

member of the community (if probationer is unable to file the bond).

## 12. HOW MANY TIMES CAN ONE BE GRANTED PROBATION?

**Answer:** An offender can be granted probation only once in a lifetime.

## 13. WHAT HAPPENS TO A PROBATIONER IF THE CONDITIONS OF PROBATION ARE VIOLATED?

**Answer:** The probation officer investigates the alleged violation and if it is established, a report is submitted to the court. Depending upon the nature and seriousness of the violation, there can be modification of the conditions or revocation of probation by the judge. There is also the possibility of arrest including criminal prosecution of probationer in the event of commission of another offense. The revocation proceeding is summary. If the court finds the probationer guilty of serious violation of the conditions of probation, the offender may be ordered to serve the original sentence imposed.

## How to apply for probation

**1** Apply within fifteen (15) days from promulgation of judgment.

**2** The court will suspend the execution of sentence and refer the application to the proper probation office for the conduct of post-sentence investigation.

The probation officer must submit the PSI Report within sixty (60) days upon receipt but the period may be extended in meritorious cases for a period that will be approved by the court. **3**

Pending submission of the PSIR and the resolution of the application, the defendant may be temporarily released under bail or be released on recognizance of a responsible member of the community, if defendant is incapable of posting bail. **4**

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*If you have more questions or if you want to know more about probation, write or visit or call us at the address and telephone numbers below.*

*You can also visit your local probation office.*

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**INFO-AIDE**  
**(English)**

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**BASIC INFORMATION YOU NEED TO KNOW ABOUT PROBATION**

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# PRIMER ON PROBATION

## 1. WHAT IS PROBATION?

**Answer:** Probation is a privilege granted by the court to a person convicted of a criminal offense to remain in the community instead of actually going to prison/jail.

## 2. WHAT ARE THE ADVANTAGES OF PROBATION?

**Answer.** a. The government spends much less when an offender is released on probation than that offender be placed behind bars (jails/prisons).

b. The offender and the offender's family are spared the embarrassment and dishonor of imprisonment.

c. The offender is able to continue working and can therefore earn income, pay taxes and pay damages to the victim of the crime.

## 3. WHO CAN APPLY FOR PROBATION?

**Answer:** Any sentenced offender, not disqualified, can apply for probation before serving their prison/jail sentence.

## 4. WHERE AND WHEN SHALL THE APPLICATION BE FILED?

**Answer:** The application shall be filed with the trial court that tried and sentenced the offender at any time after conviction and sentence but within fifteen (15) days after promulgation of judgment.

## 5. MAY AN ACCUSED WHO APPEALED THE CONVICTION APPLY FOR PROBATION ON REMAND OF THE CASE TO THE TRIAL COURT?

**Answer:** As a rule, probation and appeal are mutually exclusive remedies. However, if the judgment of conviction that was appealed imposed non-probationable penalty and the same was modified through the imposition of probationable penalty or conviction for a lesser crime, which is probationable, the accused shall be allowed to apply for probation based on the modified decision before such decision becomes final. The

application for probation based on the modified decision shall be filed in the trial court, which tried and convicted the accused or in a trial court where such case has been re-raffled.

## 6. MAY AN ACCUSED IN A JOINT TRIAL APPLY FOR PROBATION EVEN IF THE OTHER CO-ACCUSED APPEALED THEIR CONVICTION?

**Answer:** Yes! In a case involving several defendants where some have taken further appeal, the other defendants may apply for probation by submitting a written application and attaching thereto a certified true copy of the judgment of conviction.

## 7. WHO ARE DISQUALIFIED FROM APPLYING FOR PROBATION?

**Answer:** a. Those who are sentenced to serve a maximum term of imprisonment of more than six (6) years;

b. Those who are convicted of any crime against the national security;

c. Those who have previously been convicted by final judgment of an offense punished by imprisonment of more than six (6) months and one (1) day and / or a fine of more than one thousand (Php1,000.00) pesos;

d. Those who have been once on probation under the provisions of this Decree; and

e. Those who are already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 hereof.

f. Those legally disqualified under special penal laws:

(1) Offenders found guilty of any election offense in accordance with Section 264 of BP Blg. 881 (Omnibus Election Code);

(2) Offenders found guilty of violating RA No. 6727 (Wage Rationalization Act, as amended);

(3) Offenders found guilty of violating RA No. 9165, The Comprehensive Dangerous Drugs Act of 2002, except Section 12, 14, 17, and 70.

## 8. ARE ALL QUALIFIED, CONVICTED PERSONS AUTOMATICALLY ENTITLED TO PROBATION?

**Answer:** No. The court will not grant probation if, after investigation the probation officer finds that:

a. The offender can be treated better in an institution or in other places for correction;

b. The offender is a dangerous risk to the community;

c. Probation will lessen the gravity of the offense.

## 9. WHEN PROBATION IS GRANTED, WHAT CONDITIONS ARE IMPOSED BY THE COURT?

**Answer:** The probationer must:

a. Appear before the probation officer within 72 hours;

b. Report to the probation officer at least once a month;

c. Not commit another offense;

d. Comply with any other condition imposed by the court;

## 10. HOW LONG IS THE PERIOD OF PROBATION?

**Answer:** a. Not more than 2 years if the probationer was sentenced to imprisonment of 1 year or less;

b. Not more than 6 years if the probationer was sentenced to imprisonment of more than 1 year.

## 11. MAY THE OFFENDER BE RELEASED WHILE THE APPLICATION FOR PROBATION IS PENDING?

**Answer:** At the discretion of the court, the probationer may be released:

a. On the same bond filed during the trial;

b. On a new bond;

c. To the custody of a responsible