

§1807. Conditions of probation

1. Purpose of conditions. If the court imposes a sentencing alternative under section 1502 that includes a period of probation, it shall attach conditions of probation, as authorized by this section, as it considers to be reasonable and appropriate to assist the person to lead a law-abiding life, including, without exception, a condition of probation that the person refrain from criminal conduct.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Specific conditions of probation authorized. As a condition of probation, the court in its sentence may require the person to:

A. Support the person's dependents and to meet the person's family responsibilities; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Make restitution pursuant to chapter 69 to each victim of the person's crime, or to the county where the offense is prosecuted if the identity of the victim cannot be ascertained or if the victim voluntarily refuses the restitution. If the court orders as a condition of probation that the person forfeit and pay a specific amount of restitution, that order, as a matter of law, also constitutes the imposition of restitution pursuant to chapter 69 as a sentencing alternative and an additional order regarding restitution is unnecessary; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Pursue and maintain approved employment or an approved occupation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Undergo, as an outpatient, available medical or psychiatric treatment, or to enter and remain, as a voluntary patient, in a specified institution when required for that purpose. Failure to comply with this condition is considered only as a violation of probation and may not, in itself, authorize involuntary treatment or hospitalization; [PL 2021, c. 174, §3 (AMD).]

D-1. Complete a certified domestic violence intervention program. The court may not order and the State may not pay for the person to attend a domestic violence intervention program unless the program is certified under Title 19-A, section 4116; [PL 2021, c. 647, Pt. B, §40 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

E. Pursue a prescribed secular course of study or vocational training; [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. Refrain from frequenting specified places or consorting with specified persons; [PL 2019, c. 113, Pt. A, §2 (NEW).]

G. Refrain from possessing any firearm or other dangerous weapon; [PL 2019, c. 113, Pt. A, §2 (NEW).]

H. Remain within the jurisdiction of the court, unless permission to leave temporarily is granted in writing by the person's probation officer, and to notify the probation officer of any change in the person's address or employment; [PL 2019, c. 113, Pt. A, §2 (NEW).]

I. Refrain from drug use and use or excessive use of alcohol or marijuana; [PL 2023, c. 299, §3 (AMD).]

J. Report as directed to the court or the person's probation officer, to answer all reasonable inquiries by the probation officer and to permit the probation officer to visit at reasonable times at the person's home or elsewhere; [PL 2019, c. 113, Pt. A, §2 (NEW).]

K. Pay any monetary penalty imposed by the court as part of the sentence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

L. Perform specified work for the benefit of the State, a county, a municipality, a school administrative district, other public entity or a charitable institution; [PL 2019, c. 113, Pt. A, §2 (NEW).]

M. Participate in an electronic monitoring program, if available; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

N. Satisfy any conditions reasonably related to the rehabilitation of the person or the public safety or security. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2023, c. 299, §3 (AMD).]

3. Opportunity to address court regarding probation conditions; written statement required.

The person must be given an opportunity to address the court on the conditions that are proposed to be attached and, after sentence, must be given a written statement setting forth the particular conditions on which the person is released on probation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Findings or explanation required in certain cases when completion of domestic violence intervention program is not ordered as a condition of probation.

If an individual is convicted of a crime under chapter 9 or 13 or section 758 that the State pleads and proves was committed by the individual against a spouse, domestic partner or sexual partner; a former spouse, domestic partner or sexual partner; a victim with whom the individual is living or lived as a spouse; or a victim who is or was a dating partner of the individual and the court does not order as a condition of probation that the individual complete a domestic violence intervention program certified pursuant to Title 19-A, section 4014, the court shall make findings on the record of the court's reasons for not ordering the individual to complete a certified domestic violence intervention program. If a plea agreement submitted to the court in accordance with Rule 11A(b) of the Maine Rules of Unified Criminal Procedure does not contain a provision ordering the individual to complete a certified domestic violence intervention program, the attorney for the State shall indicate, in a writing submitted to the court, the basis for the plea agreement's not including completion of a certified domestic violence intervention program as a condition of probation. For purposes of this subsection, "dating partner" means a victim currently or formerly involved in dating the individual, whether or not the individual and the victim are or were sexual partners.

[PL 2021, c. 567, §11 (AMD).]

5. Condition of probation that includes psychiatric treatment or mental health counseling; notice by court to Department of Health and Human Services.

Before imposing any condition of psychiatric outpatient or inpatient treatment or mental health counseling, the court may request that a report be submitted by an agent of the Department of Health and Human Services who has been designated pursuant to Title 34-B, section 1220 for the purpose of assessing the appropriateness of psychiatric treatment or mental health counseling for the individual and the availability of this treatment or counseling. Whether or not a report is requested, the court shall notify the designated agent of the Department of Health and Human Services when any conditions of probation are imposed that include psychiatric outpatient or inpatient treatment or mental health counseling. This notification must include the name and last known address of the individual placed on probation, the name and address of the attorney of record for that individual and the conditions of probation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Supervision fee; determination of amount by court; failure to pay. The court shall attach as a condition of probation that the person pay, through the Department of Corrections, a supervision fee of between \$10 and \$50 per month, as determined by the court, for the term of probation. If the court does not set a supervision fee, the supervision fee is \$10 per month. Notwithstanding the attachment of supervision fee conditions on more than one sentence, a person on probation on concurrent sentences is required to pay only one supervision fee. In determining whether to set an

amount higher than \$10 per month, the court shall take into account the financial resources of the person and the nature of the burden its payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fee. When a person on probation fails to pay the supervision fee, the court may revoke probation as specified in section 1812, unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fee and shall issue an order attaching a specified portion of money received by or owed to the person on probation until the total amount of the fee has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fee to no less than \$10 per month, but may not revoke the requirement to pay the fee unless the remaining period of probation is 30 days or less.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Electronic monitoring and substance testing fees; determination of amount by court; failure to pay; use of fees. Upon the request of the Department of Corrections, the court shall attach as a condition of probation that the person pay, through the department, an electronic monitoring fee, a substance testing fee or both, as determined by the court, for the term of probation. In determining the amount of the fees, the court shall take into account the financial resources of the person and the nature of the burden the payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fees. When a person on probation fails to pay the fees, the court may revoke probation as specified in section 1812, unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fees and shall issue an order attaching a specified portion of money received by or owed to the person on probation until the total amount of the fees has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fees, but may not revoke the requirement to pay the fees unless the remaining period of probation is 30 days or less. Fees received from a person on probation must be deposited into the department's adult community corrections account, unless the department has required the person to pay fees directly to a provider of electronic monitoring, substance testing or other services. Funds from the adult community corrections account do not lapse and must be used to defray costs associated with the purchase and operation of electronic monitoring and substance testing programs.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Condition of probation that includes staying within jurisdiction of court; application fee; use of fees. Whenever the court requires as a condition of probation that the person remain within the jurisdiction of the court, unless permission to leave temporarily is granted in writing by the person's probation officer, the Department of Corrections may impose on a person applying for such permission an application fee of \$25. The department may impose on a person an additional fee of \$25 per month if permission is sought and granted to leave the jurisdiction of the court on a periodic basis. Permission to leave may not be denied or withdrawn solely because the person is not able to pay the application fee or the additional fee. When a person fails to pay a fee imposed under this subsection, the department may refuse to process the application or may withdraw permission to leave if the failure to pay is attributable to the person's willful refusal to pay or to a failure on the person's part to make a good faith effort to obtain the funds required for the payment. Fees received from a person pursuant to this subsection must be deposited into the department's adult community corrections account, which does not lapse, and must be used to defray costs associated with processing the applications, including, but not limited to, the cost of materials, equipment, training for probation officers and administration, and for the department's share of the costs of extraditing persons on probation who are fugitives from justice.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 174, §§3-5 (AMD). PL 2021, c. 567, §11 (AMD). PL 2021, c. 647, Pt. B, §40 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF). PL 2023, c. 299, §3 (AMD).

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