

- complete a comprehensive assessment to determine the appropriate intervention and frequency of reporting based on an analysis of the offender's risk to re-offend and need in areas linked with criminal conduct. Factors that are considered in determining the type of intervention include:
- legal requirements and conditions of probation;
- public safety;
- circumstances of offence and risk of re-offending;
- need, motivation and ability to benefit from rehabilitative services; and
- availability of programs and services.

Additional Conditions

The Criminal Code of Canada enables the court to require a probationer to "comply with such other reasonable conditions as the court considers desirable for securing the good conduct of the accused and for preventing a repetition of the same offence or the commission of other offences."

Conditions of probation must:

- detail precisely what conduct or acts are prohibited, avoiding ambiguous, uncertain or contradictory wording;
- be enforceable; and
- be relevant to offence and rehabilitation, as determined by case law.

Source: Ontario Ministry of Community Safety and Correctional Services
www.mcscs.jus.gov.on.ca/english/corr_serv/comm_corr/probation/probation.html

This information provided by The Salvation Army is a simple outline of legal information and process. It is not intended to give legal advice or substitute for legal counsel in any way.

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Giving Hope Today

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What is Probation?

Probation is a court disposition that authorizes the offender to remain at large in the community subject to conditions prescribed in a probation order. In Ontario, probation officers in 120 offices provide supervision to approximately 55,000 probationers on any given day.

When Probation Can Be Used

Probation can be ordered by way of a conditional discharge or suspended sentence, or it may be included with any one of the following dispositions

- fine;
- imprisonment for a term not exceeding two years;
- intermittent sentence; and
- conditional sentence.

Offenders with a conditional discharge, suspended sentence, or intermittent sentence must be placed on probation.

Those receiving a fine, incarceration or conditional sentence may be placed on probation.

Definitions

Conditional Discharge

- This occurs when an offender is not convicted, but found guilty of an offence and is discharged on the conditions prescribed in a probation order.
- If an offender is convicted of a subsequent offence during the term of probation, the court may decide to revoke the probation order and impose any sentence that could have been imposed at the time the order was made.

Suspended Sentence

- A conviction is recorded but the passing of sentence is suspended.
- Similar to a conditional discharge, a provision is in place for revoking the order, suspending the passing of sentence and imposing sentence.

Intermittent Sentence

Where the court imposes a sentence of not more than 90 days, the court may order that sentence be served intermittently (i.e. on weekends).

- A probation order must accompany an intermittent sentence and is usually applicable only at such times the probationer is not confined.
- If the intermittent sentence is to be followed by a further probation, a second probation order is often made.

Duration of Probation

A probation order comes into effect on the day it is made or, if it is to follow incarceration, on the expiration of the prison term. Where there is a conditional sentence, the probation order comes into effect at the expiration of the conditional sentence.

Probation Orders

- cannot remain in force for more than three years;
- cannot be made to run consecutive to another order (although orders do run concurrently where the offender is bound by a number of different orders at the same time); and
- end only on the expiry date unless the court revokes or terminates the order early. The court can also, at any time, decrease the term of probation.

Supervisory Role of a Probation Officer

After Court #4

The supervisory role of a probation officer is to:

- prepare reports for courts and other correctional decision makers;
- enforce the probation order; and
- comprehensively assess offenders, make effective case management decisions and determine rehabilitative interventions (e.g., referral to internal or community-based educational, counselling, or treatment programs or services).

Enforcement

Failure to Comply with Probation Without Reasonable Excuse (Breach of Probation)

- An offender who is bound by a probation order and who, without reasonable excuse, fails or refuses to comply with that order is guilty of:
- an offence punishable on summary conviction and has a maximum penalty not exceeding 18 months in jail and/or a fine not exceeding \$2,000; or
- an indictable offence and has a maximum penalty of imprisonment not exceeding two years.

Revocation

When a person on probation with a suspended sentence or conditional discharge has been charged and convicted of a subsequent offence during the term of the order, the Crown Attorney may apply to the judge to have the order revoked.

The court may:

- impose any sentence that may have been imposed had the passing of sentence not been suspended; or
- revoke the discharge, convict the probationer on the original charge, and impose any sentence that could have been imposed had the discharge not been granted initially.

Conditions of Probation

Reporting to a Probation Officer

- A probation officer only has authority to supervise a person who has been placed on probation with a reporting condition.
- The frequency and form of reporting may be outlined by the court.
- Where the reporting condition is worded "report as directed" without outlining a reporting schedule, a probation officer will

Probation offices in GTA

Jane

Riverdale

Yonge

Danforth

Parkdale