

PROBATION

Violations · Juvenile · Adult

Federal · State

Probation · Sentencing

In **California** criminal defendants who receive **Probation** as part of their sentence are allowed to remain as members of their community after they complete their jail time (or, in some cases, there may be no jail time). In cases where defendants are placed on *Summary Probation* (informal probation), there is no need to report to a Probation Officer. Under **Summary Probation**, all a defendant has to do is complete the specific terms of the sentencing and stay out of trouble (**no new criminal cases**). If a defendant is placed on **Formal Probation**, then he is ordered to meet with his or her assigned probation officer and do as requested. Under *Formal Probation*, a defendant will report once a month to his or her Probation Officer. During probation (informal or formal), the defendant may be expected to do certain things, such as:

- Attend counseling
- Perform community service
- Complete physical labor
- Undergo drug testing

As a general rule, the probationary time period is three years.

WHAT IS A PROBATION VIOLATION?

In the State of California, if a defendant breaks any of the rules imposed upon him or her during the probationary period, his or her probation can be revoked and jail time could be required.

TYPES OF PROBATION VIOLATIONS

(California and LA County)

- Failure to pay a fine
- Failure to pay restitution to the victim
- Failure to enroll in or complete rehabilitation or community service
- Failure to appear in court for a progress report
- **Violation of *probation rules***, including:
 - Staying away from certain person(s)
 - Staying away from certain location(s)

- Reporting to probation officer when expected
- Possession of illegal drugs or weapons (guns)
- Associating with known criminals
- Committing new crimes (picking up new criminal cases)
- Being arrested even if though no criminal charges are pending

WHAT HAPPENS WHEN PROBATION IS VIOLATED?

The violation of probation depends on how serious the violation is. If the probation is not serious, chances are the adult or juvenile defendant will be given a second chance and will be allowed to remain on probation under the same terms and conditions. If a more serious violation occurs, then there will likely be a violation of probation with some consequences.

If a probation violation occurs, the adult or juvenile defendant could be arrested or ordered to court, by means of official mail notification, for a probation violation hearing. At the probation violation hearing, the Prosecutor must prove the adult or juvenile defendant violated probation. If the defendant is found guilty of the probation violation, the court may impose one of several punishments.

PROBATION VIOLATION CONSEQUENCES

- Potential jail or prison sentence
- Probation extension
- Additional probation terms imposed
- Probation revoked
- Probation reinstated with same terms and conditions or different terms
- Community service
- CalTrans (physical labor)
- Rehabilitation / Counseling / Treatment Program

FACTORS CONSIDERED FOR A PROBATION VIOLATION

The outcome of your probation violation will vary, depending upon several factors considered by the Judge and Prosecutor. A skilled attorney can prepare you for the probation violation hearing, and make a difference in the final result.

PROBATION VIOLATION CONSIDERATIONS

- The seriousness and nature of the probation violation
- The number of times you previously violated your probation
- Whether the probation violation involves a new crime
- Mitigating and aggravating circumstances
- The attitude of the probation department or probation officer
- The timing of the probation violation (whether it happened early in the probationary period or at the end of the probationary period)

WHAT IS PAROLE?

PAROLE is the conditional release of a prison inmate after serving all or part of his/her sentence, allowing the inmate to live in the community under supervision for the parole period. The decision to grant an inmate parole is the responsibility, in a majority of states, of a board of parole or commission. A violation of the conditions of parole is serious, and can result in revocation and re-imprisonment. Parole violations may subject a defendant to at least one year in county jail.

PAROLE VIOLATION HEARINGS. If there is a Parole Violation hearing, usually attorneys are excluded from the hearing. In fact, most Parole hearings involve just the Parolee, the Parolee's Probation Officer, and a small committee. Unfortunately, in most cases, an attorney cannot assist in your Parole Violation hearing.

HOW AN ATTORNEY CAN HELP YOU

There are a number of ways a skilled criminal defense attorney can prepare for your probation violation. Your attorney can *prepare the adult or juvenile defendant for the hearing* in the event one takes place. Your attorney can *gather character, employment, or reference letters* to present at the hearing. A good attorney can *establish communication with the probation department* or even your probation officer. The attorney can also *locate and interview witnesses necessary for your defense*. A good and experienced criminal defense lawyer can **effectively negotiate alternatives to jail**.