

UNDERSTANDING PROBATION IN TENNESSEE

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If you are convicted of a criminal offense in the State of Tennessee you will be sentenced by a judge following your conviction. Part of your sentence may include a term of probation. Probation could be ordered *following* a period of incarceration or *instead* of incarceration. Without a doubt, probation is preferable to a prison sentence; however, probation can also be costly, restrictive, and confusing.

That confusion often leads to a violation which, in turn, can lead to a return to jail. For this reason alone it is always best to discuss the terms of your probation at length with your Tennessee criminal defense attorney as soon as the sentence is entered. All probationers, however, should have a better understanding of how probation works and what happens if you violate your probation.

Probation as an Inducement to Plead Guilty



When criminal charges are filed against a defendant it becomes the State of Tennessee's burden, through the prosecuting attorney, to convict the defendant of those charges. A conviction may be ascertained through a trial, requiring the prosecuting attorney to convince a jury that all the elements of the crime have been proven beyond a reasonable doubt. The other way to secure a conviction is through a guilty plea agreement. Prosecutors often use the lure of probation as an inducement for a defendant to enter into a plea agreement. Typically, a plea agreement offers the defendant a pre-determined sentence, thereby eliminating the risk of a harsher sentence should the defendant lose at trial. A plea agreement, however, does require you to plead guilty to at least one of the charges against you, which you cannot do if you maintain your innocence. Moreover, it is imperative that you understand the terms of the plea agreement, including the conditions of your probation, before agreeing to the agreement.

Suspended Sentencing – An Often Overlooked Detail



All too often a defendant who has been offered a probation only sentence as part of a plea agreement focuses only on the fact that a return to jail is not necessary. What people often overlook, however, is that the sentence actually **does** include a term of incarceration which was suspended by the judge. For example, if you are convicted of shoplifting, or petty theft, you might be sentenced to a term of imprisonment of eleven months and twenty-nine days. You are not required to serve that sentence, however, because the judge suspends the sentence and order you to serve time on probation instead. The length of your probation may be “no less than the minimum sentence allowed under the classification and up to and including the statutory maximum time

for the class of the conviction offense.” If you successfully complete your probation without a violation your suspended sentence is not important; however, should you violate your probation your suspended sentence becomes very important. Because you have already entered a guilty plea and been sentenced the judge has the option to revoke your probation and reinstate the suspended sentence, meaning you *will* be going to jail. For this reason it is important to understand exactly what your sentence includes when you agree to a plea agreement.

Common Conditions of Probation in Tennessee

Probation will include a list of *standard* conditions that you are required to abide by while on probation. In addition, the judge may order *special* conditions that relate specifically to the offense or to you. Examples of standard probation conditions include:

- Reporting to a probation officer as ordered
- Maintain employment or enrollment in school
- Do not commit a new offense
- Meet family obligations
- Do not own or carry a firearm
- Abstain from drugs and alcohol
- Remain in the State of Tennessee
- Report a change of address or employment
- Pay court fines and costs

Special conditions of probation are usually ordered because of the type of offense and/or because of your own criminal history. The following are examples of special conditions that could be ordered as part of your probation:

- Mental health evaluation and treatment
- Alcohol and drug evaluation and treatment
- Anger management classes
- Drug Screens
- Payment of restitution to a victim
- Perform community service work

Consequences of Violating Your Probation



Failing to adhere to any of the standard or special conditions of your probation may result in a probation violation being filed with the court. Your probation officer usually has discretion to file a violation or give you another chance. If a violation is filed with the court where you were originally sentenced you will be summoned to court, either by a notice to appear or by being arrested. A hearing held to

determine if you did, indeed, violate the term of your probation. You have a right to be

represented by an attorney at the hearing, a right you should exercise given what is at stake. The burden of proof at a probation violation hearing is significantly lower than in a criminal trial, effectively resulting in making it easier for the State of Tennessee to prove you violated your probation. If the violation is sustained, the judge will do one of three things:

- **Continue without change** –for a minor violation the judge may simply give you a stern warning and allow you to continue on probation without making any changes to the terms of your probation.
- **Continue with changes** –if the violation is more serious, or this is not the first violation, the judge may allow you to continue on probation but with changes. A drug evaluation, for example, might be added if the judge perceives a problem with drugs or alcohol.
- **Revoke and remand**–the judge always has the option to simply revoke your probation. As a general rule, if the judge revokes your probation you will be remanded to the jail to serve all, or a portion of, your original suspended sentence.

Without a doubt, being sentenced to probation is certainly preferable to a lengthy term of incarceration. Be sure, however, that the terms of your original sentence as well as of your probation are crystal clear to you to avoid an unwitting violation of your probation. If you have any additional questions or concerns about your probation consult with an experienced Tennessee criminal defense attorney right away.

Tennessee Department of Corrections, [Probation](#)

Justia, [Tennessee Code Probation Eligibility Terms](#)

Bradley County, [Rules of Bradley County Probation](#)

Findlaw, [Probation Violation](#)

About Bennett and Michael, Attorneys at Law



The law firm of Bennett & Michael is located on the historic public square in Murfreesboro, Tennessee. We offer knowledgeable and effective representation for families in divorce and family law situations, injured victims of negligent accidents, and those charged with misdemeanor or felony offenses.

Our firm takes pride in being a local law firm that delivers superior results at competitive prices right here at home for the people of Murfreesboro, Smyrna, La Vergne, and the greater Rutherford County area. Our staff is professional and helpful, and our attorneys are experienced litigators and trial lawyers.

When you need legal help, you should be confident that the lawyer you choose will provide you with exceptional, trustworthy, and effective services. Our experienced, dedicated, and compassionate lawyers and legal staff are committed to always protecting clients' rights and relentlessly fighting for their best interests. Enlist the unyielding advocacy at Bennett & Michael, and you can trust that you and your family will get the results, service, and respect that you deserve. You won't be disappointed.