

23 - Probation

The district division probation department conducts investigations, prepares pre-sentence reports, and supervises people on probation.

Probation is an option that the court can use in determining the penalty for a criminal conviction. It is not a right guaranteed to a defendant. By granting probation, the court imposes a sentence. The court has determined that the defendant is not likely to engage in further criminal activity and that the defendant is not a threat to the public.

In addition to the general conditions of probation, the court may require the defendant to carry out other special conditions, such as:

- ! attending rehabilitative programs
- ! refraining from certain activities
- ! performing community service
- ! serving time in jail

At the end of the probation period, and when the probationer has met all of the conditions of probation, the probation officer will submit a **Petition to Discharge** to the judge.

What happens if I do not do what the Court has ordered?

You will be in violation of your probation and may be returned to court for a **Show Cause** hearing. The court will determine whether your probation should be terminated and jail time imposed.

What if I do not appear for a show cause hearing?

The court will issue a bench warrant for your arrest.

OUIL/OWI/UBAL Alcohol Assessment

In 1983, a law was established in Michigan requiring any person arrested and convicted for any alcohol-related driving violation to undergo an alcohol assessment. This assessment is completed before a person is sentenced. The alcohol assessment is used to determine if a person does or does not have a substance abuse problem, and if so, which rehabilitation program would best suit the person. The defendant is responsible for paying the cost of the assessment and all rehabilitative services.

OUIL/OWI/UBAL are the three specific types of charges involving the use of alcohol while driving a car for which you could be arrested and prosecuted. They stand for:

- ! Operating Under the Influence of Liquor (OUIL)
- ! Operating While Impaired (OWI)
- ! Unlawful Blood Alcohol Level (UBAL)

Do I have to give a urine sample or take a blood test?

Yes, if requested to do so.

What is a pre-sentence report?

A background investigation is often ordered by the judge. The probation department completes this report before the defendant returns to court for sentencing.

Why would the judge want a pre-sentence report?

To obtain detailed knowledge of the defendant's background and current circumstances, and to know if the defendant is a threat to society, or if there are any needs the defendant has which can be addressed through probation.

A judge may order you to attend and successfully complete different treatment programs. Some of the more common programs are:

- ! substance abuse program
- ! victim impact panel program
- ! domestic abuse intervention program
- ! driver improvement program

The probation department will monitor your success in these programs if you are ordered to attend one or several of them. If you were ordered to the community service program, your successful completion of that program will also be monitored by the probation department.

Community Service

The community service program was developed both to handle overcrowded jails and to find a way that low income people convicted of a misdemeanor could provide restitution to the community. Community service is not a reward. It is a form of punishment that returns something to the community.

What is community service?

Community service is an alternative sentence where offenders work for non-profit or governmental organizations as volunteers.

What type of organizations are used in this program?

A non-profit organization that has a 501-C3 tax exempt status and liability insurance is eligible. Types of work might include clerical, kitchen maintenance, child care, yard work, coaching, data entry, or meal delivery to senior citizens.

The probation department has a list of participating agencies and the probationer signs a contract with the agency for specific hours and locations.

What happens if I have a medical problem and can't work?

If you have a medical problem that you believe would interfere with your community service activity, you must present some type of document from your doctor describing your limitations. If you are ruled ineligible, the judge will be sent this document to make a determination. Even if you have some physical limitations, a position may still be found for you.

Glossary of Terms

Probation Order--An official written directive from the court ordering that a defendant in a criminal case is sentenced to a term of probation. This document is prepared by a court clerk, signed by both the judge and the defendant, and includes all legal conditions, fines, costs, and other special conditions.

Petition--A written request made to the court requesting some type of action.

Amended Order of Probation--Used to add or delete information contained in the original Order of Probation, as recommended by the probation officer or required by the judge.

Order to Show Cause--A request filed by a probation officer to the sentencing judge when a defendant has violated or not obeyed a condition of probation. Once signed by the judge, the defendant is ordered to come to court to show cause why his/her probation should not be violated.

Bench Warrant--An order signed by the sentencing judge when a defendant has not obeyed the conditions of probation and the defendant cannot be found.

Order for Discharge--A written directive from the court that discharges the person from probation. This petition is prepared if the client has completed all the conditions of probation.

Travel Permit--A legal document giving a person on probation permission to travel to another state during his or her probation period. This permit will list specific dates and locations of travel that the court has allowed.

Release of Information--A form signed by a defendant authorizing a probation officer to legally obtain information about the defendant.