

PROBATION

Probation in criminal law is a period of supervision over an **offender**, ordered by the court often **in lieu of incarceration**.

An offender on probation is ordered to follow certain **conditions set forth by the court**, often under the supervision of a **probation officer**. During the period of probation, an offender faces the threat of being incarcerated if found breaking the rules set by the court or probation officer.

Offenders are ordinarily required to maintain **law-abiding behavior**, and may be ordered to **refrain from possession of firearms**, remain employed, participate in an educational program, **abide a curfew**, live at a directed place, obey the orders of the probation officer, or not leave the jurisdiction. The probationer might be ordered as well to refrain from contact with the **victims** (such as a former partner in a **domestic violence case**), with potential victims of similar crimes (such as minors, if the instant offense involves **child sexual abuse**), or with known criminals, particularly **co-defendants**. Additionally, offenders can be subject to refrain from use or possession of alcohol and drugs and may be ordered to submit alcohol/drug tests or participate in alcohol/drug psychological treatment. Offenders on probation might **be fitted with an electronic tag** (or monitor), which signals their movement to officials. Some courts permit defendants of limited means **to perform community service** in order to pay off their probation fines.

Intensive

Home detention, GPS monitoring and computer management are highly intrusive forms of probation in which the offender is very closely monitored. It is common for violent criminals, higher-ranking **gang** members, **habitual offenders**, and **sex offenders** to be supervised at this level. Some jurisdictions require offenders under such supervision to **waive their constitutional rights** under the [Fourth Amendment](#) regarding **search and seizure**, and such probationers may be subject to **unannounced home or workplace visits**, **surveillance**, and the use of **electronic monitoring** or satellite tracking. Under terms of this kind of probation, a client may not change their living address and must stay at the address that is known to probation. [GPS monitoring](#) and home detention are common in **juvenile cases**, even if the underlying **delinquency** is minor. Some types of supervision may entail installing some form of monitoring software or conducting computer searches to ascertain what an offender is doing online.

Standard

Offenders under standard supervision are generally required **to report to an officer**, most commonly between **biweekly and quarterly**, and are subject to any other conditions as may have been ordered, such as alcohol/drug treatment, community service, and so on.

Unsupervised

Some probation does not involve direct supervision by an officer or probation department. The probationer is expected to complete any conditions of the order with no involvement of a probation officer, and perhaps within a period shorter than that of the sentence itself. For example, given one year of unsupervised probation, a probationer might be required to have completed community service and paid court costs or fines within the first six months. For the remaining six months, the probationer may be required merely to refrain from unlawful behavior. Probationers are allowed to go to their workplaces, educational institutions, or places of worship. Such probationers may be asked to meet with an officer at the onset or near the end of the probationary period, or not at all. If terms are not completed, an officer may **file a petition to revoke probation**.

Violation

A probation officer may imprison a probationer and petition the court to find that the probationer committed a violation of probation. The court will request that the defendant appear at a show cause hearing at which the prosecutor must demonstrate **by a preponderance of the evidence** that the defendant committed a probation violation. If the defendant **pleads guilty** to a probation violation, or is found guilty of a probation violation after the hearing, the officer or prosecutor may request that additional conditions of probation be **imposed**, that the duration be extended, or that a period of incarceration be ordered, possibly followed by a return to probation. No law specifies when probation violation proceedings must be **commenced**, although probation violation proceedings are nearly certain to occur following the defendant's **conviction** of a subsequent offense or **failure to report** to the probation officer as ordered.

If a violation is found, **the severity of the penalties** may depend upon the facts of the original offense, the facts of the violation, and the probationer's criminal history. For example, if an offender is on probation for a gang-related offense, subsequent "association with known criminals" may be viewed as a more serious violation than if the person were on probation for **driving a car with a suspended license**; the reverse may be true if the initial offense were for driving under the influence. Similarly, penalties for violation may be greater if a

subsequent offense is of greater severity (such as a **felony**, following a **misdemeanor**), or if the original offense and subsequent offense are of the same type (such as a **battery** following an **assault**, or retail theft following retail theft).

Revocation

When a probation violation is extremely severe, or after multiple lesser violations, a **probation revocation** hearing could be scheduled. A judge at the hearing will consider reports from the probation officer, and if **probation is revoked**, the probationer will often be incarcerated in jail or prison. However, the term of incarceration might be reduced from the original potential sentence for the **alleged crime(s)**. It is possible that an innocent **defendant** would choose to accept a **deferred sentence** rather than incur the risk of going to trial. In such a case, a probation revocation can result in conviction of the original criminal charges and a **permanent record of conviction**.