

creation of a highly professional staff, which would effectively and efficiently solve the tasks assigned to the National Police of Ukraine.

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### **MISSION OF THE ALTERNATIVE FORMS TO INCARCERATION**

Probation and parole are both alternatives to incarceration. However, probation occurs prior to and often instead of jail or prison time, while parole is an early release from prison. In both probation and parole, the party is supervised and expected to follow certain rules and guidelines. These guidelines are called conditions of parole, or probation conditions, and in both circumstances, the party is expected to submit to warrantless searches, without probable cause.

Probation refers to a period of time before a person is actually sent to prison or jail. When defendants receive probation, instead of pronouncing the sentence and sending them straight to prison or jail, the judge gives them an opportunity to show that they want to rehabilitate themselves. In this case, either the party is given probation without a pre-determined sentence, or the judge will find the defendant guilty, and temporarily suspend the sentence while the defendant is on probation. If defendants do everything the judge instructs them to do, then they will not be sent to prison to finish their sentence or given a new sentence based on the probation violation and initial crime.

Conditions of Probation. Even though the person is not in jail, they may be subject to many of the same conditions of serving time in jail including curfew rules, requirements to participate in rehab programs, and monthly or more frequent drug testing by urinalysis. While on probation, a defendant can be ordered to pay a fine, court costs, restitution, and any court appointed attorney fees.

The length of time that a person is on probation can range from one year to up to ten years. Many states will cap the length of time that a person can remain on probation.

Probation is managed by a probation officer. The probation officer monitors a defendant's progress and file reports with the judge, advising them of any failure to abide by probation terms or conditions. If the judge is not happy with a defendant's performance, the judge can order a *capias* to be issued and require a defendant to be returned to his court for final sentencing. After sentencing, a defendant is ordered to serve

actual time in prison. If the defendant had a suspended prison term, he is usually sent straight to prison to serve his time.

Parole refers to the period of time after a defendant is released from prison. A defendant on parole will face many of the same controls or safeguards as probation. Conditions of parole may include requiring a defendant to stay in a halfway house and continuing with payments on fines and other financial obligations.

Instead of a probation officer, a defendant on parole usually reports to a parole officer. The parole officer explains the rules of parole and expectations of a party on parole to the defendant and monitors his progress. As with a regular probation, if a defendant fails to comply with his parole conditions, then the parole officer could file a report with the parole board. The parole board may, based on the defendant's behavior while on parole, order the defendant returned to prison to finish the balance of his sentence.

**Probation and Parole Differences.** The functions of the probation and parole process tend to be very similar. Both are concerned with a defendant breaking the bad habits or behaviors that caused them to break the law. Even though both probation and parole have a strong rehabilitation component, each process has the additional goal of protecting the community.

Parole has the additional function of trying to reintegrate a defendant into society. Depending on the nature of a defendant's offense, a defendant's conditions of probation or parole can be amended or changed. For example, if a defendant is convicted of molesting a child, a defendant may be ordered to stay away from parks and playgrounds where children frequent.

The conditions of both parole and probation must somehow relate to a defendant's rehabilitation or underlying offense. How conditions are set depend on whether a defendant is on probation or parole. A defendant on probation is usually still subject to the jurisdiction of the court. This means the judge has the right to amend or modify a

defendant's conditions of probation. Any changes usually come in the form of an order that modifies a defendant's conditions.

Parole changes are not usually the result of a court order. Instead, parole conditions are usually set by the parole board, and they are for all defendants. For example, all defendants are banned from committing new offenses. Changes in conditions or procedures related to those conditions do not come from the original judge, but instead come from the parole officer or parole board. Instead of criminal proceeding, these changes are referred to as administrative proceedings. This is an important distinction, because a defendant is afforded more state and constitutional protections in a criminal case than an administrative hearing.

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