

TERMINATING PROBATION - ADULT

- AUTHORITY:** Sections 1203.2, 1203.3 California Penal Code
- RESCINDS:** Procedure Manual Item 2-3-023, dated 06/20/16
- FORMS:** Adult Risk/Needs Reassessment (ICMS)
Adult Modification Petition Worksheet (F057-2078A)
- PURPOSE:** To provide uniform guidelines for terminating Adult Probation cases.

I. GENERAL INFORMATION

- A. Probation grants vary in length because of statutory guidelines and Court discretion.
1. The Court specifies the duration of probation at the time of sentencing.
 2. It usually lasts one, two, **or three years (one year is most common for misdemeanor offenses, while two years is most common for felony offenses).**
 3. Expiration of probation takes place automatically at the end of the specified time unless changed by a Court's order revoking, terminating or extending probation.
- B. The Court may modify, revoke and terminate probation if the Court has reason to believe the **individual on supervision** has violated any conditions of probation or has committed other offenses, regardless of whether the **individual on supervision** has been prosecuted for such offenses:
1. Upon its own motion;
 2. Upon petition of the:
 - a. **Individual on supervision;**
 - b. Probation Officer;
 - c. District Attorney (DA).
- C. The Court may, at any time during the term of probation when the ends of justice would be served, and when the good conduct and reform of the person on probation warrants it, terminate probation.
1. The DA must be given a two-day written notice and an opportunity to be heard on the matter.
 2. Modification of sentence under these circumstances can include reducing a felony to a misdemeanor per 17b PC at the Court's discretion.

- D. The **Probation** Department does not ordinarily recommend early termination of probation due to good adjustment. It is the position of the **Probation** Department that **individuals on supervision** should serve their full term of probation as ordered by the Court. However, modification of probation to Relief of Supervision or Conditional Sentence is possible. Refer to **Procedure** Manual Item 2-3-004 for modifying conditions of probation. If the **individual on supervision** is granted Relief of Supervision or Conditional **Sentence**, all terms and conditions of probation remain in full force and effect until expiration of probation. The only change is that the Probation Department no longer provides supervision.

II. PROCEDURE

A. Initiating Early Termination of Probation, Relief of Supervision or Conditional Sentence

1. Termination-Rearrest/Violation of Conditions of Probation

- a. Follow current Superior Court procedures and Procedure Manual Items 2-3-002 and 2-3-019 to initiate violation proceedings.
- b. An appropriate recommendation for termination should be submitted in the Memo to the Court.

2. Relief of Supervision or Conditional-Good Adjustment

- a. Review the Court Order and verify the **individual on supervision** has fulfilled all requirements:
 - (1) Paid restitution;
 - (2) Paid fines;
 - (3) Complied with all Court Orders.
- b. Obtain record check (DMV and DOJ) and verify there are no additional arrests that constitute a probation violation.
- c. Discuss merits of case with Unit Supervising Probation Officer (SPO) after ensuring the **individual on supervision** meets above criteria.
- d. Upon **SPO** approval, prepare Modification Petition.
 - (1) See Procedure Manual Item 2-3-004.
 - (2) See Adult Modification Petition format.

3. Termination-Other

- a. Death of **individual on supervision**:

- (1) Obtain the verification of death letter from the Sheriff/Coroner, County of Orange or from appropriate agency in other counties.
 - (2) Prepare the Modification Petition and attach a copy of the verification of death letter for the Court.
- b. Incarceration on other matters extending beyond normal expiration date where further proceedings are not being recommended:
- (1) Obtain case facts including circumstances of incarceration, place of incarceration, length of incarceration, and the sentence ending (SE) date.
 - (2) Discuss merits of the case with the Unit SPO.
 - (3) Upon **SPO** approval, prepare Modification Petition pursuant to Procedure Manual Item 2-3-004 and Adult Modification Petition format booklet.

B. Normal Expiration

Ninety days prior to expiration date:

1. Review Court Order and verify the **individual on supervision** has fulfilled all requirements. If all conditions have not been complied with, i.e., restitution, fines not paid in full, failure to complete counseling, DNA not collected, etc.; consult with **the Unit SPO** for further direction.
2. Obtain Record Check (DOJ and DMV), and verify that there are no additional arrests that constitute a probation violation.
3. Notify **individual on supervision** of expiration date and review 1203.4 PC process. See Procedure Manual Item 2-3-009.

C. Closing Procedures

Upon receipt of an order from the Court terminating probation or upon normal expiration, complete the following:

1. Termination Risk/Needs Reassessment (ICMS);
2. File all documents in file in proper order pursuant to Procedure Manual Item 1-5-303;
3. Submit to clerk for Chronological History entry and removal from officer caseload;
4. Submit to **the Unit SPO** for review **and approval**;
5. Route to File Room via **the Unit Clerk**.

REFERENCES:

Procedures:	1-1-103	Teletype Services
	2-1-101	Adult Restitution
	2-3-002	Probation Violations - Adult
	2-3-004	Adult Modification Petition
	2-3-009	Change of Plea and Dismissal of Charges Under PC 1203.4, and Certification of Rehabilitation
	2-3-019	Preparing Probation Violation and Warrant Petitions - Adult
	2-3-021	Adult Risk/Needs Assessment and Reassessment Packet
Policies:	A-1	Policy, Procedure and the Law
	A-2	Upholding Departmental Philosophy and Principles
	E-7	Restitution
Other:		Adult Modification and Petition Formats

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APPROVED BY: