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PROBATION SERVICES IN COLORADO

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Probation is a sentencing option used by courts for a variety of nonviolent crimes that diverts offenders from prison or jail. Offenders may be sentenced directly to probation supervision or receive a deferred sentence that requires probation supervision, but results in a complete dismissal of the criminal charges upon successful completion.

The Colorado Judicial Branch administers 23 probation departments across the state that are responsible for preparing pre-sentence investigation reports for the court and supervising adult and juvenile offenders through a number of specialized programs. This issue brief explains the various probation services provided in Colorado.

Pre-sentence Investigation

Following the return of a guilty verdict for any misdemeanor and any felony other than a class 1 felony offense, the probation department is required to undertake an investigation and provide a written report to the court before the imposition of a sentence. The court then considers the report as a factor when making sentencing decisions.

The written report must include a substance abuse assessment and general information about the defendant, including, among other things, his or her family background, educational history, financial situation, employment record, criminal record, and the presence of any past unlawful sexual behavior.

Special requirements apply to pre-sentence investigation reports for crimes that constitute a sex offense. All reports are also required to include the following:

- an evaluation of alternative dispositions available to the defendant;
- an assessment of restitution owed by the defendant;
- an actuarial assessment of the defendant's criminological risks and needs;
- a description of the projected costs, if known, of each sentencing option available to the court;
- sufficient information to determine whether the defendant is a suitable candidate for a sentencing option that does not include incarceration;
- the appropriate conditions to impose if a defendant is sentenced to probation;
- a victim impact statement;
- the amount of time the defendant was imprisoned while awaiting trial; and
- any other information the court may require.

Probation Supervision

Eligibility. All individuals, except those who have been convicted of the following offenses, are eligible to apply for probation:

• a class 1 felony;

- a class 2 petty offense;
- two or more felonies of any class; or
- one or more felonies within ten years of a prior class 1, 2, or 3 felony conviction.

However, for certain offenses, the sentencing court may waive eligibility restrictions upon the recommendation of the district attorney.

The court has wide discretion to grant the defendant probation for such period and upon such terms and conditions as it deems best. Probation may be granted only if the court is satisfied that imprisonment is not the more appropriate sentence for the protection of the public.

Conditions of probation. The court is required to consider the nature and circumstances of the offense and the history and character of the offender when deciding whether to sentence him or her to probation and in determining appropriate conditions of probation.

Such conditions could include, among other things, a requirement that the offender maintain employment or enrollment in an education program; undergo appropriate medical or psychiatric treatment; refrain from using alcohol or controlled substances; repay a crime stopper reward; or make scheduled child support payments. All probation sentences include the requirement that the defendant make full financial restitution for his or her crime within a time period specified by the court.

Offenders who do not successfully meet the conditions contained in the court's order of probation may be sent to jail or prison as a result. Additionally, a sentence to probation may include a period of confinement in a county jail for all or part of the probation sentence.

Probation programs. The Division of Probation Services in the Judicial Branch administers several different regular and specialized intensive supervision probation programs. The division is responsible for developing and publishing probation guidelines and standards.

Each specialized probation program addresses the specific needs of targeted populations, such as women, juveniles, high-risk offenders with extensive criminal backgrounds, sex offenders, and drunk drivers. While each individual probation department is free to develop programs that address local needs, all offenders are assessed on risk and need for services and categorized accordingly.

Private probation and victim services. Since 1996, the Division of Probation Services has contracted with private entities to provide probation services in many judicial districts. This is due, in part, to inadequate staff resources needed to properly supervise all individuals sentenced to probation at the level required by published standards. More than half of the individuals assigned to private probation supervision were convicted of a drunk driving offense.

The 1996 Victims' Rights Act requires Colorado probation departments to provide victim services to victims of personal crime when the perpetrator of the crime is placed on probation. Victim services include things such as treatment referrals, general assistance, and notification about various case milestones.

Probation population. On July 30, 2011, there were a total of 49,381 adult and juvenile offenders on probation supervision in Colorado; of these, 19,992 were managed under a private probation contract. In FY 2010-11, a total of 33,540 new offenders were sentenced to probation. During that fiscal year, 68 percent of adult offenders and 74 percent of juvenile offenders successfully completed probation.