

PROBATION IN NEBRASKA – WHAT YOU NEED TO KNOW

“If you are convicted of a criminal offense in the State of Nebraska you may be sentenced to serve a period of time on probation in addition to, or in lieu of, a period of incarceration.”



If you are convicted of a criminal offense in the State of Nebraska you may be sentenced to serve a period of time on probation in addition to, or in lieu of, a period of incarceration. While probation is certainly preferable to jail or prison, it should still be taken seriously as a violation can result in a return to custody. Because no two probation orders are exactly the same it is always best to consult with your Nebraska criminal defense attorney to ensure that you understand the terms and conditions of your probation; however, it may also be helpful to have a more in-depth understanding of probation in general.



WHAT IS PROBATION?

Probation is an alternative to jail. What many probationers fail to understand, however, is that probation is usually ordered *in addition to* a jail sentence. The sentence, however, is suspended and the offender is allowed to serve time in the community under the supervision of the probation department instead of in jail.

For example, you might be sentenced to 180 days in jail; however, the judge might suspend that sentence and order you to serve the time on probation instead. Do not make the mistake of ignoring the fact that you have a suspended sentence hanging over your head.

PROBATION VS. PAROLE

The words “probation” and “parole” are frequently used interchangeably when, in fact, they are not the same thing. Parole always follows a period of incarceration in a state or federal penal facility. The Board of Parole decides whether or not a prisoner may be released into the community after the offender has served the minimum portion of his/her sentence as required by law. Once



released, a parolee is then supervised by a parole officer. Violations of parole are dealt with by the Board of Parole.

Probation, on the other hand, is a sentencing option. As such, the original sentencing judge will decide if an offender serves time on probation. Probation allows an offender to serve his/her time in the community instead of jail. While on probation you remain under the court’s supervision but are supervised by a

probation officer who has the authority to notify the court of any violations of the conditions of your probation.

STANDARD VS. SPECIAL CONDITIONS OF PROBATION

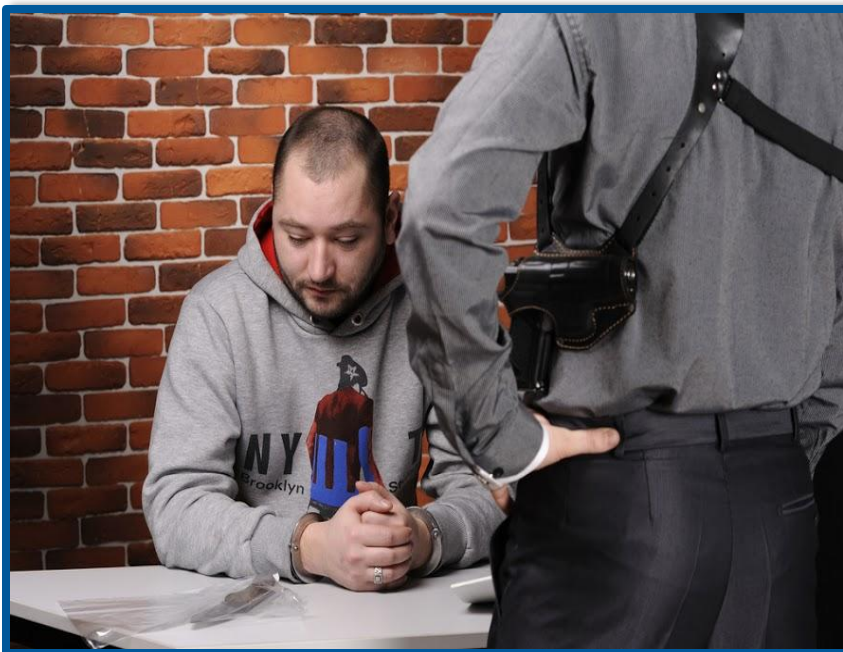
- When a judge orders a defendant to serve time on probation the judge will typically also order the defendant to abide by all “standard” and “special” conditions of probation. Standard probation conditions are conditions that apply to everyone sentenced to probation and which all probationers must follow.
- Examples of standard probation conditions include, but are not limited to, the following:
 - Reporting to a probation officer as directed
 - Maintaining employment and/or enrollment in school
 - Paying court fines and costs
 - Abstaining from drugs and/or alcohol
 - Not committing any new offenses

Special conditions of probation, on the other hand, do not apply to all probationers. Instead, they are usually conditions imposed by the judge in your case specifically because they apply to the crime you committed or because the judge believes you could benefit from the condition.

Examples of special conditions include, but are not limited to, the following:

- Mental health or substance abuse evaluation and/or treatment
- Payment of restitution if you caused personal or property damage
- Abiding by a no contact order if there was a victim involved in the crime.
- Registration as a sex offender if your offense qualifies
- Completion of community service work

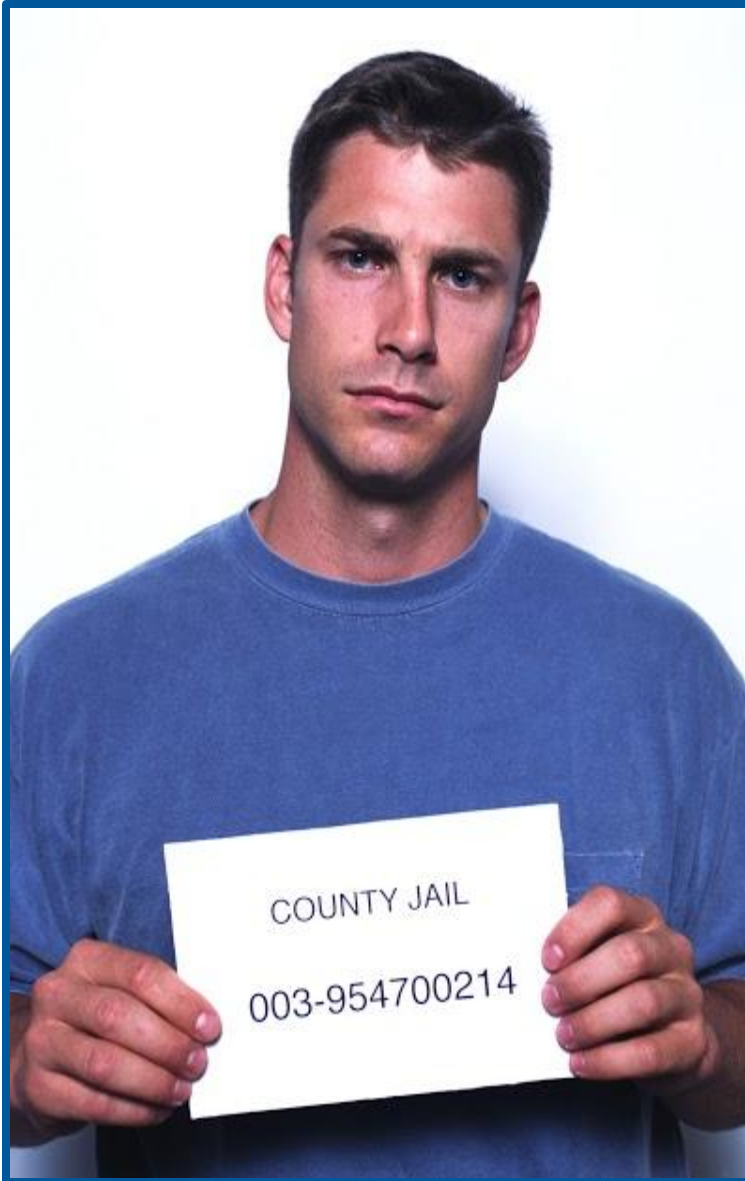
YOUR PROBATION OFFICER'S AUTHORITY



Throughout the time you are on probation your probation officer will remain an important figure in your life considering the control and authority your officer has over you. If your parole officer believes you have violated the terms of your probation your officer may impose administrative

sanctions or file an official notice of violation with the court. The nature of the violation will determine how much discretion your officer has according to the law in Nebraska. Nebraska Revised Statute 29-2266 governs a probation officer's authority, reading in pertinent part as follows:

(2) Whenever a probation officer has reasonable cause to believe that a probationer has committed or is about to commit a substance abuse violation or noncriminal violation while on probation, but that the



probationer will not attempt to leave the jurisdiction and will not place lives or property in danger, the probation officer shall either:

(a) Impose one or more administrative sanctions with the approval of his or her chief probation officer or such chief's designee. The decision to impose administrative sanctions in lieu of formal revocation proceedings rests with the probation officer and his or her chief probation officer or such chief's designee and shall be based upon the probationer's risk level, the severity of the violation, and the probationer's response to the violation. If administrative

sanctions are to be imposed, the probationer shall acknowledge in writing the nature of the violation and agree upon the administrative sanction. The probationer has the right to decline to acknowledge the violation; and if he or she declines to

acknowledge the violation, the probation officer shall take action pursuant to subdivision (2)(b) of this section. A copy of

the report shall be submitted to the county attorney of the county where probation was imposed; or

(b) Submit a written report to the sentencing court, with a copy to the county attorney of the county where probation was imposed, outlining the nature of the probation violation and request that formal revocation proceedings be instituted against the probationer.

(3) Whenever a probation officer has reasonable cause to believe that a probationer has violated or is about to violate a condition of probation other than a substance abuse violation or noncriminal violation and that the probationer

will not attempt to leave the jurisdiction and will not place lives or property in danger, the probation officer shall submit a written report to the sentencing court, with a copy to the county attorney of the county where probation was imposed, outlining the nature of the probation violation.



(4) Whenever a probation officer has a reasonable cause to believe that a probationer has violated or is about to violate a condition of his or her probation and that the probationer will attempt to leave the jurisdiction or will place lives or property in danger, the probation officer shall arrest the probationer without a warrant and may call on any peace officer for assistance. Whenever a probationer is arrested, with or without a warrant, he or she shall be detained in a jail or other detention facility.

CONSEQUENCES OF VIOLATING PROBATION IN NEBRASKA

If a notice of violation of probation is filed with the court, a hearing will be

scheduled to determine if the allegations in the notice.

A probation hearing is less formal than a trial, meaning the rules of evidence are not the same. You are, however, entitled to be represented by an attorney at the hearing and it is in your best interest to have an attorney with you given



the potential consequences if the judge finds you did violate your probation.

If the allegations are substantiated, the judge may do any of the following:

- **Issue a warning** – the judge can simply issue you a warning and allow you to continue your probation unchanged. This typically only occurs when the violation is for something minor and you have no history of previous violations.
- **Modify the terms of your probation**– if the judge finds that the violation is more serious and/or you have violated your probation previously, you may be allowed to continue on probation but with modifications to the terms of your probation. For example, the judge might order you to undergo a substance abuse evaluation and/or treatment if the violation was for a positive drug test result. The judge may also extend your probation in order to allow you time to complete conditions that remain unfulfilled.
- **Revoke your probation** – the most serious potential consequence is revocation of your probation. If the violation is serious, such as conviction of a new offense, the judge may revoke your probation and order you to serve all, or a portion of, your suspended sentence in jail or prison.

If you have been sentenced to probation in the State of Nebraska it is imperative that you go over the terms of your probation with your Nebraska criminal defense attorney immediately following your sentencing to ensure that the terms and conditions are clear to you. If you are notified of a violation at some time during your probation it is also in your best interest to consult with an experienced criminal defense attorney immediately.

REFERENCES

Nebraska Judicial Branch, [Administrative Office of Probation](#)

District 4A Probation, [Frequently Asked Questions](#)

Nebraska Revised Statute, [29-2266](#)

About Petersen Criminal Defense Law



Omaha, Nebraska Law Firm: Committed To Making Your Voice Heard By The System

Established in 1995, Petersen Criminal Law follows a simple firm philosophy: Our clients are presumed innocent until proven guilty. Our firm's attorney, Thomas M. Petersen, has devoted his career to this philosophy, helping clients throughout the Omaha, Nebraska, area make sure their voices are heard in the criminal defense system.

In that time, he has handled over 6,000 criminal defense cases and represented clients in numerous trials. This experience means he is a battle-tested veteran of the criminal defense system who has committed himself to putting to work for you the insights he has gained.

Your Decision Today Affects The Rest Of Your Life

Facing criminal charges means your future is at stake. You do not have to let a Nebraska criminal case ruin your life, though your choices today do affect your future.

For that reason, you want an adviser in your corner who has traveled this road before and understands the terrain. You do not want to test your ability to learn the law on your own when your own liberty is at stake.

No Lectures No Judging. We Just Defend You.

Call Petersen Criminal Law at 402-909-0367. You can also schedule your initial consult by contacting the firm online. All consultations with our firm remain completely confidential.

Petersen Criminal Defense Law
12020 Shamrock Plaza, Suite 200
Omaha, NE 68154
Phone: 402-909-0367
Fax: 402-509-8042
Website: www.criminaldefensene.com