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Testimony from:
Casey Witte, Policy and Research Associate, R Street Institute

In SUPPORT of HB 784

March 17, 2021

House Criminal Justice Subcommittee

Chairman Doggett and Respective Members of the Subcommittee:

Thank you for your time and consideration of HB 784. My name is Casey Witte, and I conduct research on community supervision among other criminal justice issues for the R Street Institute, a nonprofit, nonpartisan public policy research organization. Our mission is to engage in research and outreach to promote free markets and limited, effective government in a wide variety of policy areas. Given that HB 784 stands to reduce wasteful spending and more efficiently provide for public safety, it is of particular interest to us.

To start with the facts, Tennessee is one of only eight states to have nearly doubled their average probation sentence from 2000 to 2018, extending the average length of probation from 18 to 33 months.¹ This is opposed to 21 other states that have done the opposite and decreased, or even halved, their average probation sentences over that same period of time.² These states that are cutting time spent on probation are not doing so randomly, they are doing so with good reason.

In all candor, modern research tells us that lengthy probation sentences are of little practical use for promoting public safety. The Federal Sentencing Commission concluded that most community supervision violations occur within the first two years, extending to three years for more serious violations.³ Additionally, Pew Charitable Trust's research on probation terms in Oregon and South Carolina revealed that the vast majority of probation sentences over one year in length could have been shortened with no impact on recidivism.⁴

Needlessly long terms of community supervision can often do more harm than good. Incarcerations stemming from technical violations can clog state institutions with individuals simply guilty of drinking alcohol or missing a meeting—consuming resources that could be better spent on preventing real threats to public safety such as violent crime. In fact, 39 percent of Tennessee's state prison admissions in 2017 were due to technical violations.⁵



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Individuals with community supervision violations also fill local jails, contributing to the capacity crisis that several facilities in the Volunteer State are currently battling.⁶ Considering that Tennessee counties collectively spent over \$530 million in FY 2019 on local jails, by reducing community supervision lengths, and by proxy the number of technical violations, the state can both save money and reduce capacity strains.⁷

In 2016, Tennessee took a step in the right direction by passing the landmark Public Safety Act, a bill that allowed graduated sanctions to be placed on individuals with technical violations instead of being immediately incarcerated. By 2019, this provision helped to cut technical violation incarcerations by 21 percent and save taxpayers an estimated \$32 million in the process.⁸ Tennessee and a bevy of other states have also had success with implementing earned-time credits to incent positive development from incarcerated individuals.⁹

HB 784 is a positive start to addressing some of the faults in the current community supervision regime further. Lightly moderating probation lengths and limiting opportunities for technical violation incarcerations will most likely yield margin benefit. However, to solve the massively expensive problem that community supervision has become, we should consider building on existing success and following proven methods. Lowering limits on community supervision length for non-serious offenses, expansion of graduated sanctions, and extending earned-time opportunities to those on probation and parole are all ways of efficiently providing for public safety while also cutting wasteful spending.

The bottom line is that Tennessee has much to gain and little to lose by rethinking its existing community supervision system. Probation and parole should not simply be prison pipelines, instead they should serve as the positive forces for rehabilitation that they were always intended to be. If the goal of this Committee is good governance while guarding the public from excessive expense, then HB 784 should be favorably advanced.

Thank you for your time,

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¹ *States Can Shorten Probation and Protect Public Safety*, Pew Charitable Trusts, Dec. 3, 2020.
<https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>.

² *Ibid.*

³ Charles R. Breyer et al., *Federal Probation and Supervised Release Violations*, U.S. Sentencing Commission, July 2020. https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2020/20200728_Violations.pdf.

⁴ *States Can Shorten Probation and Protect Public Safety*, PEW, Dec. 3, 2020.
<https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>.

⁵ “Confined and Costly: How Supervision Violations are Filling Prisons and Burdening Budgets, Tennessee,” The Council of State Governments Justice Center, June 18, 2019.
<https://csgjusticecenter.org/publications/confined-costly/?state=TN#primary>.

⁶ “Tennessee Jail Summary Report,” Tennessee Department of Correction, January 2021.
<https://www.tn.gov/content/dam/tn/correction/documents/JailJanuary2021.pdf>.

⁷ “What Jails Cost: Tennessee,” Vera Institute of Justice, February 2021.
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⁸ Julie Warren, “Community Supervision in Tennessee,” Right on Crime, June 17, 2019.
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⁹ “Earned and Good Time Policies: Comparing Maximum Reductions Available,” Prison Fellowship, 2018.
https://www.prisonfellowship.org/wp-content/uploads/2019/07/GoodTimeChartUS_2018.pdf.