



Probation Violations

Community Supervision (probation) is a double-edged punishment – **1)** a defendant can avoid confinement in either county jail or prison, but **2)** if the same defendant violates one of the many terms and conditions of community supervision, the State may seek to impose the confinement once avoided. A violation does not have to be a new criminal offense; violations could include “technical” violations.

Although a defendant on community supervision may have pled to the original criminal offense, they still have substantial rights in a revocation action. This is because of the risk of a loss of liberty. The State’s Motion to Revoke seeks only one outcome at the time of filing – to lock up the probationer. Regardless of the ultimate outcome of a revocation hearing, a probationer will almost certainly spend some time in jail due to an arrest warrant in connection with the State’s Motion to Revoke or Petition to Adjudicate.

Probation Revocations are serious threats to a probationer’s liberty. First, if the probationer received “Deferred Adjudication” community supervision, the probationer is exposed to the full-range of punishment of the original criminal offense. This is in contrast to a “straight” community supervision revocation, which is limited to the original plea bargain. Furthermore, a revoked “deferred adjudication” community supervision results in a final conviction, even if the probationer avoids confinement. Second, a probationer does not receive “good time” for the period of a successful probation. Suppose a criminal defendant pled a DWI to 1 year community supervision, successfully completed 11 months of that probation period, and then had a violation in the 12th month. The State’s Motion to Revoke would only allege the violation, and seek imposition of the original sentence.

It is because of these circumstances and mitigating factors that a probationer would benefit from an experienced attorney representing them in Probation Revocation actions.