SB 105: Terminating Your Probation Early Under Georgia's New Law

Thank you for joining us! We will begin in a few moments.
Doug Ammar, Executive Director, Georgia Justice Project

Agenda
• Who We Are: Georgia Justice Project
• A Word From Our Guest Speakers
• Georgia’s Probation System
• Overview Of SB 105
• Q + A
About Georgia Justice Project (GJP)

- Established in 1986
- Located in the Historic Old 4th Ward, MLK District
- Annual Budget - $2.5 million, 100% privately funded
- 24 Full-Time Staff, 4 Part-Time
- Engage with 150 volunteer attorneys annually
GEORGIA’S CRIMINAL JUSTICE SYSTEM

54,000
PEOPLE IN PRISON

39,000
PEOPLE IN LOCAL JAILS

527,000
PEOPLE IN JAIL/PRISONS OR UNDER PROBATION/PAROLE

1 IN 18
PEOPLE IN JAIL/PRISONS OR UNDER PROBATION/PAROLE

4.3 MILLION
PEOPLE WITH A CRIMINAL RECORD
GEORGIA JUSTICE PROJECT’S INTERVENTION

HOLISTIC CRIMINAL DEFENSE
- Legal representation with social services
- Long-term support for clients

POLICY/21 LAWS CHANGED
- Expanded expungement – impacts 1.5 million Georgians
- Early probation termination – impacts up to 48K Georgians

INCARCERATION

PRE-CONVICTION
- Arrest
- Prosecution
- Sentence

POLICING

FRONT END

SENTENCE

MIDDLE

RELEASE

REENTRY

REENTRY

CRIMINAL RECORDS

PAROLE

PRISON SUPPORT/REENTRY
- Reentry lawyering – Metro Reentry Facility (MRF)
- Fines & fees reform
- Probation termination

RECORD RESTRICTION/EXPUNGEMENT
- Legal representation
- Restriction summits
- Expungement help desks
Senator Brian Strickland

- Authored and championed SB105
- Chairs the Judiciary Committee in the Senate
- Representing District 17
- 8 years of service in the Georgia legislature
Representative Tyler Paul Smith

• Carried and championed SB105 in the House
• Experienced in criminal defense work
• Representing District 18
Assistant Commissioner Scott Maurer

- Assistant Commissioner from the Department of Community Supervision (DCS)
- 18 years working in the criminal justice field
- Leadership positions with the State Board of Pardons and Paroles and the Department of Corrections
What Is Wrong With Probation In Georgia?

- Georgia has more individuals on probation than any other state in the country
- Georgia's average probation sentence is 6.3 years vs the nationwide average of less than 2 years
- 40% of probation sentences in Georgia exceed 10 years
1 in 18 Georgians is serving a probation or parole sentence.
Racial Disparities in Georgia's Criminal Justice System

- Black people make up 1/3 of Georgia's population
- 50% of Georgians on probation are Black
- Black people are 8x more likely to be supervised in Fulton

In every single county, black people are at least 2x as likely to be supervised than white people.
Long Probation Sentences Do Not Help Georgians

• If at all, new offenses predominantly take place in the first two years of probation
• Research shows diminishing returns after 18 to 24 months
• Technical violations account for 25% of all prison admissions in Georgia
SB 105: Early Termination of Felony Probation

- Effective May 3, 2021

- SB 105 Establishes One:
  - Criteria
  - Process
  - Court Standard

Streamlined Process
Clear Criteria
Order to Terminate
Early Termination Process Was Confusing and Not Working

**CRITERIA FOR ELIGIBILITY**

**PROCESS**

**COURT STANDARD**

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**Early Termination Process**

**BID REQUIRED (OCGA 17-10-1)**

- No arrests other than nonserious traffic offenses
- Compliant with general and specific conditions
- Paid all restitution

- DCS shall provide order to terminate and court shall execute order unless hearing is requested within 30 days and then ???????????

- Court shall take whatever action it determines would be for the best interest of justice and the welfare of society

**EARLY TERMINATION ELIGIBLE (OCGA 42-8-37)**

- No arrests other than nonserious traffic offenses
- Not had probation revoked
- Paid all restitution

- DCS shall provide petition to terminate, when unopposed court shall issue order ASAP or set hearing within 90 days of receiving petition

- Court shall take whatever action it determines would be for the best interest of justice and the welfare of society

**PROGRESS REPORT WITH RECOMMENDATION AS TO EARLY TERMINATION (OCGA 42-8-37)**

- No arrests other than nonserious traffic offenses
- Compliant with general and specific conditions
- Status of restitution or any fines and fees

- ?????????

- ?????????

- ?????????

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**Eligible Offenses**

- Less than 12 months prison with a prior felony conviction or more than 12 months prison with or without a prior felony conviction
- 17 qualified offenses
- All other offenses

**Eligibility Criteria**

- No arrests other than nonserious traffic offenses
- Paid all restitution
- DCS shall provide order to terminate and court shall execute order unless hearing is requested within 30 days and then ???????????

- Court shall take whatever action it determines would be for the best interest of justice and the welfare of society
Who is eligible for early termination consideration under SB 105?

**EVERYONE!**

After 3 years

Creates an early termination pathway for the **191,651** people on felony probation
CRITERIA FOR ELIGIBILITY:
1. No arrests other than nonserious traffic offenses
2. Not had probation revoked within last 24 months
3. Paid all restitution

PROCESS:
DCS shall provide order to terminate and court shall execute order, unless hearing is requested within 30 days. Hearing shall be scheduled not more than 90 days after receiving order to terminate.

COURT STANDARD:
Court shall take whatever action it determines would be for the best interest of justice and the welfare of society
CRITERIA FOR ELIGIBILITY:
1. No arrests other than nonserious traffic offenses
2. Not had probation revoked within last 24 months
3. Paid all restitution

PROCESS:
DCS shall provide order to terminate and court shall execute order, unless hearing is requested within 30 days. Hearing shall be scheduled not more than 90 days after receiving order to terminate.

COURT STANDARD:
Court shall take whatever action it determines would be for the best interest of justice and the welfare of society
Criteria For Eligibility Under SB 105

1. No arrests for anything besides a nonserious traffic offense (OCGA 40-6-15)
2. No probation revocations in the past 24 months
3. Paid all their restitution (not including fines and fees)
I. No New Arrests

Besides A Nonserious Traffic Offense (OCCA 40-6-15):
- Reckless driving
- DUI
- Homicide by vehicle, feticide by vehicle, serious injury by vehicle
- Fleeing or attempting to elude a police officer
- Homicide or serious injury by with official traffic-control device or railroad sign or signal, or aggressive driving
2. No Revocations in the Past 24 Months

- Sentence revoked in whole or in part for violating a condition of your probation
  - Revoked to jail or prison
- Does not include:
  - Modification of probation conditions
  - Sanctions
  - Status hearings
3. Paid All Restitution

• Court ordered payment to a victim
• Does NOT include fines or fees
  o Fines
  o Probation supervision fees
  o Fine surcharges
CRITERIA FOR ELIGIBILITY:
1. No arrests other than nonserious traffic offenses
2. Not had probation revoked within last 24 months
3. Paid all restitution

PROCESS:
DCS shall provide order to terminate and court shall execute order, unless hearing is requested within 30 days. Hearing shall be scheduled not more than 90 days after receiving order to terminate.

COURT STANDARD:
Court shall take whatever action it determines would be for the best interest of justice and the welfare of society.
Early Termination Process

Must meet criteria for early termination:
- No revocations
- No new arrests
- Paid all restitution

DCS will provide sentencing court with an order to terminate probation

Court must grant the order unless prosecutor or court requests a hearing within 30 days
CRITERIA FOR ELIGIBILITY:
1. No arrests other than nonserious traffic offenses
2. Not had probation revoked within last 24 months
3. Paid all restitution

PROCESS:
DCS shall provide order to terminate and court shall execute order, unless hearing is requested within 30 days. Hearing shall be scheduled not more than 90 days after receiving order to terminate.

COURT STANDARD:
Court shall take whatever action it determines would be for the best interest of justice and the welfare of society
Court Standard

- A hearing must be scheduled within 90 days of receiving the order to terminate
- Court shall take whatever action it determines would be for the **best interest of justice** and the **welfare of society**
SB 105

CRITERIA FOR ELIGIBILITY:
1. No arrests other than nonserious traffic offenses
2. Not had probation revoked within last 24 months
3. Paid all restitution

PROCESS:
DCS shall provide order to terminate and court shall execute order, unless hearing is requested within 30 days. Hearing shall be scheduled not more than 90 days after receiving order to terminate.

COURT STANDARD:
Court shall take whatever action it determines would be for the best interest of justice and the welfare of society
WHO IS ELIGIBLE FOR BID?

- First felony conviction OR sentenced under First Offender/Conditional Discharge
- Sentenced to straight probation OR 1 year or less of prison followed by probation
WHEN IS MY BID?

• 3 years from sentencing date
  o Sentence may include an earlier date
• You have a BID date of 3 years even if it is not included in your sentence!
Qualified Offenses OCGA 42-8-21

- Burglary in the second degree
- Possession of tools for the commission of a crime
- Arson in the third degree
- Theft offenses
- Forgery
- Drug offenses
- Criminal damage to property
- Interference with government property
- Failing to pay for natural products or chattels
- Financial transaction card offense

3 years of probation, meet the criteria, DCS must submit order
All Other Offenses

- Written progress report after 3 years
- Must specifically state whether you have:
  - Been arrested
  - Had your probation revoked in the past 24 months
  - Paid all restitution
- If early termination is recommended, DCS must submit an order to terminate
- Written report submitted annually
Under SB 105, you can pursue early termination of your felony probation sentence at any point.

A hearing must be set within 90 days of submitting your motion.
Questions and Answers

DJ Sims: Criminal Record Specialist and Reentry Organizer
Rachel Holmes: Managing Attorney
Elizabeth Rainwater: Staff Attorney and Equal Justice Works Fellow
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WHO IS ELIGIBLE TO GET THEIR PROBATION TERMINATED?

Individuals who have been on probation at least 3 years and have:

• No arrests for anything besides a nonserious traffic offense (OCGA 40-6-15)
• No probation revocations in the past 24 months
• Paid all their restitution (not including fines and fees)
Can I Expunge My Record After My Probation is Terminated?

• **Immediately**: If you successfully completed First Offender or Conditional Discharge you can discharge and seal those records (won’t show up on your GCIC, court records may be sealed if judge agrees)

• **Eventually**: If you were convicted of a felony, you can apply for a pardon 5 years after you complete your sentence (date your probation was terminated), if you receive a pardon you can petition the court to expunge your record (restrict and seal) unless it was a serious violent felony or sex offense


• Sign up for our First Fridays to help understand your criminal record and what you can do about it: [https://www.gjp.org/first-fridays/](https://www.gjp.org/first-fridays/)
Can I Vote If I Was Convicted of a Felony?

• **Yes!** As soon as you are off paper (completed your felony probation or parole)

• You still need to go through the process of registering to vote in order to exercise this right after your probation is terminated

• Be sure to request for a **Certificate of Sentence Completion** when discharged from probation to have proof that you completed your sentence (this is not required to register)

• Register to vote at:  
How Can GJP Help Me With Probation?

Contact us if:

• Eligible, but DCS is not submitting an order to terminate on your behalf after you have reached out to your probation officer

• Court does not move the order forward

• Meet all qualifications for early termination except an arrest that did not result in a conviction

• Scheduled for an early termination of probation hearing
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