 states have implemented performance-based incentives, crediting individuals for consistent compliance and exceptional achievement in activities proven to reduce recidivism, thereby reducing high caseloads of supervision officers and enabling scarce supervision resources to be appropriately focused on those who remain in need of support on supervision.⁷

Whereas, states have increasingly adopted evidence-based practices for supervision, shortening probation lengths, eliminating or reducing incarceration for technical violations, and increasing the use of performance-based incentives, with positive outcomes for community safety.

Therefore, the following shall be enacted:

SECTION 1. SHORT TITLE

This legislation shall be known and may be cited as The Give Life Back Act of [year] (hereinafter referred to as "Act").

SECTION 2. DEFINITIONS.

As used in this Act, the following terms shall have the meaning set forth therein:

- a. "Absconding" means intentionally avoiding supervision by willfully failing to maintain contact or communication with an assigned probation officer or *[insert relevant authority/entity]* and to notify an assigned probation officer or *[insert relevant authority/entity]* of a change in residence, during which time reasonable efforts by the assigned probation officer to re-engage the defendant have been unsuccessful. If the defendant has made the initial two check-ins with the probation officer, the period of time of non-contact must be [at least 14 days], unless there exist special circumstances that implicate an imminent threat to public safety.
- b. "Compliance" means the absence of a violation report submitted by a probation officer during a calendar month, or a motion to revoke or motion to suspend probation filed in a calendar month.

6. <https://csgjusticecenter.org/publications/confined-costly/>

7. <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>

- c. “Discharge credit” means a fifteen-day reduction from a defendant’s term of probation for each full calendar month the defendant is in compliance with the terms of the defendant’s probation.
- d. “Earned credit” means a ninety-day reduction from a defendant’s term of probation when a defendant earns a high school diploma, high school equivalency certificate, or post-secondary education degree; completes a certified vocational, technical, or career education or training program; successfully completes or attends for a specified period a voluntary and ongoing mental health or substance abuse treatment; or completes or attends for a specified period an ongoing activity proven to reduce recidivism and approved by the court or relevant office of supervision.
- e. “Technical violation” means a violation by the defendant of the terms and conditions of probation other than a conviction of the defendant for a new crime.

SECTION 3. SENTENCE OF PROBATION.

- a. Authorized Terms. -- The authorized terms of probation are --
 - i. For a felony, not more than [two] years.
 - ii. For a misdemeanor, not more than [one] year.
 - iii. (For any ordinance violation for which supervision is already authorized, the term of probation shall not exceed more than [three months].
- b. Multiple Offenses.--The court may impose only one term of probation for offenses arising from the same course of conduct or for offenses charged in the same criminal indictment or information. The term of probation imposed shall be the term authorized for the most serious offense class arising from the same course of conduct or criminal indictment or information.
- c. Multiple Supervision Terms. -- The court may not impose a sentence of supervision consecutive to another sentence of supervision.
 - i. If a defendant has been sentenced to multiple terms of probation for offenses that did not arise from the same course of conduct or were not charged in the same criminal indictment or is facing multiple sentences of probation for offenses that did not arise from the same course of conduct or were not charged in the same criminal indictment, the court shall order the sentences of probation to be consolidated. The consolidated term of probation imposed shall be the term authorized for the most serious offense and shall begin on the defendant’s last sentencing date. The conditions of probation imposed shall include any special conditions related to the offenses for which the defendant was convicted under any terms of probation consolidated by the court. The defendant shall report to one probation officer and [*insert relevant authority/entity*] during the consolidated term.
 - ii. If a defendant is released on parole or a separate grant of post-incarceration supervision and the court imposed a sentence of probation to follow incarceration, the court shall order the probation term to be consolidated with the term of parole or post-incarceration supervision. The consolidated term of supervision imposed shall begin on the date of the defendant’s release. The conditions of supervision imposed shall include any special conditions related to the offense or offenses for which the defendant was convicted under any terms of supervision consolidated by the court. The defendant shall report to one supervision officer and [*insert relevant authority/entity*] during the consolidated term.
 - iii. Pursuant to paragraph (c), subparagraphs (i) and (ii) and paragraph (a), the total term of supervision following release from incarceration shall not exceed [two years].
- d. Absconding. -- If the court finds that a defendant has absconded from the jurisdiction of the court, the court may extend the period of probation or suspended sentence for a period not to exceed the length of time that such defendant absconded or the original term of probation or suspended sentence excluding any time that such defendant already served on probation or the suspended sentence, whichever is less.

SECTION 4. CONDITIONS OF PROBATION.

- a. Mandatory Conditions.--The court shall provide, as an explicit condition of a sentence of probation--
 - i. That the defendant not be convicted of another crime during the term of probation.
- b. Discretionary Conditions.--The court may also provide further conditions of a sentence of probation, to the extent that they are not duplicative of another condition and are reasonably related to the nature and circumstances of the offense and the history and characteristics of the defendant and involve only such deprivations of liberty or property as are reasonably necessary to ensure public safety and to increase a defendant's likelihood of success on probation. In determining the conditions, the court shall also consider the reasonableness of imposing additional conditions on the defendant, and specifically the extent to which the conditions impact the defendant's:
 - i. Work, education, and community service schedule or obligations; and
 - ii. Ability to meet financial and family caregiving obligations; and
 - iii. Other essential obligations, such as medical care.
- c. The court shall identify on the record the purpose of each discretionary condition added to the defendant's term of probation pursuant to paragraph (b), in protecting the public from the defendant's conduct in the underlying conviction or violation, and why no other less restrictive means of such protection exists.
- d. Notwithstanding paragraphs (a) and (b), the court may not impose conditions that: subject the defendant to a search or seizure not supported by reasonable suspicion; prohibit the defendant from associating with any other person solely because that person has a criminal history or youthful offender record; require payment of fines or fees in excess of a defendant's ability to pay on a reasonable installment plan pursuant to Section 8 paragraphs (a) through (d); require payment of restitution in excess of a defendant's ability to pay on a reasonable installment plan pursuant to Section 9 paragraphs (a) through (c); or any other condition that requires the defendant to obtain permission from their probation officer to complete daily, necessary activities, such as "engaging in business," "purchasing an automobile," or "incurring a debt."

SECTION 5. EARLY DISCHARGE.

- a. At any time that the court or supervision officer determines that the purposes of probation have been fulfilled and fees imposed and court debt have been paid or are subject to a payment plan, the court or the probation officer may order the discharge of a person from probation. If, at the time of early discharge, fees and court debt remain outstanding, Section 8 of this Act shall govern the resolution of the debt. If, at the time of early discharge, restitution remains outstanding, Section 9 of this Act shall govern the resolution of the debt.
- b. Notwithstanding any discharge credit or any earned credit earned under Section 6, or the ability of the court or probation officer to discharge a person from probation early under subsection (a), a defendant's probation officer shall provide a report to the defendant no later than halfway through the defendant's period of probation describing the defendant's progress under supervision, tallying the discharge and earned credits accrued, and making one of the following recommendations:
 - i. Terminate the defendant's probation early;
 - ii. Continue the defendant's probation with reduced terms and conditions; or
 - iii. Continue the defendant's probation as previously ordered.
- c. If the defendant's probation officer's recommendation is to continue supervision as ordered under paragraph (b), subparagraph (iii), or to continue the defendant's probation with reduced terms or conditions under paragraph (b), subparagraph (ii), the probation officer shall describe why continued supervision or continued probation with reduced terms is necessary and beneficial, an accounting of the discharge and earned credits, and what milestones and activities must be

accomplished prior to successful discharge. If the recommendation does not order the early termination of the defendant's probation, the defendant may request a hearing on the matter. The requested hearing shall be held no later than thirty days from the date of the defendant's request. At the hearing, the court shall review the probation officer's report; the defendant's progress and conduct on probation, including whether the defendant has attended court-ordered mandatory counseling or treatment and whether the defendant is subject to a payment plan and has been found able to afford payments but is purposefully avoiding making payments; the defendant's accrual of discharge and earned time credits; the underlying offense and its relationship to the conditions of probation imposed on the defendants; the defendant's criminal record; and any mitigating factors to determine whether to discharge the defendant from probation or reduce the terms and conditions of the defendant's probation.

- d. If the defendant's probation officer's recommendation is to terminate probation under paragraph (b), subparagraph (i), probation shall be terminated successful as a matter of law.
- e. Nothing in this subsection precludes the ability of a probation officer, the court, or any other authorized authority to terminate the defendant's probation early at any time.

SECTION 6. DISCHARGE AND EARNED CREDITS.

- a. At the expiration of the period of probation, if the fees, court debt, and restitution have been paid or are subject to a payment plan, the court shall order the discharge of the person from probation. If portions of the court debt, restitution, or fees remain unpaid, the person shall establish a payment plan with the clerk of the district court or [*insert authorized authority / entity*] prior to discharge. The payment plan shall be based on the defendant's ability to pay pursuant to Section 8, paragraphs (a) through (d) and Section 9, paragraphs (a) through (c).
- b. In General. -- A defendant on probation shall be eligible to earn a discharge credit from the defendant's term of probation in accordance with the terms set forth in paragraph (b), subparagraphs (i), (ii), (iii), and (iv)---
 - i. A defendant on probation shall be eligible to earn a discharge credit from the defendant's term of probation for each full calendar month in which the defendant is in compliance with the terms of the defendant's probation.
 - ii. A defendant shall not earn a discharge credit for a calendar month in which a violation occurred, the defendant has absconded from probation, or the defendant is incarcerated on a conviction or a sustained violation.
 - iii. (iii) A defendant shall not earn a discharge credit for a partial calendar month or the last full calendar month of probation.
 - iv. (iv) The calculation of a discharge credit shall begin on the defendant's first day of probation and shall be applied to the termination date of the defendant's probation within thirty days of the end of the calendar month in which the discharge credit was earned.
 - v. (v) When a person is subject to more than one period of community supervision, the reduction authorized in this paragraph shall be applied to every period of supervision to which the person is subject.
- c. A defendant on probation shall be eligible to earn an earned credit from the defendant's term of probation for each full calendar month in which the defendant is in compliance with the terms of the defendant's probation.
- d. Not less than once a year, and at the status report provided halfway through the defendant's probation term under Section 5 paragraphs (b) and (c), the defendant's probation officer shall provide the defendant with an account of their earned discharge and earned credits pursuant to paragraphs (b) and (c). A defendant may earn both a discharge credit and earned credits to be applied toward the completion of the defendant's probation and any other current terms of supervision in accordance with this paragraph. If the defendant disagrees with the probation

officer's calculation of their credits, the defendant may ask for court review of their discharge and earned credits in their status report under Section 5 paragraphs (b) and (c) and within three months of the probation completion date established pursuant to Section 5 paragraphs (b) and (c).

- e. Discharge and earned credits shall be awarded to any person subject to community supervision at the time this legislation becomes effective retroactive to the initial date such person began his or her earliest current period of community supervision. If a defendant's current period of community supervision has been interrupted by a period of incarceration prior to the effective date of this Act, no earned discharge or earned credits shall be awarded for compliance or activities completed during such period of incarceration. The *[insert relevant authority/entity]* shall have *[six months]* from the effective date of this subdivision to calculate all retroactive earned discharge and earned credits; however, the *[insert state probation agency]* shall prioritize earned time credit calculations for defendants whose terms of probation are due to terminate before the conclusion of such six months.

SECTION 7. REVOCATION OF PROBATION.

Option 1: Select this option for optimal results, decreased incarceration, increased savings, reduced recidivism, and stable and safe communities by eliminating costly and wasteful incarceration for technical violations. Each option continues below with Subsection (e), so if Option 1 is selected, remove Option 2 and continue to subsection (e) below.

- a. The court shall not impose a sentence of imprisonment upon revoking probation unless the court finds any of the following:
- i. The defendant has been convicted of a new felony or misdemeanor.
 - ii. The defendant's conduct creates an identifiable, significant, and imminent danger to the community and no other less restrictive means, including a condition of supervision or treatment, would decrease this likelihood of this danger based upon the credible and corroborated testimony of the defendant's probation officer.
- b. Alternative Sanctions for Technical Violations
- i. The court shall not impose a sentence of imprisonment or revoke solely for a technical violation of probation.
 - ii. A technical violation may result in a denial of all discharge credits for the month in which the violation occurred.
 - iii. If two or more technical violations are sustained in one month, in addition to a denial of discharge credits for that month, the probation officer may revoke or deny future accrual of *[up to 45]* discharge credits.
- c. Excluded Technical Violations.--Notwithstanding paragraph (b), the court shall not sustain a technical violation if the court finds that the defendant did not have the ability to adhere to the conditions of probation or the defendant's failure to adhere to the conditions of probation was not willful.
- d. Restitution.--Notwithstanding paragraph (b), subparagraphs (i) through (iii), if the defendant is required to make restitution as a condition of probation, the court may not revoke and reinstate probation or a suspended sentence, extend the term of probation, or deny or revoke pursuant to paragraph (b), subparagraphs (i) through (iii), unless the court finds that the defendant has willfully failed to make the required payments and that such an action would be more effective than other remedies, including converting the restitution order to a civil judgment, in ensuring that the remaining amount is fully paid.

Option 2: Select this option to decrease incarceration, increase savings, reduce recidivism, and create safe and stable communities through the use of graduated sanctions. Each option continues below with

Subsection (e), so if Option 2 is selected, remove Option 1 above and continue to subsection (e) below.

- a. The court shall not impose a sentence of imprisonment upon revoking probation unless the court finds any of the following:
 - i. The defendant has been convicted of a new felony or misdemeanor.
 - ii. The defendant's conduct creates an identifiable, significant, and imminent danger to the community and no other less restrictive means, including a condition of supervision or treatment, would decrease this likelihood of this danger based upon the credible and corroborated testimony of the defendant's probation officer.
- b. If the court finds any of the factors in paragraph (a), the court shall follow the following sentencing guidelines:
 - i. The court shall not sentence the defendant to imprisonment on a first or second technical violation.
 - ii. The court may impose a sentence of [up to seven days] of imprisonment upon a third technical violation.
 - iii. The court may impose a sentence of [up to fifteen days] of imprisonment upon a fourth technical violation.
 - iv. The court may revoke a term of probation upon a fifth or subsequent technical violation, except that, the defendant may not be resentenced for a term of imprisonment that exceeds the remaining term of probation at the time of revocation, or [two years], whichever is shorter. The sentencing alternatives available to the court shall be the same as were available at the time of a defendant's initial sentencing.
- c. Excluded Technical Violations.--Notwithstanding paragraph (b), the court shall not sustain a technical violation if the court finds that the defendant did not have the ability to adhere to the conditions of probation or the defendant's failure to adhere to the conditions of probation was not willful.
- d. Restitution.--Notwithstanding paragraph (b), subparagraphs (i) through (v), if the defendant is required to make restitution as a condition of probation, the court may not revoke and reinstate probation or a suspended sentence, extend the term of probation, or impose any active incarceration as a sanction pursuant to paragraph (b), subparagraphs (i) through (v), unless the court finds that the defendant has willfully failed to make the required payments and that such an action would be more effective than other remedies, including converting the restitution order to a civil judgment, in ensuring that the remaining amount is fully paid.
- e. Revocation Proceedings for Violations of Probation. -- Unless the defendant admits a willful violation of probation as alleged, there shall be no revocation of probation, sentence of imprisonment, or increase in the terms and conditions of probation for a technical violation under this section, except upon the conclusion of a revocation hearing in accordance with this paragraph.
 - i. If a probation officer having charge of a defendant has probable cause to believe that such person has committed a violation, such probation officer shall file a written request for a violation hearing with the court.
 - ii. If the alleged violation is a technical violation, a written notice of the technical violation and a summons to appear shall be served upon the defendant within 72 hours. If the defendant has failed to appear as directed in response to a notice of the technical violation and summons and the person would be subject to incarceration pursuant to paragraphs (a) and (b) of this section should the violation be sustained at a final revocation hearing, a warrant may be issued for the defendant. If the defendant has failed to appear as directed in response to a notice of the technical violation and summons and the person would not be subject to incarceration pursuant to paragraph (b) should the violation be sustained at a final revocation hearing, no warrant shall issue and the violation shall be deemed sustained. Notice of that decision shall be promptly served upon the defendant. In such cases, within

one month of the date the notice of decision was served upon the defendant, the defendant may move to vacate such a sustained violation if the defendant can show that the notice of violation was not properly served or if the failure to appear was otherwise excusable.

- iii. A warrant may issue only if the violation alleged creates an identifiable, significant, and imminent danger to the community and there is reason to believe that a summons will not adequately protect the public from such a risk.
- iv. Upon execution of a warrant issued pursuant to paragraph (e) subparagraphs (ii) and (iii), the authorized officer shall take the defendant to a local court with criminal jurisdiction for a recognizance hearing. Such hearing shall commence within twenty-four hours of the execution of the warrant. A recognizance hearing for a probation violation shall abide by the following terms:
 - 1. At a recognizance hearing, the court shall consider all available evidence of the defendant's employment, family and community ties including length of residency in the community, history of reporting in a timely fashion to a probation or supervisory officer, and other indicators of stability.
 - 2. At the conclusion of the recognizance hearing, the court may order that the defendant be detained pending preliminary or final revocation hearings only upon finding that the defendant currently presents a substantial risk of willfully failing to appear at the a revocation hearing or creates an identifiable, significant, and imminent danger to the community and no other less restrictive condition or combination of conditions of supervision would decrease this likelihood. Otherwise, the court shall release the defendant on the least restrictive conditions that will reasonably assure the defendant's appearance at subsequent preliminary or revocation hearings, with a presumption of release on recognizance. The court shall explain its decision in the written record. If non-monetary conditions of release are imposed, the defendant shall not be required to pay for any part of the cost of such conditions.
- v. Hearings for Violations of Probation.-- A hearing for violation of probation shall abide by the following terms:
 - 1. For any alleged technical violation for which a written notice of violation and summons to appear was sent pursuant to paragraph (e), subparagraph (ii), or a person was released on recognizance pursuant to paragraph (e), subparagraph (iv), the court shall schedule a revocation hearing within 30 days of the issuance of the notice of violation or the order of release on recognizance.
 - 2. For any alleged violation for which a court issued an order detaining a person pursuant to paragraph (e), subparagraph (iv), then within five days of the issuance of the order of detention the court shall afford such person a revocation hearing.
 - 3. A revocation hearing shall be held before the defendant's sentencing judge, if available.
 - 4. During a revocation hearing, the court shall determine whether the facts warrant revocation of a defendant's probation and whether probation is still an effective vehicle to accomplish rehabilitation of the defendant and a sufficient deterrent against future criminal conduct. The defendant shall have the right to confront and cross-examine witnesses.
 - 5. If the court finds the violation sustained, the court shall state on the record the reasons for the sentence imposed.
 - 6. The court shall advise the defendant on the record of the right to file a motion to modify the sentence, the right to file a petition for postconviction relief, and of the right to the assistance of an attorney in the preparation of the motion and the petition.

The court shall also advise the defendant of the time within which the defendant must exercise the rights in this paragraph.

7. The court shall require that a record of the resentencing proceeding be made public and preserved to allow the record to be transcribed including the record of any stipulation made between the parties at any presentence hearing
- f. Right to Counsel -- Following the filing of a violation with the court pursuant to paragraph (e), subparagraph (i) and prior to resentencing, the court shall give the defendant an opportunity to be heard, and the defendant shall be entitled to representation by an attorney. If the defendant is indigent or incapable of requesting an attorney, the court shall appoint an attorney to represent the defendant during a recognizance pursuant to paragraph (e), subparagraph (iv) or a revocation hearing pursuant to paragraph (e), subparagraph (v).
- g. A motion to modify a sentence imposed after a technical violation revocation hearing shall be filed within ten days of the sentencing order. The filing of a motion to modify a sentence shall not toll the thirty-day appeal period.
- h. The court may revoke an order of probation upon proof of a violation of any of the following specified conditions of probation:
 - i. If a defendant has been convicted of a new felony, the sentencing alternatives available to the court shall be the same as were available at the time of a defendant's initial sentencing, and the defendant may not be resented for a term of imprisonment that exceeds the remaining term of probation at the time of revocation, or [two years], whichever is shorter.
 - ii. If a defendant has been convicted of a new misdemeanor, the sentence alternatives available to the court shall be the same as were available at the time of the defendant's initial sentencing; however, the defendant's sentence may include a term of imprisonment of no more than [ninety days].

SECTION 8. PAYMENT OF FINES AND FEES

- a. At the time of sentencing, the court may direct that a defendant pay fines and fees in conjunction with a term of probation. Prior to imposing any fines and fees, the court shall assess the defendant's ability to pay and create a payment plan in accordance with the defendant's ability to pay.
- b. Notwithstanding paragraph (a) of this Section, the court, county clerk, or [insert authorized authority/entity] shall not direct the defendant to pay any additional or monthly fees for the provision of private probation services if a private provider is contracted to oversee the defendant's probation.
- c. The court, upon receipt of a petition from a probation officer for termination of a defendant's probation, shall not consider the defendant's lack of payment of fines and fees as a disqualifying factor for early termination of the defendant's probation unless the defendant has been found to be able to afford payments but has purposely avoided making payments.
- d. A determination of a defendant's ability to pay shall include the factors set forth in the court's financial affidavit under [insert state statute(s) pertaining to the determination of indigency] and any/all additional factors presented by the defendant for consideration. A defendant may petition the court for a review of the defendant's financial status pursuant to [insert state statute].
- e. Upon a voluntary request from the defendant, the court may convert any or all fines and fees owed in conjunction with a term of probation into community service hours owed as a condition of probation. The probation officer who supervises the defendant shall arrange community service hours required as a condition of probation at such times and locations that take into consideration and accommodate the work schedule, family caregiver obligations, and medical care of the defendant. The court, county clerk, or [insert authorized authority/entity] shall not direct the defendant to pay any additional fees due to their participation in any community service program pursuant to this paragraph or as a discretionary condition of probation imposed pursuant to Section 4, paragraph (b).

- f. Driver's License Suspensions. -- The court and *[insert relevant authority/entity]* shall not suspend or revoke a defendant's driver's license solely for failure to pay ordered fines, fees, or court costs. This provision shall be applied retroactively to the effective date of this Act. Individuals affected by retroactive application shall be eligible to have their licenses reinstated immediately without fee or penalty. The *[insert relevant authority/entity]* shall deliver a written notice to residents with a suspended or revoked license solely for failure to pay ordered fines, fees, or court costs with individualized information on the process to reinstate their driver's license.

SECTION 9. PAYMENT OF RESTITUTION

- a. If the court directs that a defendant pay restitution in conjunction with a term of probation, the court shall create a payment plan based on the defendant's ability to pay. The court, county clerk, or *[insert authorized authority/entity]* shall not direct the defendant to pay any additional fees due to the creation of a payment plan.
- b. The court, upon receipt of a petition from a probation officer for termination of a defendant's probation, shall not consider the defendant's lack of payment of restitution as a disqualifying factor for early termination of the defendant's probation unless the defendant has been found to be able to afford payments but has purposefully avoided making payments.
- c. A determination of a defendant's ability to pay shall include the factors set forth in the court's financial affidavit under *[insert state statute(s) pertaining to the determination of indigency]*. A defendant may petition the court for a review of the defendant's financial status pursuant to *[insert state statute]*.

SECTION 10. REPORTING REQUIREMENTS FOR PROBATION

- a. A probation officer who supervises a defendant shall schedule meetings required as a condition of probation at such times and locations that take into consideration and accommodate the work schedule, family caregiver obligations, and medical care of the defendant.
- b. To comply with the provisions of paragraph (a) of this Section, in lieu of requiring the defendant on probation to appear in-person for the required reporting or meetings, the probation officer may utilize technology portals, including cellular telephone and other electronic communication devices, that allow simultaneous voice and video communication in real time between the defendant and their probation officer.
- c. The *[insert relevant authority/entity]* shall promulgate rules in accordance with the *[insert state administrative act detailing rulemaking process]* to implement the provisions of this Section. The rules promulgated by the department pursuant to this Section shall include, but are not limited to, minimum standards and guidelines for the authorized technology and how it may be used as well as standards for determining the eligibility and suitability of defendants on probation to meet their reporting requirements through the use of such technology.

SECTION 11. DATA COLLECTION

- a. Data Collection and Reporting Requirements.--
- i. It shall be the duty of the *[insert relevant authority/entity]* to collect, track, analyze, forecast, and distribute data relative to prison admissions related to violations of supervision, sentencing, community supervision, and cost savings and reinvestment.
 - ii. The *[agency or department]* shall make the information described in paragraph (d) of this Section publicly available online by [December 1, *insert year*], and shall update the information twice annually thereafter in a public report available online.
- b. The *[agency or department]* may enter into a cooperative endeavor agreement or memorandum of understanding with a third party provider to assist with the collection, tracking, analysis, forecasting, and distribution of the data and information collected pursuant to this Section.

- c. The *[agency or department]* is authorized to adopt rules or regulations necessary to implement the provisions of this Section.
- d. The information collected by the *[insert agency name]* shall include but not be limited to the following:
 - i. With respect to prison admissions and jail sentences related to violations of supervision: the total prison population and sentenced jail population, and the total number of individuals admitted to prison or sentenced to jail by offense type, amount of time sentenced to, type of admission to not exclude whether or not an admission was for a technical or substantive violation of supervision, race, ethnicity, age, gender, status as a primary caretaker, and prior criminal history.
 - ii. With respect to those individuals on probation or parole supervision who violated a condition of their release or commit a new offense: the specific condition(s) violated, the sentence of supervision ordered and the amount of time served on supervision prior to that violation, whether a substantive charge accompanied the supervision violation and the outcome of the substantive charge, the average amount of time credited to either their suspended sentence or the remainder of their sentence from time spent on supervision, the total number of non-carceral administrative sanctions administered, and the total number of, and average length of stay in jail or prison for, administrative carceral/custodial sanctions issued.
 - iii. With respect to earned discharge and earned credits pursuant to Section 6, the total number of individuals who are awarded discharge or earned credits while on probation and the average amount of credits earned under Section 6 per individual awarded credits.
 - iv. The total number of individuals who were early discharged from supervision at the midway point and the average time on supervision avoided as a result of early discharge.
 - v. With respect to reinvestment and savings: the total amount of annual savings achieved as a result of this Act and, thereafter, the total amount of funds deemed a bona fide obligation pursuant to Section 12, and the entities that received reinvestment funds, the dollar amounts directed to each, and a description of how the funding was used.

SECTION 12: REINVESTMENT

- a. At the end of each fiscal year, the *[insert relevant authority/entity]* shall provide to the legislature and the public a statement of calculated annual savings realized as a result of reforms to the criminal justice system. For fiscal year *[insert current fiscal year]*, [sixty percent] of the savings shall be deemed a bona fide obligation of the state and shall be allocated by the *[insert relevant authority/entity]* according to paragraph (b) of this Section and [ten percent] of savings shall be deemed a bona fide obligation of the state and shall be allocated by the *[insert state court authority]* to support implementation of this Act. For fiscal year *[insert next fiscal year]* and each fiscal year thereafter, [fifty percent] of the annual savings shall be deemed a bona fide obligation of the state and shall be allocated by the *[insert relevant authority/entity]* according to paragraph (b) of this section, [ten percent] of annual savings shall be deemed a bona fide obligation of the state and shall be allocated by the *[insert state court authority]* to support implementation, and [twenty percent] of annual savings shall be deemed a bona fide obligation of the state and shall be allocated by the *[insert state law enforcement authority]* to support officer training and law enforcement policy development around trauma-informed care and de-escalation; fund mental health services for law enforcement officers; and to support the development and implementation of alternatives to arrest.
- b. The amount deemed to be a bona fide obligation pursuant to the provisions of paragraph (a) of this Section, except for the portion required to be allocated by the *[insert court authority]* and *[insert law enforcement authority]*, shall be allocated as follows:

- vi. *[Insert desired percentage]* shall be allocated to the *[insert relevant authority/entity]* to award incentive grants to counties, judicial districts, and nonprofit community organizations to expand evidence-backed prison alternatives and reduce admissions to the state prison system or local jails for violations of supervision.
- vii. *{Insert desired percentage}* shall be allocated to the *[insert relevant authority/entity]* to award competitive grants for victims services, included by not limited to trauma-informed treatment and services for victims and survivors, to not excluded victims and survivors currently on supervision or incarceration, shelters and transitional housing for domestic violence victims and their children, and trauma-informed education and training for justice system professionals.
- viii. The remainder shall be allocated to *[insert relevant authority/entity]* for targeted investments in reentry services and community supervision and to create performance-based incentives to award *[insert relevant authority/entity]* which successfully reduce the rate of supervision violations for new crimes, the rate of technical violations, the rate of supervision revocations and resulting new prison admissions and which increase measures of employment and defendant wellbeing.

SECTION 13. RETROACTIVITY CLAUSE

Each benefit provided by this Act applies to defendants sentenced to probation on or before *[month day, year]* who are still serving a term of probation.

SECTION 14. SEVERABILITY CLAUSE

Every provision in the Act and every application of the provisions in this Act are severable from each other as a matter of state law. If any application of any provision in this Act to any person or group of persons or circumstances is found by a court to be invalid, the remainder of this Act and the application of the Act's provisions to all other persons and circumstances may not be affected. All constitutionally valid applications of this Act shall be severed from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the legislature's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this Act invalid in a large or substantial fraction of relevant cases, the remaining valid applications shall be severed and allowed to remain in force.

SECTION 15. REPEALS; CONFORMING AMENDMENTS CLAUSE

[Insert any sections that need to be repealed as a result of this Act or to be amended in order to conform with the provisions of this Act].

SECTION 16. EFFECTIVE DATE⁸

This legislation shall take effect on *[month] [day], [year]*.

8. Legislative Note: When determining the effective date, the drafter should consider the amount of time needed to prepare for implementation of various sections of the Act.