



2018 Edition

Probation in Connecticut

A Guide to Resources in the Law Library

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Introduction

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- **Institution:** "It was designed to provide a period of grace in order to aid the rehabilitation of a penitent offender; to take advantage of an opportunity for reformation which actual service of the suspended sentence might make less probable. . . Probation is thus conferred as a privilege and cannot be demanded as a right. It is a matter of favor, not of contract. There is no requirement that it must be granted on a specified showing. The defendant stands convicted; he faces punishment and cannot insist on terms or strike a bargain. To accomplish the purpose of the statute, an exceptional degree of flexibility in administration is essential. It is necessary to individualize each case, to give that careful, humane and comprehensive consideration to the particular situation of each offender which would be possible only in the exercise of a broad discretion. The provisions of the Act are adapted to this end. It authorizes courts of original jurisdiction, **when satisfied 'that the ends of justice and the best interest of the public, as well as the defendant, will be subserved,' to suspend the imposition or execution of sentence and 'to place the defendant upon probation for such period and upon such terms and conditions as they may deem best.'**" [Burns v. United States](#), 287 U.S. 216, 220, 53 S. Ct. 154, 77 L. Ed. 266 (1932).
- **Modification:** "It is well settled that the trial court maintains discretion to supervise and, as appropriate, to enlarge or modify the terms of a probationer's probation. See [State v. Faraday](#), supra, 268 Conn. at 180-81 ('[w]hen the court imposes probation, a defendant thereby accepts the possibility that the terms of probation may be modified or enlarged in the future pursuant to [General Statutes] § 53a-30' [internal quotation marks omitted]); [State v. Thorp](#), 57 Conn. App. 112, 117, 120, 747 A.2d 537 (trial court's approval of additional probation conditions requested by the Office of Adult Probation was not improper), cert. denied 253 Conn. 913, 754 A.2d 162 (2000); General Statutes § 53a-30 (c) ('[a]t any time during the period of probation . . . after hearing and for good cause shown, the court may modify **or enlarge the conditions**')." [State v. Obas](#), 147 Conn. App. 465, 482-483, 83 A.3d 674 (2014).
- **Revocation:** "Probation itself is a conditional liberty and a privilege that, once granted, is a constitutionally protected interest.... The revocation proceeding must comport with the basic requirements of due process because termination of that privilege results in a loss of liberty. . . ." (Citation omitted; internal quotation marks omitted.) [State v. Gauthier](#), 73 Conn. App. 781, 789, 809 A.2d 1132 (2002), cert. denied, 262 Conn. 937, 815 A.2d 137 (2003)." [State v. Shuck](#), 112 Conn. App. 407, 409-410, 962 A.2d 900 (2009).

Section 1: Institution of Sentence of Probation

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the institution and termination of probation in Connecticut.

DEFINITIONS:

- **"Probation: When a convicted offender receives a suspended term of incarceration and is then supervised by a probation officer for a period of time set by a judge."** [Common Legal Words](#), JD-CL-086, CT Judicial Branch.
- "The court may sentence a person to a period of probation upon conviction of any crime, other than a class A felony, if it is of the opinion that: (1) Present or extended institutional confinement of the defendant is not necessary for the protection of the public; (2) the defendant is in need of **guidance, training or assistance which, in the defendant's case, can be effectively administered through probation supervision; and (3) such disposition is not inconsistent with the ends of justice.**" **Conn. Gen. Stat. § [53a-29\(a\)](#)** (2017).

ADDITIONAL INFORMATION:

- **Fees**
". . . When a person is sentenced to a period of probation, such person shall pay to the court a fee of two hundred dollars and shall be placed under the supervision of the Court Support Services Division, provided, if such person is sentenced to a term of imprisonment the execution of which is not suspended entirely, payment of such fee shall not be required until such person is released from confinement and **begins the period of probation supervision.**" **Conn. Gen. Stat. § [53a-29\(c\)](#)** (2017).
- **Length of Probation**
"Except as provided in subsection (f) of this section, the period of probation or conditional discharge, unless terminated sooner as provided in section 53a-32 or 53a-33, shall be as follows: (1) For a class B felony, not more than five years; (2) for a class C, D or E felony or an unclassified felony, not more than three years; (3) for a class A misdemeanor, not more than two years; (4) for a class B, C or D misdemeanor, not more than one year; and (5) for an unclassified misdemeanor, not more than one year if the authorized sentence of imprisonment is six months or less, or not more than two years if the authorized sentence of imprisonment is in excess of six months, or where the defendant is charged with failure to provide subsistence for **dependents, a determinate or indeterminate period.**" **Conn. Gen. Stat. § [53a-29\(d\)](#)** (2017).

"Notwithstanding the provisions of subsection (d) of this section, the court may, in its discretion, on a case by case basis, sentence a person to a period of probation which

period, unless terminated sooner as provided in section 53a-32 or 53a-33, shall be as follows: (1) For a class C, D or E felony or an unclassified felony, not more than five years; (2) for a class A misdemeanor, not more than three years; and **(3) for a class B misdemeanor, not more than two years.**" Conn. Gen. Stat. § [53a-29\(e\)](#) (2017).

"The period of probation, unless terminated sooner as provided in section 53a-32, shall be not less than ten years or more than thirty-five years for conviction of a violation of subdivision (2) of subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b, 53a-90a or subdivision (2), (3) or (4) of subsection (a) of section 53a-189a, or section 53a-196b, 53a-196c, 53a-196d, 53a-196e or 53a-196f." Conn. Gen. Stat. § [53a-29\(f\)](#) (2017).

- **Report**

"Whenever the court sentences a person, on or after October 1, 2008, to a period of probation of more than two years for a class C, D or E felony or an unclassified felony or more than one year for a class A or B misdemeanor, the probation officer supervising such person shall submit a report to the sentencing court, the state's attorney and the attorney of record, if any, for such person, not later than sixty days prior to the date such person completes two years of such person's period of probation for such felony or one year of such person's period of probation for such misdemeanor setting forth such person's progress in addressing such person's assessed needs and complying with the conditions of such person's probation. The probation officer shall recommend, in accordance with guidelines developed by the Judicial Branch, whether such person's sentence of probation should be continued for the duration of the original period of probation or be terminated. If such person is serving a period of probation concurrent with another period of probation, the probation officer shall submit a report only when such person becomes eligible for termination of the period of probation with the latest return date, at which time all of such person's probation cases shall be presented to the court for review. Not later than sixty days after receipt of such report, the sentencing court shall continue the sentence of probation or terminate the sentence of probation. Notwithstanding the provisions of section 53a-32, the parties may agree to waive the requirement of a court hearing." Conn. Gen. Stat. § [53a-29\(g\)](#) (2017).

- **Victim Notification and Statement**

"The Court Support Services Division shall establish within its policy and procedures a requirement that any victim be notified whenever a person's sentence of probation may be terminated pursuant to this subsection. The sentencing court shall permit such victim to appear before the sentencing court for the purpose of making a statement for

the record concerning whether such person's sentence of probation should be terminated. In lieu of such appearance, the victim may submit a written statement to the sentencing court and the sentencing court shall make such statement a part of the record. Prior to ordering that such **person's sentence of probation be continued or terminated**, the sentencing court shall consider the statement made or submitted by such victim." **Conn. Gen. Stat. § [53a-29\(g\)](#)** (2017).

- **Conditions of Probation**

"When imposing sentence of probation or conditional discharge, the court may, as a condition of the sentence, order that the defendant: (1) Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip the defendant for suitable employment; (2) undergo medical or psychiatric treatment and remain in a specified institution, when required for that purpose; (3) support the defendant's dependents and meet other family obligations; (4) make restitution of the fruits of the defendant's offense or make restitution, in an amount the defendant can afford to pay or provide in a suitable manner, for the loss or damage caused thereby and the court may fix the amount thereof and the manner of performance; (5) if a minor, (A) reside with the minor's parents or in a suitable foster home, (B) attend school, and (C) contribute to the minor's own support in any home or foster home; (6) post a bond or other security for the performance of any or all conditions imposed; (7) refrain from violating any criminal law of the United States, this state or any other state; (8) if convicted of a misdemeanor or a felony, other than a capital felony under the provisions of section 53a-54b in effect prior to April 25, 2012, a class A felony or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-57, 53a-58 or 53a-70b or any offense for which there is a mandatory minimum sentence which may not be suspended or reduced by the court, and any sentence of imprisonment is suspended, participate in an alternate incarceration program; (9) reside in a residential community center or halfway house approved by the Commissioner of Correction, and contribute to the cost incident to such residence; (10) participate in a program of community service labor in accordance with section 53a-39c; (11) participate in a program of community service in accordance with section 51-181c; (12) if convicted of a violation of subdivision (2) of subsection (a) of section 53-21, section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, undergo specialized sexual offender treatment; (13) if convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as defined in section 54-250, or of a felony that the court finds was committed for a sexual purpose, as provided in section 54-254, register such person's

identifying factors, as defined in section 54-250, with the Commissioner of Emergency Services and Public Protection when required pursuant to section 54-251, 54-252 or 54-253, as the case may be; (14) be subject to electronic monitoring, which may include the use of a global positioning system; (15) if convicted of a violation of section 46a-58, 53-37a, 53a-181j, 53a-181k or 53a-181l, participate in an anti-bias crime education program; (16) if convicted of a violation of section 53-247, undergo psychiatric or psychological counseling or participate in an animal cruelty prevention and education program provided such a program exists and is available to the defendant; or (17) satisfy any other conditions reasonably related to the defendant's rehabilitation. The court shall cause a copy of any such order to be delivered to the defendant and to the **probation officer, if any.**" Conn. Gen. Stat. § [53a-30\(a\)](#) (2017). (Check the [2018 Supplement](#) for changes.)

"When a defendant has been sentenced to a period of probation, the Court Support Services Division may require that the defendant comply with any or all conditions which the court could have imposed under subsection (a) of this section which are not inconsistent with any condition actually **imposed by the court.**" Conn. Gen. Stat. § [53a-30\(b\)](#) (2017). (Check the [2018 Supplement](#) for changes.)

Calculation of Periods of Probation

- "A period of probation or conditional discharge commences on the day it is imposed, unless the defendant is imprisoned, in which case it commences on the day the defendant is released from such imprisonment. Multiple periods, whether imposed at the same or different times, shall run **concurrently.**" Conn. Gen. Stat. § [53a-31\(a\)](#) (2017).
- "The issuance of a warrant or notice to appear, or an arraignment following an arrest without a warrant, for violation pursuant to section 53a-32 shall interrupt the period of the sentence until a final determination as to the violation **has been made by the court.**" Conn. Gen. Stat. § [53a-31\(b\)](#) (2017).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)
 - Chapter 319j – Addiction Services
 - § [17a-693](#). Order for examination for alcohol or drug dependency.
 - § [17a-699](#). Order of treatment for alcohol or drug dependency of convicted person.
 - Chapter 952 – Penal Code Offenses
 - § [53a-28](#). (d), (e), (f). Authorized sentences.
 - § [53a-29](#). Probation and conditional discharge: Criteria; periods; continuation or termination.

§ [53a-30](#). Conditions of probation and conditional discharge. (Check the [2018 Supplement](#) for changes.)

§ [53a-31](#). Calculation of periods of probation and conditional discharge. Compliance with conditions during interrupted period.

Chapter 961 - Trial and Proceedings after Conviction

§ [54-91a](#). Presentence investigation of defendant. (Check the [2018 Supplement](#) for changes.)

§ [54-108](#). Duties of probation officers.

§ [54-108d](#). Authority of probation officers to detain certain persons, seize contraband . . .

§ [54-108g](#). Prohibition against disclosure of personal information of probation officers to certain individuals under the Freedom of Information Act.

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2018 ed.)
Chapter 7. Clerks, Files and Records
§ [7-14](#). – Reports from Adult Probation and Family Division “(a) The office of adult probation shall maintain one copy of each presentence investigation report for twenty-five years. Copies of such reports in the custody of the clerk pursuant to Section 43-8 may be destroyed upon the expiration of one year from the **date of final disposition of the case.**”

Chapter 43. Sentencing, Judgment and Appeal

§ [43-10](#). Sentencing Hearing - Procedures to Be Followed

§ [43-29A](#). Notice of Motions to Modify or Enlarge Conditions of Probation or Conditional Discharge or Terminate Conditions of Probation or Conditional Discharge

§ [43-32](#). Stay of Probation on Appeal

CODE OF EVIDENCE:

- Connecticut Code of Evidence (2018 ed.)
§ [1-1](#). Short Title. Application.
(d) The Code inapplicable. “**The Code, other than with respect to privileges, does not apply in proceedings such as . . . (4) Proceedings involving probation.**”

WEB PAGES:

- Court Support Services Division
[Adult Probation Services](#)
[Adult Probation – Frequently Asked Questions Directory](#)

PUBLICATIONS:

- [Probationer Handbook: Your Key to Success](#) – State of Connecticut Judicial Branch – Court Support Services Division, JDP-AP-136 (Rev 9/14)

LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

- ***OLR Backgrounder: Sex Offenders on Probation and Parole - Treatment and Housing Restrictions***, [2017-R-0037](#). By Michelle Kirby, Senior Legislative Attorney & James Orlando, Chief Attorney, Connecticut General Assembly, Office of Legislative Research, January 23, 2017.

"This backgrounder briefly describes the policies the state Court Support Services Division's (CSSD) Sex Offender Unit (probation officers), and Department of Correction's (DOC) Parole and Community Service's Special Management Unit (parole officers) follow to regulate housing and treatment of sex offenders released from prison into the community."

- ***Probation and Travel Out-of-State***, [2009-R-0433](#). By Christopher Reinhart, Senior Attorney, Connecticut General Assembly, Office of Legislative Research, November 19, 2009.

"You asked if someone on probation can travel outside of the state, whether for a single night or an extended period. You also asked whether the state is part of an interstate compact that governs out-of-state travel by probationers."

- ***Probation – Sex Offenders***, [2008-R-0273](#). By George Coppolo, Chief Attorney, Connecticut General Assembly, Office of Legislative Research, April 16, 2008.

"You asked for information about how sex offenders on probation are supervised."

- ***Electronic Monitoring of Probationers and Parolees***, [2007-R-0096](#). By Sandra Norman-Eady, Chief Attorney, Connecticut General Assembly, Office of Legislative Research, January 24, 2007.

"You asked whether the state has the authority to require probationers and parolees to be electronically monitored. If so, you asked for the number of people being monitored."

- ***Authority to Set Conditions of Release***, [2006-R-0108](#). By Sandra Norman-Eady, Chief Attorney, and George Coppolo, Chief Attorney, Connecticut General Assembly, Office of Legislative Research, February 3, 2006.

"You asked if courts, the Board of Pardons and Paroles, and probation and parole officers are authorized to set release conditions that place restrictions on residence, jobs, hours outside of the home, and movement, including their ability to require electronic monitoring."

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

You are also interested in the authority and duties of sex offender units in the Office of Adult Probation (OAP)."

- **Probation-Drug Abuse**, [2005-R-0023](#). By George Coppolo, Chief Attorney, Connecticut General Assembly, Office of Legislative Research, January 14, 2005.

"You asked what a probation officer does to make sure probationers are not taking illegal drugs. You also asked for a copy of a recent Yale University study on Connecticut probationers."

- **Probationer-Therapist Confidentiality**, [2005-R-0021](#). By George Coppolo, Chief Attorney, Connecticut General Assembly, Office of Legislative Research, January 10, 2005.

"You asked whether a therapist may reveal information he learns in a court-ordered group therapy session involving people on probation?"

- **Search Waivers for Parolees and Probationers**, [2002-R-0005](#). By Susan Price-Livingston, Associate Attorney, Connecticut General Assembly, Office of Legislative Research, January 8, 2002.

"You asked (1) whether probationers must consent to warrantless searches as a condition of program participation and (2) if the same requirement applies to people on parole."

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Probation/Conditional Discharge Motion, [JD-CR-59](#), rev. 11-14 (**Form contains checkboxes for modification of conditions and/or termination of probation**)
- [LexisNexis Practice Guide: Connecticut Criminal Law](#), by Stephan E. Seeger, 2017 edition, LexisNexis.
Forms Appendix
Form CCL 8.01. **Defendant's Sentencing Memorandum**
- [Complete Manual of Criminal Forms](#), by F. Lee Bailey and Hon. Kenneth J. Fishman, volume 3
Chapter 97. Pleadings and Orders Relation to the Sentence
§ 97.10. Order for discharge of probationer – consent of United States Attorney – report of probation officer – federal
Chapter 116. Miscellaneous Motions and Judgments
§ 116: 4. Notice of motion for order termination probation – State
§ 116:5. **Attorney's affirmation in support of motion for order termination probation – State**
§ 116:6. **Defendant's affidavit in support of motion for order terminating probation - State**

- [Criminal Defense Tools and Techniques](#), by Thomas J. Farrell, James Publishing, volume 2
Chapter 23. Probation, Parole & Other Post-Release Supervision
VI. Forms
Form 23-2. Standard Probation/Parole Conditions for Washington County, Pennsylvania
Form 23-3. Motion to Terminate Probation

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [State v. Victor O.](#), 320 Conn. 239, 258, 128 A.3d 940 (2016) "Although it may be true that the terms of release for special parolees are more restrictive than they are for probationers in the short term, it is undisputed that probation exposes a defendant to imprisonment for a much longer period of time, arguably making it, depending on one's perspective, a considerably more onerous **punishment.**"
- [State v. Denya](#), 294 Conn. 516, 986 A.2d 260 (2010). "Furthermore, because the sentence in a criminal case generally is imposed orally in open court; see, e.g., *State v. Lindsay*, 109 Conn. 239, 243, 146 A. 290 (1929); the written order or judgment memorializing that sentence, including any portion pertaining to probation, must conform to the court's oral pronouncement. E.g., *United States v. Kindrick*, 576 F.2d 675, 676-77 (5th Cir. 1978) ('[t]his [c]ourt has long faithfully adhered to the rule that any variance between oral and written versions of the same sentence will be resolved in favor of the oral sentence'); *Burrell v. State*, 626 P.2d 1087, 1089 (Alaska App. 1981) ('[when] there is a conflict between the written order of probation and the oral pronouncement of sentence, the latter ordinarily controls'); *S.S.M. v. State*, 875 So. 2d 763, 763 (Fla. App. 2004) ('a written probation order must conform with the trial court's oral pronouncements at sentencing'); *State v. Hess*, 533 N.W.2d 525, 528 (Iowa 1995) (it is '[a] rule of nearly universal application' that '[when] there is a discrepancy between the oral pronouncement of sentence and the written judgment and commitment, the oral pronouncement of sentence controls' Consequently, as a general matter, any discrepancy between the oral pronouncement of sentence and the written order or judgment will be resolved in favor of the court's oral pronouncement." (pp. 529-531)

"Consequently, although the 2004 written order of probation unambiguously authorizes the office of adult probation to discontinue the electronic monitoring of the defendant if and when that office deems it appropriate to do so, that portion of the 2004 written order is effective only to the extent that it accurately reflects the actual

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intent of the trial court as expressed in its 2004 oral ruling or, if necessary, in a subsequent **clarifying order.**" (p. 532)

- [State v. Crouch](#), 105 Conn. App. 693, 939 A.2d 632 (2008). **"Probation is the product of statute. . . . Statutes authorizing probation, while setting parameters for doing so, have been very often construed to give the court broad discretion in imposing conditions."** (Citation omitted.) [State v. Smith](#), 207 Conn. 152, 167, 540 A.2d 679 (1988). . . . **'On appeal, we review whether the trial court abused its statutory discretion in imposing a condition of probation.'** [State v. Graham](#), 33 Conn. App. 432, 447, 636 A.2d 852, cert. denied, 229 Conn. 906, 640 A.2d 117 (1994). **'In reviewing the issue of discretion, we do so according to every reasonable presumption in favor of the trial court's ruling. . . . A defendant who seeks to reverse the exercise of judicial discretion assumes a heavy burden.'** (Citation omitted.) [State v. Smith](#), *supra*, 167." (pp. 696-697)

"If he accepts the offer of probation, [the defendant] must accept all of the conditions. . . . In accepting probation, the defendant accepted at the time of sentencing the possibility that the terms of his probation could be modified or enlarged in the future in accordance with the statutes governing probation.' (Citation omitted.) [State v. Thorp](#), 57 Conn. App. 112, 121, 747 A.2d 537, cert. denied, 253 Conn. 913, 754 A.2d 162 (2000). Because the defendant accepted a sentence that included probation, modification of the terms of probation is not a violation of his constitutional rights, as long as the modified conditions reasonably relate to his rehabilitation and the preservation of the safety of the general public. See [State v. Pieger](#), 240 Conn. 639, 647-49, 692 A.2d 1273 (1997)." (p. 699)

- [State v. Ortiz](#), 83 Conn. App. 142, 848 A.2d 1246, cert. denied, 270 Conn. 915 (2004). "The comment of the commission to revise criminal statutes, which first proposed adoption by the legislature of our present criminal code over thirty years ago, as to § 53a-30 provides in relevant **part:** 'This section sets out, as a kind of guideline, the general conditions that the court may impose on the sentence of probation The list is not intended to be **exhaustive. . . .**' Commission to Revise the Criminal Statutes, Penal Code comments, Connecticut General Statutes Annotated § 53a-30 (West 2001), commission comment. . . Our view is consistent with our Supreme Court's statements in [State v. Pieger](#), 240 Conn. 639, 647, 692 A.2d 1273 (1997), that probation's objectives are not just to foster the **offender's reformation, but also** 'to preserve the public's safety,' **and that** 'a sentencing court must have the discretion to fashion those conditions of probation it deems necessary to ensure that the individual

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successfully completes the **terms of probation.**' (Internal quotation marks omitted.) Id." (pp. 163-164)

"A prohibition on contact with one's children affects the defendant's associational rights. Although we hold that the court was warranted in severely restricting the defendant's contact with his children in furtherance of the goal of probation to protect them as members of the public, that restriction should not reach further than is reasonably necessary for the preservation of the children's safety." (p. 166)

- [State v. Smith](#), 207 Conn. 152, 164, 540 A.2d 679, 686, 87 A.L.R.4th 901 (1988). **"Years ago, the United States Supreme Court said that the purpose of probation is 'to provide a period of grace in order to aid the rehabilitation of a penitent offender; to take advantage of an opportunity for reformation which actual service of the suspended sentence might make less probable.'** [Burns v. United States](#), 287 U.S. 216, 220, 53 S. Ct. 154, 77 L. Ed. 266 (1932). Accordingly, it emphasized that in administering the probation statute, **the trial judge has 'an exceptional degree of flexibility'** in determining whether to grant or revoke probation and on what terms. Id. Punishment of an offender may not be the primary purpose of imposition of probation by a judge although it must be recognized that probation conditions may have an incidental punitive effect in that any restriction on liberty is in a sense 'punishment.' [Higdon v. United States](#), 627 F.2d 893, 898 (9th Cir. 1980)."
- [State v. Harmon](#), 147 Conn. 125, 157 A.2d 594, 595-596 (1960). "In passing sentence after an accused has been convicted of a crime, the judge is allowed a wide discretion in the sources and types of evidence used to assist him in fixing the penalty within the limits prescribed by law. [Williams v. New York](#), 337 U.S. 241, 246, 69 S. Ct. 1079, 93 L. Ed. 1337; [State v. Van Allen](#), 140 Conn. 39, 44, 97 A.2d 890; [State v. LaPorta](#), 140 Conn. 610, 612, 102 A.2d 885; [State v. Chuchelow](#), 128 Conn. 323, 324, 22 A.2d 780. After the conviction, by trial or plea of guilty, the issue is not the guilt of the offender but, within the limits fixed by statute, the appropriate penalty to fit him as well as the crime. [Burns v. United States](#), 287 U.S. 216, 220, 53 S. Ct. 154, 77 L. Ed. 266; [Pennsylvania ex rel. Sullivan v. Ashe](#), 302 U.S. 51, 55, 58 S. Ct. 59, 82 L. Ed. 43; [People v. Johnson](#), 252 N.Y. 387, 392, 169 N.E. 619; see [State v. Groos](#), 110 Conn. 403, 412, 148 A. 350. The court is not held within the narrow limits of the rules observed in a criminal trial. [Williams v. New York](#), supra, 247; [State v. Levice](#), 59 Ariz. 472, 478, 130 P.2d 53; [Commonwealth ex rel. Hendrickson v. Myers](#), 393 Pa. 224, 229, 144 A.2d 367; [State v. Carli](#), 2 Wis. 2d 429, 440b, 86 N.W.2d 434, 87 N.W.2d 830; note, 77 A.L.R. 1211. If the court were, most,

if not all, of the benefit which can be had from a presentence investigation and report would be lost to the convicted offender and the state, and the legislative purpose of bringing our criminal procedure more completely in harmony with modern concepts of penology would be thwarted." (pp. 128-129)

"Under our practice, a defendant is not deprived of the right of challenging the statements made in the report. His counsel is furnished, as in the instant case, with a copy of the report in order that its contents may be made known to the defendant and an opportunity afforded him to explain or controvert the statements contained in it. See [Driver v. State](#), 201 Md. 25, 32, 92 A.2d 570; [State v. Moore](#), 49 Del. 29, 36, 108 A.2d 675. The manner and extent to which a defendant can avail himself of the opportunity must, of necessity, rest in the sound discretion of the sentencing judge. In the instant case, counsel admitted that he had not examined the report until the evening before the date set for sentence. He did not offer to call the defendant, or anyone else, to the stand to contradict or explain any statement in the report. He apparently sought to examine the probation officer on statements in the report which the defendant had not challenged. To have allowed counsel to do so would have been tantamount to inviting a lengthy excursion into collateral issues. Under the circumstances of this case, this would have been largely futile. The trial court did not abuse its discretion in refusing the defendant's motion to delete portions of the report or to permit cross-examination of the probation officer." (p. 129)

WEST KEY NUMBERS:

- ***Sentencing & Punishment*** 1800 – 2041
 - IX. Probation and Related Dispositions
 - (A) In General
 - (B) Grounds and Considerations in General
 - (C) Factors Related to Offense
 - (D) Factors Related to Offender
 - (E) Proceedings for Imposition
 - (F) Disposition of Offender
 - (G) Conditions of Probation
 - (H) Searches and Seizures

DIGESTS:

- [Dowling's Connecticut Digest 2d](#): *Criminal Law and Procedure*
 - 79. Punishment; Sentence
 - 85. – Suspension; Probation; Parole; Pardon
 - 86. - - In General
 - 87. - - Particular Cases
- [ALR Digest](#): *Sentencing and Punishment* (2016)
 - A. In General, 1800-1828
 - B. Grounds and Considerations in General, 1830-1834
 - C. Factors Relation to Offense, 1835-1865

- D. Factors Related to Offender, 1870-1888
- E. Proceedings for Imposition, 1890-1923
- F. Disposition of Offender, 1930-1953
- G. Conditions of Probation, 1960-1988
- H. Searches and Seizures, 1990-1996

- [U.S. Supreme Court Digest](#): *Sentencing and Punishment* (2000)
 - A. In General, 1800-1828
 - B. Grounds and Considerations in General, 1830-1834
 - C. Factors Related to Offense, 1835-1865
 - D. Factors Related to Offender, 1870-1888
 - E. Proceedings for Imposition, 1890-1923
 - F. Disposition of Offender, 1930-1953
 - G. Conditions of Probation, 1960-1988
 - H. Searches and Seizures, 1990-1996

ENCYCLOPEDIAS:

- 21A [American Jurisprudence 2d](#) *Criminal Law* (2016)
 - E. Suspending Imposition or Execution of Sentence
 - 2. Probation
 - a. In General
 - § 817. Probation, generally; parole and suspension of sentence distinguished
 - § 818. Authority of courts to grant probation
 - b. Conditions of Probation
 - § 819. Conditions of probation, generally
 - § 820. Restitution as condition of probation
 - § 821. Reimbursement to government for defense costs as condition of probation
 - § 822. Limiting fundamental and constitutional rights as condition of probation
- 24 [CJS](#) *Criminal Procedure and Rights of Accused* (2016)
 - I. Probation and Suspension of Sentence
 - 1. In General
 - § 2359. Probation and suspension of sentence, generally
 - § 2360. Nature and purpose
 - § 2361. Statutory provisions
 - § 2362. Power of court to grant
 - § 2363. Right to obtain
 - § 2364. Proceedings to obtain
 - § 2365. Time of suspension or granting of probation
 - § 2366. Conditions
 - § 2367. – Restitution; payment of evaded taxes
 - § 2368. – Modification
 - § 2369. Duration
 - § 2370. Operation and effect of decision
 - § 2371. Supervision and discharge
 - § 2372. Searches

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

Connecticut Treatises

- [LexisNexis Practice Guide: Connecticut Criminal Law](#), by Stephan E. Seeger, 2017 edition, LexisNexis.
 - Chapter 8. Sentencing
 - Part II. Understanding Sentencing in Connecticut
 - 8.03. Understanding Potential Sentences
 - [1] General Sentencing Options
 - [2] Probation
 - [7] Alternate Incarceration
 - 8.04. Understanding the Pre-Sentence Investigation Report
 - 8.05. Preparing for and Appearing at the Sentencing Hearing
- [Connecticut Criminal Procedure](#), by Carl J. Schuman, 2017 edition, Connecticut Law Tribune
 - Chapter 15. Sentencing
 - 15-4. Specific Sentencing Options
 - 15-4: 4. Split Sentences: Conditional Discharge and Probation
 - 15-6. Probation
 - 15-6: 1. Nature and Use of Probation
 - 15-6: 2. Conditions of Probation
 - 15-6: 3. Out of State Parolee Supervision
- [Connecticut Lawyers' Deskbook 3d](#), 2008, LawFirst Publishing/Connecticut Bar Association
 - Chapter 28. Criminal Law
 - Probation, p. 677-678
- [Connecticut Criminal Procedure](#), by A. Paul Spinella, 1985, Atlantic Law Book Company, with 1996 supplement
 - Chapter XI. Sentencing, Appeal and Collateral Relief
 - 1. Sentencing
 - E. Probation
 - (a) Nature and Use
- [Connecticut Criminal Caselaw Handbook: A Practitioner's Guide](#), by Joseph G. Bruckmann, G. Douglas Nash and Joette Katz, 1989, The Connecticut Law Tribune, with 1992 supplement
 - Chapter XXI. Sentencing and Probation
 - D. Probation (see main volume)
 - 1. Probation and Conditional Discharge (in supplement only)
 - 2. Intensive Probations (in supplement only)
- [Connecticut Practice Series: Criminal Law](#), 2d ed., by Hon. David M. Borden and Leonard Orland, 2007, Thomson West, with 2017-2018 supplement
 - Authors' Commentary for 53a-28, 53a-29, 53a-30 and 53a-31**

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- [Connecticut Practice Series: Criminal Procedure](#), 4th ed., by Leonard Orland and Hon. David M. Borden, 2008, Thomson West, with 2017-2018 pocket part
Authors' Commentary for 43-10

General Treatises

- [The Law of Probation and Parole](#), by Neil P. Cohen, Thomson West, volume 1
 - Chapter 1. Introduction to Probation and Parole
 - Chapter 2. Probation Granting: Eligibility, Limits of Discretion, and Factors Used in Probation Decisions
 - Chapter 3. Probation Granting: Due Process and Procedures
 - Chapter 7. Probation and Parole Conditions in General
 - Chapter 8. Specific Conditions of Probation and Parole: Obedience to the Law, Searches, Confinement, and Cooperation with Authorities
 - Chapter 9. -- Limits on Speech and Associational Rights
 - Chapter 10. --Restrictions on Movement and Employment Rights
 - Chapter 11. Payment of Restitution
 - Chapter 12. Specific Conditions of Probation and Parole Payment of Family Support, Fines, and Costs
 - Chapter 13. --Requirements for Education, Treatment, and Counseling, and Restrictions on Drugs and Alcohol
 - Chapter 14. --Miscellaneous and Unusual Conditions
 - Chapter 15. Rescission of Probation and Parole
 - Chapter 17. Supervision of Person on Probation or Parole
- [Criminal Defense Techniques](#), Robert M. Cipes, editor, LexisNexis Matthew Bender, volume 1B
 - Chapter 41. Criteria for the Imposition of a Probationary Sentence
 - § 41.01. Introduction
 - [1] Criminal Sanctions
 - [2] Overview
 - § 41.02. Type of Sentences
 - [1] Availability of Probation
 - [2] Purpose of Probation
 - § 41.03. Qualifying for Probation
 - [1] Restrictions
 - [2] Factors for Consideration
 - [a] Damage to Community
 - [b] Pressure from Victim
 - [c] Plea v. Trial
 - [d] Prior History
 - [e] Restitution
 - § 41.04. Defense Techniques at Sentencing
 - [1] Duties of Counsel
 - [2] Scrutinizing Reports for Accuracy
 - [3] Alternative Presentence Reports

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- [4] Alternative Punishment
- [5] Dealing with a Criminal Record
- § 41.05. Post-Conviction Alternatives
- § 41.06. Presentence Reports
- § 41.07. Probation Under the Federal Sentencing Guidelines
 - [1] Federal Sentencing Guidelines – Overview
 - [2] Sentencing Table
 - [3] Federal Sentencing Alternatives
 - [4] Substantial Assistance to Authorities
 - [5] Summation
- § 41.08. Conclusion
- [Criminal Defense Techniques](#), Robert M. Cipes, editor, LexisNexis Matthew Bender, volume 2
 - Chapter 47. Probation, Parole and Other Forms of Conditional Release
 - § 47.01. Introduction
 - § 47.02. Nature of Conditional Release
 - § 47.03. Decision to Grant or Deny Probation
 - [1] Nature of Probation
 - [2] Mechanics of Imposition of Probation
 - [3] Eligibility for Probation
 - [4] Decision to Grant Probation
 - [a] Limits on Discretion
 - [i] Presumptive Sentences
 - [ii] Guidelines
 - [iii] Statutory Criteria
 - [b] The Decision Process
 - [i] Presentence Investigation and Report
 - [ii] Discretion Must Be Exercised
 - [iii] Factors That Can Be Considered
 - [iv] Statutory Factors
 - § 47.04. Conditions of Probation
 - [1] Introduction
 - [2] Challenges to Conditions
 - [3] General Limitations on Conditions of Probation
 - [a] Authorized by Statute
 - [b] The Condition Must Be Imposed by the Court
 - [c] Condition Must Be Capable of Performance
 - [d] Must Be Related to Past or Future Criminal Conduct
 - [4] Restrictions on Constitutional Rights
 - [a] Restrictions on First Amendment Rights
 - [i] The Freedom to Travel
 - [ii] Freedom of Association
 - [iii] Freedom of Religion
 - [b] Due Process Rights
 - [i] Restriction on Employment
 - [ii] Void for Vagueness
 - [iii] Orders to Pay Money
 - [A] Restitution

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- [B] Orders to Pay Money to Entities Other Than the Victim of the Crime
- [c] Privacy Rights
- [d] Fourth Amendment Rights
- [5] Periods of Incarceration as Condition of Probation
- [6] Notice of Conditions
- [7] Amendment of Conditions
 - [a] Eligibility
 - [b] Procedure and Conditions
- [2] Revocation

- [Criminal Defense Tools and Techniques](#), by Thomas J. Farrell, James Publishing, volume 2
 - Chapter 23. Probation, Parole & Other Post-Release Supervision
 - I. General Points
 - A. Probation and Supervised Release
 - § 23:01. The Different Ways to Be Placed on Probation
 - § 23:02. Supervised Release
 - II. Conditions of Probation and Parole
 - A. Standard Conditions
 - § 23:20. The Imposition of Conditions
 - § 23:21. Limits on Conditions
 - § 23:22. Restitution as a Condition
 - § 23:23. Searches
 - § 23:24. Drug Testing
 - § 23:25. DNA Samples
 - B. Special Conditions
 - § 23:30. Creative Conditions
 - § 23:31. Seek Clarification of Unreasonable Conditions
 - § 23:32. Propose Alternatives
 - § 23:33. Attacking Conditions
 - III. Communications with Parole or Probation Officer
 - § 23:40. Requirement to Answer Truthfully
 - § 23:41. Representation Before Revocation Proceedings Have Begun
 - § 23:42. Representation After Revocation Proceedings Have Begun
 - V. Early Termination of Probation
 - § 23:60. Motions for Early Termination
 - § 23:61. Preparing for the Motion
- *A Trial Judge's Freedom and Responsibility in Administering Probation*, 71 Yale L. J. 551 (1962).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Section 2: Modification of Probation

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the modification of probation in Connecticut.

DEFINITIONS:

- "At any time during the period of probation or conditional discharge, after hearing and for good cause shown, the court may modify or enlarge the conditions, whether originally imposed by the court under this section or otherwise, and may extend the period, provided the original period with any extensions shall not exceed the periods authorized by section 53a-29. The court shall cause a copy of any such order to be delivered to the defendant and to the probation officer, if any." Conn. Gen. Stat. § [53a-30\(c\)](#) (2017). (Check the [2018 Supplement](#) for changes.)
- "The meaning of the term 'modify' is to make less extreme. Merriam-Webster's Collegiate Dictionary (11th Ed. 2011). The meaning of the term 'enlarge' is to expand or make larger in scope. Thus, in context, modify must mean the opposite of enlarge, meaning that the court is empowered to reduce or lessen the conditions or period of probation." [State v. Obas](#), 147 Conn. App. 465, 482, 83 A. 3d 674 (2014).
- "A sentence to a period of probation or conditional discharge in accordance with sections 53a-29 to 53a-34, inclusive, shall be deemed a revocable disposition, in that such sentence shall be tentative to the extent that it may be altered or revoked in accordance with said sections but for all other purposes it shall be deemed to be a final judgment of conviction." Conn. Gen. Stat. § [53a-28\(d\)](#) (2017).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)
 - Chapter 319j – Addiction Services
 - § [17a-700](#). Completion of treatment program by convicted person.
 - § [17a-701](#). Modification of sentence or terms of probation prior to completion of treatment program by convicted person.
 - Chapter 952 – Penal Code Offenses
 - § [53a-28 \(d\)](#). Authorized sentences.
 - § [53a-30 \(c\)](#). Conditions of probation and conditional discharge. (Check the [2018 Supplement](#) for changes.)

PUBLICATIONS:

- [Probationer Handbook: Your Key to Success](#) – State of Connecticut Judicial Branch – Court Support Services Division, JDP-AP-136 (Rev 9/14)

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2018 ed.)
Chapter 43. Sentencing, Judgment and Appeal
§ [43-29A](#). Notice of Motions to Modify or Enlarge Conditions of Probation or Conditional Discharge or Terminate Conditions of Probation or Conditional Discharge

CODE OF EVIDENCE:

- Connecticut Code of Evidence (2018 ed.)
§ [1-1](#). Short Title. Application.
(d) **The Code inapplicable.** “The Code, other than with respect to privileges, does not apply in proceedings such as . . . (4) Proceedings involving probation.”

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Probation/Conditional Discharge Motion, [JD-CR-59](#), rev. 11-14 (*Form contains checkboxes for modification of conditions and/or termination of probation*)

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [State v. Denya](#), 294 Conn. 516, 528–29, 986 A.2d 260, 267 (2010). “Indeed, ‘courts have continuing jurisdiction to fashion a remedy appropriate to the vindication of a prior . . . judgment . . . pursuant to [their] inherent powers [Thus] [w]hen an ambiguity in the language of a prior judgment has arisen as a result of postjudgment events . . . a trial court may, at any time, exercise its continuing jurisdiction to effectuate its prior [judgment] . . . by interpreting [the] ambiguous judgment and entering orders to effectuate the judgment as interpreted In cases in which execution of the original judgment occurs over a period of years, a motion for clarification is an appropriate procedural vehicle to ensure that the original judgment is properly effectuated. . . . Motions for clarification may not, however, be used to modify or to alter the substantive terms of a prior judgment . . . and we look to the substance of the relief sought by the motion rather than the form to determine whether a motion is properly characterized as **one seeking a clarification or a modification.**’ (Citations omitted; internal quotation marks omitted.) [Mickey v. Mickey](#), supra, 292 Conn. at 604–605; cf. [Rome v. Album](#), 73 Conn. App. 103, 109, 807 A.2d 1017 (2002) (‘[when] the movant’s request would cause a substantive

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

modification of an existing judgment, a motion to open or set aside the judgment would normally be necessary’).”

- [State v. Armstrong](#), 86 Conn. App. 657, 663–64, 862 A.2d 348 (2004). “The defendant argues nevertheless that Chubbuck derived authority from § 53a-30 essentially to vitiate a court-ordered special condition of the defendant’s probation. But that argument fails to grasp the distinction between subsections (b) and (c) of § 53a-30. Subsection (c) concerns ‘special conditions of probation originally imposed by the court under this section or otherwise Under this subsection, any change that would *modify* or *enlarge* the conditions that the court originally imposed as part of its sentence must be done by the court itself after hearing and for good cause shown’ (Emphasis in original; internal quotation marks omitted.) [State v. Johnson](#), 75 Conn. App. 643, 651, 817 A.2d 708 (2003). ‘Conditions authorized to be enlarged or modified under § 53a-30(c) are part of a judgment imposed by the sentencing court’ *Id.*, at 651-52. Because the sentencing court in this case ordered as a special condition of the defendant’s probation that a positive drug test would result in a probation violation, the court alone was authorized to ‘modify or enlarge’ that condition.

As for § 53a-30(b), it ‘permits the office of adult probation, once a defendant has been sentenced, to require that the defendant comply with any or all conditions which the court *could have* imposed under § 53a-30(a) that are not inconsistent with any condition imposed by the *court.*’ (Emphasis in original; internal quotation marks omitted.) [State v. Johnson](#), *supra*, 75 Conn. App. 651. Under that section, Chubbuck could have required the defendant to comply with any of the sixteen conditions listed in subsection (a), including those not expressly ordered by the court at the defendant’s sentencing hearing. See, e.g., [State v. Thorp](#), 57 Conn. App. 112, 117-18, 747 A.2d 537 (determining that § 53a-30(b) authorized office of adult probation to require probationer convicted of sexual assault to receive sex offender treatment, even though sentencing judge had not imposed such condition), cert. denied, 253 Conn. 913, 754 A.2d 162 (2000). But Chubbuck could not enter into an agreement with the defendant such that the positive drug test in Massachusetts could not be used to revoke probation, as such an agreement would have been in direct contradiction to the condition imposed by the sentencing court that a positive drug test would result in a probation violation. See General Statutes § 53a-30(b).”

- [State v. Lawrence](#), 281 Conn. 147, 154, 913 A.2d 428 (2007). “Like a criminal sentencing court, the jurisdiction of the juvenile court terminates once a defendant’s probation has begun and ‘a court may not take further action affecting

the [disposition] unless it expressly has been authorized to act.”

WEST KEY NUMBERS:

- ***Sentencing & Punishment*** 1800 – 2041
 - IX. Probation and Related Dispositions
 - (F) Disposition of Offender
 - 1949. Modification of term
 - 1950. – In general
 - 1951. – Grounds
 - 1952. – Extent of modification
 - (G) Conditions of Probation
 - 1984. Modification of terms and conditions
 - 1985. – In general
 - 1986. – Grounds and considerations
 - 1987. – Particular cases

DIGESTS:

- [Dowling’s Connecticut Digest 2d](#): *Criminal Law and Procedure*
 - 79. Punishment; Sentence
 - 85. – Suspension; Probation; Parole; Pardon
 - 86. - - In General
 - 87. - - Particular Cases
- [ALR Digest](#): *Sentencing and Punishment* (2016)
 - G. Conditions of Probation
 - 1984. Modification of terms and conditions
 - 1985. – In general
 - 1986. – Grounds and considerations
 - 1987. – Particular cases
- [U.S. Supreme Court Digest](#): *Sentencing and Punishment* (2000)
 - G. Conditions of Probation
 - 1984. Modification of terms and conditions
 - 1985. – In general
 - 1986. – Grounds and considerations
 - 1987. – Particular cases

ENCYCLOPEDIAS:

- 24 [CJS](#) *Criminal Procedure and Rights of Accused* (2016)
 - I. Probation and Suspension of Sentence
 - 1. In General
 - § 2368. - Modification

TEXTS & TREATISES:

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Connecticut Treatises

- [Connecticut Criminal Caselaw Handbook: A Practitioner’s Guide](#), by Joseph G. Bruckmann, G. Douglas Nash and Joette Katz, 1989, The Connecticut Law Tribune, with 1992 supplement
 - Chapter XXI. Sentencing and Probation
 - D. Probation (see main volume)
 - 1. Probation and Conditional Discharge (in supplement only)

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

2. Intensive Probations (in supplement only)

- [Connecticut Practice Series: Criminal Law](#), 2d ed., by Hon. David M. Borden and Leonard Orland, 2007, Thomson West, with 2017-2018 supplement
Authors' Commentary for 53a-28 and 53a-30

General Treatises

- [Criminal Defense Techniques](#), Robert M. Cipes, editor, LexisNexis Matthew Bender, volume 2
Chapter 47. Probation, Parole and Other Forms of Conditional Release
§ 47.04. Conditions of Probation
[7] Amendment of Conditions
- [The Law of Probation and Parole](#), by Neil P. Cohen, Thomson West, volume 1
Chapter 16. Modification of Probation or Parole

Section 3: Violation/Revocation of Probation

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources relating to the violation and revocation of probation in Connecticut.

DEFINITIONS:

- “The purpose of probation revocation proceedings is to determine whether a probationer is complying with the conditions of his probation.” [Payne v. Robinson](#), 207 Conn. 565, 571, 541 A.2d 504 (1988).
- “Probation itself is a conditional liberty and a privilege that, once granted, is a constitutionally protected interest.... The revocation proceeding must comport with the basic requirements of due process because termination of that privilege results in a loss of liberty.... [T]he minimum due process requirements for revocation of [probation] include written notice of the claimed [probation] violation, disclosure to the [probationer] of the evidence against him, the opportunity to be heard in person and to present witnesses and documentary evidence, the right to confront and cross-examine adverse witnesses in most instances, a neutral hearing body, and a written statement as to the evidence for and reasons for [probation] violation.’ ...[State v. Shuck](#), 112 Conn. App. 407, 409, 962 A.2d 900 (2009). ‘Despite that panoply of requirements, a probation revocation hearing does not require all of the procedural components associated with an adversarial criminal proceeding.’ ...[State v. Barnes](#), supra, 116 Conn. App. 79.” [State v. Altajir](#), 123 Conn. App. 674, 682, 2 A.3d 1024 (2010), aff’d, 303 Conn. 304, 33 A.3d 193 (2012). (Internal quotation marks omitted.)
- “A sentence to a period of probation or conditional discharge in accordance with sections 53a-29 to 53a-34, inclusive, shall be deemed a revocable disposition, in that such sentence shall be tentative to the extent that it may be altered or revoked in accordance with said sections but for all other purposes it shall be deemed to be a final judgment of conviction.” Conn. Gen. Stat. § [53a-28\(d\)](#) (2017)

ADDITIONAL INFORMATION:

- **Warrant/Notice**
“At any time during the period of probation or conditional discharge, the court or any judge thereof may issue a warrant for the arrest of a defendant for violation of any of the conditions of probation or conditional discharge, or may issue a notice to appear to answer to a charge of such violation, which notice shall be personally served upon the defendant. Any such warrant shall authorize all officers named therein to return the defendant to the custody of the court or to any suitable detention facility designated by the

court. Whenever a probation officer has probable cause to believe that a person has violated a condition of such person's probation, such probation officer may notify any police officer that such person has, in such officer's judgment, violated the conditions of such person's probation and such notice shall be sufficient warrant for the police officer to arrest such person and return such person to the custody of the court or to any suitable detention facility designated by the court." Conn. Gen. Stat. § [53a-32\(a\)](#) (2017).

- **Victim Notification**

"Whenever a probation officer so notifies a police officer, the probation officer shall notify the victim of the offense for which such person is on probation, and any victim advocate assigned to assist the victim, provided the probation officer has been provided with the name and contact information for **such victim or victim advocate.**" Conn. Gen. Stat. § [53a-32\(a\)](#) (2017).

- **Statement as Warrant**

"Any probation officer may arrest any defendant on probation without a warrant or may deputize any other officer with power to arrest to do so by giving such other officer a written statement setting forth that the defendant has, in the judgment of the probation officer, violated the conditions of the defendant's probation. Such written statement, delivered with the defendant by the arresting officer to the official in charge of any correctional center or other place of detention, shall be sufficient warrant for the detention of the defendant. After making such an arrest, such probation officer shall present to the detaining authorities a similar statement of the circumstances of violation. Provisions regarding release on bail of persons charged with a crime shall be applicable to any defendant arrested under the provisions of this section. Upon such arrest and detention, the probation officer shall immediately so notify the court or any judge thereof." Conn. Gen. Stat. § [53a-32\(a\)](#) (2017).

- **Arraignment**

"When the defendant is presented for arraignment on the charge of violation of any of the conditions of probation or conditional discharge, the court shall review any conditions previously imposed on the defendant and may order, as a condition of the pretrial release of the defendant, that the defendant comply with any or all of such conditions in addition to any conditions imposed pursuant to section 54-64a. Unless the court, pursuant to subsection (c) of section 54-64a, orders that the defendant remain under the supervision of a probation officer or other designated person or organization, the defendant shall be supervised by the Court Support Services Division of the Judicial

Branch in accordance with subsection (a) of section 54-63b." **Conn. Gen. Stat. § [53a-32\(b\)](#)** (2017).

- **Hearing**

"Upon notification by the probation officer of the arrest of the defendant or upon an arrest by warrant as herein provided, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charges. At such hearing the defendant shall be informed of the manner in which such defendant is alleged to have violated the conditions of such defendant's probation or conditional discharge, shall be advised by the court that such defendant has the right to retain counsel and, if indigent, shall be entitled to the services of the public defender, and shall have the right to cross-examine witnesses and to present evidence in such defendant's own behalf. Unless good cause is shown, a charge of violation of any of the conditions of probation or conditional discharge shall be disposed of or scheduled for a hearing not later than one hundred twenty days after the defendant is arraigned on such charge." **Conn. Gen. Stat. § [53a-32\(c\)](#)** (2017).

- **Conditions set by the Court**

"If such violation is established, the court may: (1) Continue the sentence of probation or conditional discharge; (2) modify or enlarge the conditions of probation or conditional discharge; (3) extend the period of probation or conditional discharge, provided the original period with any extensions shall not exceed the periods authorized by section 53a-29; or (4) revoke the sentence of probation or conditional discharge. If such sentence is revoked, the court shall require the defendant to serve the sentence imposed or impose any lesser sentence. Any such lesser sentence may include a term of imprisonment, all or a portion of which may be suspended entirely or after a period set by the court, followed by a period of probation with such conditions as the court may establish." **Conn. Gen. Stat. § [53a-32\(d\)](#)** (2017).

- **Evidence**

"No such revocation shall be ordered, except upon consideration of the whole record and unless such violation is established by the introduction of reliable and probative evidence and by a preponderance of the evidence." **Conn. Gen. Stat. § [53a-32\(d\)](#)** (2017).

- **Interruption of Sentence**

"The issuance of a warrant or notice to appear, or an arraignment following an arrest without a warrant, for violation pursuant to section 53a-32 shall interrupt the period of the sentence until a final determination as to the violation has been made by the court." **Conn. Gen. Stat. § [53a-31\(b\)](#)** (2017).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2017)
 - [Chapter 952](#). Penal Code: Offenses
 - § [53a-28](#) (d), (e), (f). Authorized sentences.
 - § [53a-32](#). Violation of probation or conditional discharge. Notice to victim or victim advocate. Arrest. Pretrial release conditions and supervision. Hearing. Disposition.
 - § [53a-32a](#). Violation of probation by certain sexual offenders.
 - § [53a-33](#). Termination of probation or conditional discharge.
 - § [53a-172](#) (a)(2). Failure to appear in the first degree: Class D felony.
 - § [53a-173](#) (a)(2). Failure to appear in the second degree: Class A misdemeanor.

[Chapter 961](#). Trial and Proceedings After Conviction

- § [54-108c](#). Availability of information on outstanding arrest warrants for probation violations.

PUBLICATIONS:

- [Probationer Handbook: Your Key to Success](#) – State of Connecticut Judicial Branch – Court Support Services Division, JDP-AP-136 (Rev 9/14)

LEGISLATIVE:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each **report's** publication. Current law may be different from what is discussed in the reports.

- [Violation of Probation](#), 1999-R-0571, Benjamin H. Hardy, Research Analyst, Office of Legislative Research Report (April 30, 1999).

“You asked whether a probationer who (1) received probation on condition that he not commit any new crime and (2) has been arrested for a new crime could be judged in violation of his probation before he has been convicted of that crime. You also asked for a legislative history of the violation of probation law (CGS § 53a-32).”

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2018)
 - [Chapter 43](#). Sentencing, Judgment and Appeal
 - § [43-10](#). Sentencing Hearing--Procedures to Be Followed
 - § [43-29](#). Revocation of Probation
 - § [43-29A](#). Notice of Motions to Modify or Enlarge Conditions of Probation or Conditional Discharge or Terminate Conditions of Probation or Conditional Discharge

CODE OF EVIDENCE:

- Connecticut Code of Evidence (2018 ed.)
 - § [1-1](#). Short Title. Application.
 - (d) **The Code inapplicable.** “The Code, other than with respect to privileges, does not apply in proceedings such as . . . (4) Proceedings involving probation.”

- Connecticut Code of Evidence (2018 ed.)
 § [1-1 Commentary](#)
 "(d) The Code inapplicable. Subsection (d) specifically states the proceedings to which the Code, other than with respect to evidentiary privileges, is inapplicable. . . . The removal of these matters from the purview of the Code generally is supported by case law, the General Statutes or the Practice Book. They include: . . .
 (4) hearings involving the violation of probation conducted pursuant to General Statutes § 53a-32 (a); [State v. White](#), 169 Conn. 223, 239-40, 363 A.2d 143, cert. denied, 423 U.S. 1025, 96 S. Ct. 469, 46 L. Ed. 2d 399 (1975); [In re Marius M.](#), 34 Conn. App. 535, 536, 642 A.2d 733 (1994)."

FORMS:

Official Judicial Branch forms are frequently updated. Please visit the [Official Court Webforms page](#) for the current forms.

- Probation/Conditional Discharge Motion, [JD-CR-59](#), rev. 11-14 (*Form contains checkboxes for modification of conditions and/or termination of probation*)
- Memorandum of Law in Opposition to Revocation of the Defendant's Probation, p. 397, [Connecticut Criminal Legal Forms](#), by Christopher Marano, Atlantic Law Book Co., volume 1
- [Complete Manual of Criminal Forms](#), by F. Lee Bailey and Hon. Kenneth J. Fishman, volume 3
 Chapter 97. Pleadings and Orders Relation to the Sentence
 § 97: 11. Petition for revocation of probation – Federal
 § 97: 11.10. Memorandum of law in support of motion to dismiss probation violations – Destruction of evidence – Lack of evidence – State – Massachusetts

CASES:

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- See [Table 1: Adjudicatory Phase – Revocation of Probation](#)
- See [Table 2: Dispositional Phase – Revocation of Probation](#)
- [State v. Tucker](#), 179 Conn. App. 270, 279-280, 178 A. 3d 1103 (2018). This court established in [State v. Shakir](#), supra, 130 Conn. App. 458, that where hearsay evidence is offered in a probation revocation proceeding, due process safe-guards require that the court must balance the defendant's interest in cross-examination against the state's good cause for denying the right to cross-examine. Id., 467. 'In considering whether the court had good cause for not allowing confrontation or that the interest of justice [did] not require the witness to [appear] . . . the court should balance, on the one hand, the defendant's interest in confronting the declarant, against, on the other hand, the government's reasons for not producing the witness and the reliability of the proffered hearsay.' (Internal quotation marks omitted.) [State v. Polanco](#), supra, 165 Conn. App. 571, citing [State v. Shakir](#), supra, 468."

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- [State v. Rodriguez](#), Superior Court, Judicial District of Windham at Danielson, WWM-CR01-0112799-T (Nov. 15, 2017) (65 Conn. L. Rptr. 499). "The question presented here appears to be an issue of first impression: Does the court have jurisdiction to entertain a defendant's motion to dismiss a violation of probation warrant **before** that warrant has been served? . . .

The information, as discussed above, is part of the commencement of the formal prosecution, which does not occur until a defendant has been formally presented in court on charges. [State v. Daly](#), *supra*, 111 Conn. App. 401-02. As the defendant in the present case has yet to be served and presented on the violation of probation warrant, the court lacks jurisdiction to entertain his claims. *Id.* The defendant has also asserted a claim that the state has violated the 5-year statute of limitations set forth in General Statutes §54-193(b) as a basis for asking the court to vacate the unserved warrant. The state must commence prosecution within the applicable statute of limitations. [State v. Crawford](#), 202 Conn. 443, 448, 521 A.2d 1034 (1987). The issuance of an arrest warrant will toll the running of the statute of limitation, so long as it is 'executed without unreasonable delay . . . A reasonable period of time is a question of fact that will depend on the **circumstances of each case.**' *Id.*, 451. The ultimate issue, however, is the same as above, which is that this court has no jurisdiction to entertain the defendant's claim until he has actually been served, presented, and formally charged on the outstanding warrant. [State v. Daly](#), *supra*, 111 Conn.App. 401-02."

- [State v. Kelley](#), 326 Conn. 731, 167 A3d 961 (2017). "The statutes governing probation establish that the timely issuance of an arrest warrant for a probation violation interrupts the running of the sentence, and the sentence remains interrupted until the court resolves the violation charge. Specifically, under § 53a-31 (a), when a defendant's sentence of probation follows a period of incarceration, probation commences on the day of the inmate's release from incarceration and generally continues until its scheduled expiration under the terms of the original sentence imposed by the trial court. The running of the probation sentence may be 'interrupt[ed],' however, under certain circumstances. General Statutes § 53a-31 (b). One such circumstance is when a probationer violates one of the conditions of his probation and an arrest warrant is issued for that violation under General Statutes § 53a-32. In that circumstance, § 53a-32 (a) allows the probation officer to obtain an arrest warrant, which must be obtained during the period of the defendant's probation sentence. Under § 53a-31 (b), the issuance of such a warrant automatically

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triggers an ‘interrupt[ion]’ of the probation sentence, essentially tolling the sentence until the violation charge is adjudicated.” (pp. 736-737)

“During the interruption, the defendant must comply with the conditions of probation imposed by his original sentence, even though he is not serving his probation sentence while the violation charge is pending. General Statutes § 53a-31 (c). At the violation hearing, if a violation of probation is established, the trial court has the option of simply continuing the term of probation, which would resume the running of the probation sentence, or imposing other penalties, including a revocation of the defendant’s probation. General Statutes § 53a-32 (d).” (p. 737)

“Given the valid interruption of the sentence from December, 2009, until the trial court’s resolution of the violation charge in May, 2014, the defendant’s probation did not expire in September, 2013, as originally scheduled. In fact, more than three years still remained on his probation sentence as of the resolution of the violation charge in May, 2014. Because his probation had not yet expired, the trial court did not lose subject matter jurisdiction to conduct the probation violation hearing and revoke the defendant’s probation in May, 2014. Accordingly, the trial court’s revocation of probation and institution of the defendant’s original suspended sentence was proper, and we reject the defendant’s argument that the trial court lacked subject matter jurisdiction over his probation violation proceeding.” (p. 738)

“The legislative history surrounding P.A. 08-102, § 7, unequivocally demonstrates that the legislature did not intend for a failure to comply with the 120 day limit to carry any consequences affecting the defendant’s probation sentence.” (p. 740)

“The legislative history is thus devoid of any indication that the legislature intended the 120 day limit to have any consequences affecting the length of a defendant’s probation. Trial judges should, of course, diligently seek to comply with the time limitation or find on the record good cause for delaying resolution of a violation charge. We conclude, however, that exceeding the 120 day limit, even without a finding of good cause, does not impact the interruption of a probation sentence under § 53a-31 (b). We therefore reject the defendant’s argument that a trial court’s failure to comply with this time limit impacts the running of his probation sentence.” (p. 741)

- [State v. Megos](#), 176 Conn. App. 133, 144, 170 A3d 120 (2017). “Our Supreme Court has stated unequivocally that ‘the language of [§ 53a-32] demonstrates that the

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legislature did not intend to make willfulness an element of **a probation violation.**' [State v. Hill](#), 256 Conn. 412, 420, 773 A.2d 931 (2001). '[T]o establish a violation, the state needs only to establish that the probationer knew of the condition and engaged in conduct that violated the **condition.**'"

- [State v. Victor O.](#), 320 Conn. 239, 258 n.21, 128 A.3d 940 (2016). "Thus, for a violation that occurs on the final day of the defendant's special parole term, the defendant would be exposed to one day of incarceration. Special parole, therefore, exposes a defendant to a decreasing period of incarceration as the term of special parole is served. On the other hand, when a defendant violates his probation, the court may revoke his probation, and, if revoked, 'the court shall require the defendant to serve the sentence imposed or impose any **lesser sentence.**'... Accordingly, if [a] defendant ... violate[s] his probation on the final day of [the probationary] term, he would be exposed to the full suspended sentence of ... incarceration [whatever that sentence may be]. Thus, in contrast to a term of special parole, the defendant is exposed to incarceration for the full length of the suspended sentence, with no decrease in exposure as the probationary period is served, for the **entirety of the probationary period.**" (Citation omitted; footnote omitted.) [State v. Tabone](#), supra, 292 Conn. at 429, 973 A.2d 74."
- [State v. Polanco](#), 165 Conn. App. 563, 140 A.3d 230, 235–36 (2016). "The defendant . . . appeals from the judgment of the trial court revoking his probation and imposing a thirty month prison sentence. On appeal, the defendant claims that he was denied his right to due process under the fourteenth amendment to the United States constitution by the court's admission into evidence of a laboratory report when the author of that report was not present and available for cross-examination." (pp. 564-565)

"In [State v. Shakir](#), 130 Conn. App. 458, 467, 22 A.3d 1285, cert. denied, 302 Conn. 931, 28 A.3d 345 (2011), we noted that the due process safeguards are codified in Federal Rule of Criminal Procedure **32.1 and include** 'an opportunity to ... question any adverse witness unless the court determines that the interest of justice does not require **the witness to appear....**' We further explained that the court must balance the defendant's interest in cross-examination against the state's good cause for denying the right to cross-examine. Id. Specifically, we cited to case law from the United States Court of Appeals for the Second **Circuit and stated:** 'In considering whether the court had good cause for not allowing confrontation or that the interest of justice [did] not require the witness to appeal ... the court should balance, on the one hand, the defendant's

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interest in confronting the declarant, against, on the other hand, the government's reasons for not producing the witness and the **reliability of the proffered hearsay.**' (Citation omitted; internal quotation marks omitted.) Id., at 468, 22 A.3d 1285, citing [United States v. Williams](#), 443 F.3d 35, 45 (2d Cir.2006); see also [State v. Giovanni P.](#), 155 Conn. App. 322, 335, 110 A.3d 442, cert. denied, 316 Conn. 909, 111 A.3d 883 (2015)." (pp. 570-571)

- [State v. Ricketts](#), 140 Conn. App. 257, 263, 57 A.3d 893, cert. denied, 308 Conn. 909, 61 A.3d 531 (2013). **"Revocation is a continuing consequence of the original conviction from which probation was granted."** (Internal quotation marks omitted.)
- [State v. Altajir](#), 303 Conn. 304, 315, 33 A.3d 193 (2012). **"The United States Supreme Court has recognized that '[b]oth the probationer . . . and the [s]tate have interests in the accurate finding of fact and the informed use of discretion – the probationer . . . to insure that his liberty is not unjustifiably taken away and the [s]tate to make certain that it is neither unnecessarily interrupting a successful effort at rehabilitation nor imprudently prejudicing the safety of the community.'** [Gagnon v. Scarpelli](#), 411 U.S. 778, 785, 93 S. Ct. 1756, 36 L. Ed. 2d 656 (1973) . . ."
- [State v. Fermaint](#), 91 Conn. App. 650, 881 A.2d 539 (2005). **"The defendant claims that the court's finding of a violation of probation was not sufficiently supported by a fair preponderance of the evidence. . . . The defendant argues that there was insufficient evidence to find that he possessed the seized contraband. We agree."** (pp. 653-654)

"Here, the narcotics were not on the defendant's person, they were not found in a place under his exclusive or shared control, the police did not observe or videotape him engaging in any transaction, there were no controlled purchases from him, the police did not observe him pass anything to the other occupants in the car, he did not flee, he did not attempt to conceal the crumbs of crack cocaine and he did not make any incriminating statements. The only evidence offered to prove that the defendant was in possession of the crumbs of crack cocaine was his proximity to the crumbs and that he engaged in **'furtive' movements.** Under the preponderance of the evidence standard, that **evidence is insufficient to prove possession of narcotics.**" (pp. 662-663)

- [State v. Lewis](#), 58 Conn. App. 153, 158, 752 A.2d 1144 [cert. denied, 254 Conn. 917, 759 A.2d 508] (2000). "In [State v. White](#), 169 Conn. 223, 237, 363 A.2d 143, cert. denied, 423 U.S. 1025, 96 S. Ct. 469, 46 L. Ed. 2d 399

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(1975), the defendant argued that the trial court's failure to deliver a written copy of the conditions of probation to him, pursuant to . . . § 53a-30 (a), invalidated the revocation of his probation. Our Supreme Court concluded that the claim was without merit because the statute does not provide a penalty for the failure of the court to deliver to the defendant a copy of the probation conditions and because the defendant did not claim that he was unaware that if he violated the relevant condition, his probation would be subject to revocation, Id., 238. The *White* court concluded that the **statute was directory and that** 'it would make a mockery of the statute to say failure to deliver standard conditions of probation renders probation invalid under the **facts of this case.**' Id.

Section 54-108 provides in relevant part that probation officers 'shall furnish to each person released under their supervision a written statement of the conditions of probation and shall instruct him regarding the same. . . .' Section 54-108 does not provide a remedy for the failure of the probation officer to comply with the statute.' *State v. Martinez*, 55 Conn. App. 622, 626-27, 739 A.2d 721 (1999). '[W]e conclude that §54-108 is directory and not mandatory, and that violation of the statute by the probation officer does not excuse the defendant from the requirement that he not violate a condition of probation.' Id."

- [Payne v. Robinson](#), 207 Conn. 565, 541 A.2d 504 (1988). "We granted certification of the petitioner's appeal from the Appellate Court to consider the following issue: Under what circumstances, if any, does the exclusionary rule of the fourth amendment apply to probation revocation hearings?" (pp. 566-567)

"Illegally obtained evidence is inadmissible in a criminal trial. . . Where, as here, there is no evidence that the police officer was aware that the suspect is on probation, further exclusion of such evidence in a probation revocation hearing would not appreciably enhance the deterrent effect already created by the inadmissibility of the evidence at trial. Since the use of evidence in a probation revocation hearing 'falls outside the offending officer's zone of primary interest'; *United States v. Janis*, supra, 458; exclusion of such evidence will not significantly affect a police officer's motivation in conducting a search. Accordingly, we agree with the Appellate Court's view that the balance of interests does not favor the application of the exclusionary rule to a probation hearing in these circumstances." (p. 571)

". . . the state has a legitimate interest in accurate factfinding in probation revocation proceedings. This interest is clearly furthered by the admission of all reliable

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evidence, even that which is arguably obtained in violation of the fourth amendment. In addition, the state has an interest in deterring illegal searches and seizures. This interest, however, is not served by the exclusion of illegally seized evidence in probation revocation proceedings when **the offending officer was unaware of the suspect's** probationary status. We conclude that failure to apply the exclusionary rule in such circumstances is rationally related **to legitimate state interests.**" (pp. 574-575)

- [State v. Durant](#), 94 Conn. App. 219, 892 A2d 302 (2006). **"The parties had agreed** previously that the court could consider evidence submitted during the course of the trial in its hearing on the violation of probation charge; therefore, the evidence presented during the trial was admitted into evidence in the probation revocation proceedings." (p. 222)

"The specific condition the defendant was found to have violated prohibited him from violating any criminal law, but it did not require that he be convicted.

It is well settled that even when the defendant is acquitted of the underlying crime leading to the probation revocation proceeding, probation may still be **revoked.**" (pp. 224-225)

- [State v. Gauthier](#), 73 Conn. App. 781, 794, 809 A2d 1132 (2002). **"In a criminal trial, the state must prove its case** beyond a reasonable doubt. In a probation revocation hearing, by contrast, a violation of probation need only be shown by a preponderance of the evidence. The differing standards of proof relevant to those proceedings militate against application of collateral estoppel. In this case, the most that can be said regarding the jury verdict is that the jury found that the alleged criminal conduct had not been proven beyond a reasonable doubt. The jury had no occasion to consider whether the charged conduct had been proven by a preponderance of the evidence, the standard of proof applicable to a probation revocation hearing. Thus, **contrary to the defendant's argument, the factual issues** had not been conclusively determined in a prior judicial proceeding for the purposes of the probation hearing."

WEST KEY NUMBERS:

- *Sentencing & Punishment* 1800 – 2041
 - IX. Probation and Related Dispositions
 - (I) Revocation
 1. In General
 2001. Discretion of court
 2. Factors Affecting Revocation
 2003. Violation of probation condition
 2004. New offense
 2005. Other particular factors
 2006. Defenses and objections

3. Proceedings
 2010. Time for proceedings
 2011. Complaint or petition
 2012. Arrest or apprehension of probationer
 2013. Notice and disclosure
 2014. Assistance of counsel
 2015. Evidence
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 2023. Hearing
 2027. Findings of fact and conclusions of law
 2013. Reconsideration or rehearing
4. Disposition of Offender
 2034. Enforcement of previously imposed sentence
 2035. Imposition of new sentence
 2036. Imposition of increased sentence
 2037. Sentence that could originally have been imposed
 2038. Sentence within statutory or other limitation for offense of conviction
 2039. Reimposition or reinstatement of probation
 2040. Conditions imposed
 2041. Credits and computation thereof

DIGESTS:

- [Dowling's Connecticut Digest 2d](#): *Criminal Law and Procedure*
 79. Punishment; Sentence
 85. – Suspension; Probation; Parole; Pardon
 86. - - In General
 87. - - Particular Cases
- [ALR Digest](#): *Sentencing and Punishment* (2016)
 - I. Revocation
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 2001. Discretion of court
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 2003. Violation of probation condition
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 2006. Defenses and objections
 3. Proceedings
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 2011. Complaint or petition
 2012. Arrest or apprehension of probationer
 2013. Notice and disclosure
 2015. Evidence
 2023. Hearing
 2031. Reconsideration or rehearing
 4. Disposition of Offender
 2033. Matters considered
 2034. Enforcement of previously imposed sentence
 2035. Imposition of new sentence
 2036. Imposition of increased sentence
 2039. Reimposition or reinstatement of probation

- 2040. Conditions imposed
- 2041. Credits and computation thereof

- [U.S. Supreme Court Digest](#): *Sentencing and Punishment* (2000)
 - I. Revocation
 - 1. In General
 - 2001. Discretion of court
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 - 2039. Reimposition or reinstatement of probation
 - 2040. Conditions imposed
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ENCYCLOPEDIAS:

- 21A [American Jurisprudence 2d](#) *Criminal Law* (2016)
 - E. Suspending Imposition or Execution of Sentence
 - 2. Probation
 - c. Revocation of Probation
 - (1) In General
 - § 823. Revocation of probation, generally
 - § 824. Revocation of probation after expiration of probation term
 - (2) Probation Revocation Hearing; Rights of Defendant
 - § 825. Probation revocation hearing; rights of defendant, generally
 - § 826. Right to counsel in probation revocation proceedings
 - § 827. – Waiver
 - § 828. Evidence in probation revocation hearing
 - § 829. Burden and standard of proof in probation revocation hearings
 - § 830. Probation revocation hearing under federal law
- 24 [CJS](#) *Criminal Procedure and Rights of Accused* (2016)
 - I. Probation and Suspension of Sentence

2. Revocation of Probation
 - a. In General
 - § 2373. Revocation of probation, generally
 - § 2374. Grounds for grant or denial
 - § 2375. Invalidation of order of suspension or probation
 - § 2376. Time of revocation and enforcement
 - § 2377. Sentencing and punishment following probation violation or revocation
 - b. Proceedings
 - (1) In General
 - § 2378. Probation revocation proceedings, generally
 - § 2379. Notice and hearing
 - § 2380. – Assistance of counsel
 - (2) Evidence
 - § 2381. Evidence in probation revocation proceedings, generally
 - § 2382. Hearsay

- Martin J. McMahon, J.D., *Revocation of Probation Based on Defendant's Misrepresentation or Concealment of Information from Trial Court*, 36 [ALR4th](#) 1182 (1985)

TEXTS & TREATISES:

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Connecticut Treatises

- [Connecticut Criminal Procedure](#), by Carl J. Schuman, 2017 edition, Connecticut Law Tribune.
 - Chapter 4. Grand Jury, Arraignment, Transfers from Juvenile Court, Bail and Probable Cause Hearings
 - 4-3. Arraignment
 - 4-3:8. Arraignment on a Charge of Violation of Probation or Conditional Discharge
 - Chapter 15. Sentencing
 - 15-6. Probation
 - 15-6:4. Revocation of Probation
 - 15-6:4.1. Due Process and Constitutional Background
 - 15-6:4.2. Initiation of the Charges
 - 15-6:4.3. Timing of the Hearing
 - 15-6:4.4. Nature of and Evidentiary Rules at the Adjudicatory Stage
 - 15-6:4.5. Nature of the Dispositional Stage
 - 15-6:4.6. Right of Allocution
 - 15-6:4.7. Court's Decisional Options**
- [Connecticut Practice Series: Criminal Law 2d](#), by Hon. David M. Borden and Leonard Orland, Thomson West, volume 10.
 - Part One. Commentaries on the Connecticut Penal Code: General Statutes Title 53A
 - C. Penal Code: Offenses
 - Part II. Sentences and Sentencing Procedure

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§ 53a-32. Violation of probation or conditional discharge. Notice to victim or victim advocate. Arrest. Pretrial release conditions and supervision. Hearing. Disposition.
§ 53a-32a. Violation of probation by certain sexual offenders

- [Connecticut Lawyers' Deskbook 3d](#), 2008, LawFirst Publishing/Connecticut Bar Association
Chapter 28. Criminal Law
Probation, p. 677-678
- [Connecticut Criminal Procedure](#), by A. Paul Spinella, 1985, Atlantic Law Book Company, with 1996 supplement
Chapter XI. Sentencing, Appeal and Collateral Relief
1. Sentencing
E. Probation
(b) Revocation
- [Connecticut Criminal Caselaw Handbook: A Practitioner's Guide](#), by Joseph G. Bruckmann, G. Douglas Nash and Joette Katz, 1989, The Connecticut Law Tribune, with 1992 supplement
Chapter XXI. Sentencing and Probation
D. Probation (see main volume)
1. Probation and Conditional Discharge (in supplement only)
2. Intensive Probations (in supplement only)
- [Connecticut Practice Series: Criminal Procedure](#), 4th ed., by Leonard Orland and Hon. David M. Borden, 2008, Thomson West, with 2017-2018 pocket part
Authors' Commentary for 43-10, 43-29, 43-32

General Treatises

- [The Law of Probation and Parole](#), by Neil P. Cohen, Thomson West, volume 2
Chapter 18. Revocation of Probation or Parole: General Principles
Chapter 19. –General Bases for Revocation
Chapter 20. –Evidentiary Matters
Chapter 21. –Constitutional Rights and Guarantees
Chapter 22. –Defenses to Revocation
Chapter 23. Initiation of Revocation Proceedings: Arrest and Notice
Chapter 24. –Detainers
Chapter 25. Revocation Proceedings: The Preliminary Hearing
Chapter 26. –The Final Hearing
Chapter 27. –Sanctions for Revocation
Chapter 28. –Computing Credits for Time Served
Chapter 29. Appeals and Other Remedies

- [Criminal Defense Techniques](#), Robert M. Cipes, editor, LexisNexis Matthew Bender, volume 2
 Chapter 47. Probation, Parole and Other Forms of Conditional Release
 § 47.05. Revocation of Probation
 [1] Decision to Commence Revocation Proceedings
 [2] Revocation Proceedings
 [a] Constitutional Requirements
 [b] Timing of the Hearings
 [c] Conduct of Hearing
 [d] Use of Hearsay
 [e] Evidentiary Burden at Revocation Hearings
 [f] Revocation for Failure to Pay Restitution
 [g] Willfulness of Violation
 [h] Disposition on Finding of Violation

- [Criminal Defense Tools and Techniques](#), by Thomas J. Farrell, James Publishing, volume 2
 Chapter 23. Probation, Parole & Other Post-Release Supervision
 III. Communications with Parole or Probation Officer
 § 23:41. Representation Before Revocation Proceedings Have Begun
 § 23:42. Representation After Revocation Proceedings Have Begun
 IV. Revocation of Probation or Parole
 § 23:50. Revocation Requires Two Hearings
 § 23:51. Evidence, Discovery & Burden of Proof
 § 23:52. Timing for Hearing
 § 23:53. Strategy at Hearing
 § 23:54. Re-Sentencing for Probation Violations
 § 23:56. Violation Sentences and Sentences for Underlying Convictions

LAW REVIEWS:

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The Right to a Hearing Before Revocation of Probation,
 59 Yale L. J. 1521 (December 1950).

Table 1: Adjudicatory Phase – Revocation of Probation

<p>State v. Sherrod, 157 Conn. App. 376, 381–82, 115 A.3d 1167 (2015).</p> <p><i>Two components: Adjudicatory Phase and Dispositional Phase</i></p>	<p>Under § 53a-32, a probation revocation hearing has two distinct components....The trial court must first conduct an adversarial evidentiary hearing to determine whether the defendant has in fact violated a condition of probation.... If the trial court determines that the evidence has established a violation of a condition of probation, then it proceeds to the second component of probation revocation, the determination of whether the defendant's probationary status should be revoked.</p>
<p>Conn. Prac. Book § 43-29 (2018).</p> <p><i>Court rule</i></p>	<p>...At the revocation hearing, the prosecuting authority and the defendant may offer evidence and cross-examine witnesses. If the defendant admits the violation or the judicial authority finds from the evidence that the defendant committed the violation, the judicial authority may make any disposition authorized by law.</p>
<p>Conn. Gen. Stat. § 53a-32 (2017).</p> <p><i>Statute</i></p>	<p>(c) Upon notification by the probation officer of the arrest of the defendant or upon an arrest by warrant as herein provided, the court shall cause the defendant to be brought before it without unnecessary delay for a hearing on the violation charges. At such hearing the defendant shall be informed of the manner in which such defendant is alleged to have violated the conditions of such defendant's probation or conditional discharge, shall be advised by the court that such defendant has the right to retain counsel and, if indigent, shall be entitled to the services of the public defender, and shall have the right to cross-examine witnesses and to present evidence in such defendant's own behalf. Unless good cause is shown, a charge of violation of any of the conditions of probation or conditional discharge shall be disposed of or scheduled for a hearing not later than one hundred twenty days after the defendant is arraigned on such charge.</p>
<p>State v. Lanagan, 119 Conn. App. 53, 62, 986 A.2d 1113, (2010).</p> <p><i>It is sufficient to prove that one condition was violated.</i></p>	<p>We acknowledge that a violation of any one condition of probation would suffice to serve as a basis for revoking the defendant's probation. "Our law does not require the state to prove that all conditions alleged were violated; it is sufficient to prove that one was violated."</p>

<p>State v. Giovanni P., 155 Conn. App. 322, 338, 110 A.3d 442 (2015).</p> <p><i>Strict rules of evidence do not apply</i></p>	<p>We are mindful that “[i]t is well settled that the strict rules of evidence do not apply to probation proceedings.... It is just as well settled that hearsay evidence is admissible in a probation revocation hearing when the evidence is relevant, reliable and probative.”</p>
<p>State v. Tucker, 179 Conn. App. 270, 276, 178 A. 3d 1103 (2018).</p> <p><i>Connecticut Code of Evidence does not apply</i></p>	<p>At the outset, we emphasize that the Connecticut Code of Evidence does not apply to proceedings involving probation. Section 1-1 (d) (4) of the Connecticut Code of Evidence....</p>
<p>State v. Benjamin, 299 Conn. 223, 235, 9 A.3d 338 (2010).</p> <p><i>Standard of proof: preponderance of the evidence</i></p>	<p>The law governing the standard of proof for a violation of probation is well settled. Even when a defendant is acquitted of the underlying crime leading to the probation revocation proceeding, probation still may be revoked because all that is required in a probation violation proceeding is enough to satisfy the court within its sound judicial discretion that the probationer has not met the terms of his probation. Although the revocation may be based upon criminal conduct, “the constitution does not require that proof of such conduct be sufficient to sustain a criminal conviction.” (Internal quotation marks omitted.) Payne v. Robinson, 10 Conn.App. 395, 402, 523 A.2d 917 (1987), aff’d, 207 Conn. 565, 541 A.2d 504, cert. denied, 488 U.S. 898, 109 S.Ct. 242, 102 L.Ed.2d 230 (1988).</p>
<p>State v. Rollins, 51 Conn. App. 478, 482, 723 A.2d 817 (1999).</p> <p><i>Drawing reasonable and logical inferences from the evidence</i></p>	<p>To support a finding of probation violation, the evidence must induce a reasonable belief that it is more probable than not that the defendant has violated a condition of his or her probation. State v. Davis, [229 Conn. 285, 302, 641 A.2d 370 (1994)]. In making its factual determination, the trial court is entitled to draw reasonable and logical inferences from the evidence.... (Internal quotation marks omitted.)</p>
<p>State v. Lanagan, 119 Conn. App. 53, 61, 986 A.2d 1113 (2010).</p> <p><i>Credibility of witnesses</i></p>	<p>Although the defendant couches her argument in terms of insufficiency of the evidence, she confuses the issues of sufficiency and credibility. “As the sole finder of fact in the probation revocation proceeding ... the court was entitled to arrive at its own conclusion regarding the witnesses' credibility and what weight to afford their testimony.” State v. Gauthier, 73 Conn. App. 781, 787, 809 A.2d 1132</p>

	(2002), cert. denied, 262 Conn. 937, 815 A.2d 137 (2003).
<p>State v. Preston, 286 Conn. 367, 376–77, 944 A.2d 276 (2008).</p> <p><i>Standard of appellate review</i></p>	<p>Moreover, we previously have recognized that the evidentiary and dispositional phases are governed by two different standards of review. State v. Faraday, supra, 268 Conn. at 185–86, 842 A.2d 567; State v. Hill, supra, 256 Conn. at 425–26, 773 A.2d 931....</p> <p>“Our review is limited to whether such a finding was clearly erroneous.... A finding of fact is clearly erroneous when there is no evidence in the record to support it ... or when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.... In making this determination, every reasonable presumption must be given in favor of the trial court’s ruling.” (Internal quotation marks omitted.) State v. Faraday, supra, at 185, 842 A.2d 567, quoting State v. Hill, supra, at 425–26, 773 A.2d 931. (Emphasis added.)</p>

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Table 2: Dispositional Phase – Revocation of Probation

<p>State v. Sherrod, 157 Conn. App. 376, 381–82, 115 A.3d 1167 (2015).</p> <p>Two components: Adjudicatory Phase and Dispositional Phase</p>	<p>Under § 53a-32, a probation revocation hearing has two distinct components....The trial court must first conduct an adversarial evidentiary hearing to determine whether the defendant has in fact violated a condition of probation.... If the trial court determines that the evidence has established a violation of a condition of probation, then it proceeds to the second component of probation revocation, the determination of whether the defendant's probationary status should be revoked.</p>
<p>Conn. Prac. Book § 43-29 (2018).</p> <p>Court rule</p>	<p>...At the revocation hearing, the prosecuting authority and the defendant may offer evidence and cross-examine witnesses. If the defendant admits the violation or the judicial authority finds from the evidence that the defendant committed the violation, the judicial authority may make any disposition authorized by law.</p>
<p>Conn. Gen. Stat. § 53a-32 (2017).</p> <p>Statute</p>	<p>(d) If such violation is established, the court may: (1) Continue the sentence of probation or conditional discharge; (2) modify or enlarge the conditions of probation or conditional discharge; (3) extend the period of probation or conditional discharge, provided the original period with any extensions shall not exceed the periods authorized by section 53a-29; or (4) revoke the sentence of probation or conditional discharge. If such sentence is revoked, the court shall require the defendant to serve the sentence imposed or impose any lesser sentence. Any such lesser sentence may include a term of imprisonment, all or a portion of which may be suspended entirely or after a period set by the court, followed by a period of probation with such conditions as the court may establish. No such revocation shall be ordered, except upon consideration of the whole record and unless such violation is established by the introduction of reliable and probative evidence and by a preponderance of the evidence.</p>
<p>State v. Altajir, 123 Conn. App. 674, 686, 2 A. 3d 1024, (2010), aff'd, 303 Conn. 304, 33 A.3d 193 (2012).</p> <p>Information considered at sentencing</p>	<p>Our Supreme Court has held that “[i]t is a fundamental sentencing principle that a sentencing judge may appropriately conduct an inquiry broad in scope, and largely unlimited either as to the kind of information he may consider or the source from which it may come.... The trial court’s discretion, however, is not completely unfettered. As a matter of due process, information may be considered as a basis for a sentence only if it has some minimal indicium of reliability.” (Citation omitted; internal</p>

	<p>quotation marks omitted.) State v. Huey, 199 Conn. 121, 127, 505 A.2d 1242 (1986). The court properly applied this standard, stating that “I think the court can consider any evidence in a sentencing hearing as long as I find it to be reliable.”</p>
<p>State v. Santos T., 146 Conn. App. 532, 536–37, 77 A.3d 931 (2013).</p> <p><i>Sentence attributable to original conviction</i></p>	<p>The defendant also appears to argue that the sentence imposed by the court was excessive for what he described as a “technical violation” of his probation. We disagree, and, as we have noted, the court’s sentence was based on a consideration of all of the facts relating to the defendant and his violation of probation. We are mindful that “[t]he element of punishment in probation revocation of [the] defendant is attributable to the crime for which he [or she] was originally convicted and sentenced. Thus, any sentence [the] defendant had to serve as the result of the [probation] violation ... was punishment for the crime of which he [or she] had originally been convicted. Revocation is a continuing consequence of the original conviction from which probation was granted.” (Internal quotation marks omitted.) State v. Ricketts, 140 Conn.App. 257, 263, 57 A.3d 893, cert. denied, 308 Conn. 909, 61 A.3d 531 (2013); see also State v. Smith, 207 Conn. 152, 178, 540 A.2d 679 (1988). We therefore reject the defendant’s argument that the court’s sentence was excessive. See State v. Fagan, supra, 280 Conn. at 107 n. 24, 905 A.2d 1101; State v. Fisher, 121 Conn. App. 335, 354, 995 A.2d 105 (2010).</p>
<p>State v. Valedon, 261 Conn. 381, 390, 802 A.2d 836 (2002).</p> <p><i>Procedural right to address the court personally at the time of sentencing (right of allocution)</i></p>	<p>Although it is the better practice for the trial court to inquire of each defendant whether he or she wishes to make a personal statement before being sentenced for violation of probation, and we encourage the trial court to make such an inquiry, we conclude that the plain language of § 43-10(3) does not require that such an inquiry be made and that this is not a case calling for the exercise of our supervisory authority over the administration of justice to so order. Accordingly, we further conclude that the trial court, in passing sentence without addressing the defendant personally, did not deny the defendant his right of allocution at his probation revocation hearing.</p>
<p>State v. Faraday, 268 Conn. 174, 207, 842 A.2d 567 (2004).</p> <p><i>Balancing rehabilitation with public safety</i></p>	<p>Finally, the court noted that it compared the defendant’s liberty interest with the need to protect the public. On the basis of the foregoing, and in light of the fact that probation attempts to balance a defendant’s rehabilitation with the public’s safety, we cannot say that the trial court abused its</p>

	discretion when it revoked the defendant's probation and ordered him to serve the twelve years imprisonment sentence originally imposed.
<p>State v. Ricketts, 140 Conn. App. 257, 260, 57 A.3d 893 (2013).</p> <p><i>Standard of appellate review</i></p>	<p>"The standard of review of the trial court's decision at the [dispositional] phase of the revocation of probation hearing is whether the trial court exercised its discretion properly by reinstating the original sentence and ordering incarceration." (Internal quotation marks omitted.) State v. Preston, 286 Conn. 367, 377, 944 A.2d 276 (2008). (Emphasis added.)</p>

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