

PROBATION VS. PAROLE: WHAT IS THE DIFFERENCE?

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When defendants are released from prison, they are almost always placed on either probation or parole. But what is the difference between the two?

The Indiana General Assembly has specified a sentencing range for each level of felony and misdemeanor. (To see the sentencing range for each level of offense, click [here](#).) If, for example, a defendant is convicted of a Class C felony, the trial court may impose a minimum of two years to a maximum of eight years. Within that range, the trial court has further discretion to determine how much of that sentence must be “executed” (i.e., served in prison, jail, etc.).

Let’s assume the court sentences a defendant to the maximum sentence of eight years for a Class C felony. If the court orders that the entire sentence of eight years be executed, with good time credit the defendant can expect to serve approximately four actual years. He will then be released to parole.

If, however, the court decides to suspend two years of the eight-year sentence, the defendant will only have to serve six years in prison (or three actual years, with good time credit) before being released. When the trial court suspends part (or all) of a defendant’s sentence, the court must impose a period of probation. The court is not required, however, to impose a probationary period equal to the length of the suspended sentence. In many cases, though, the trial court does just that.

In the example above, let’s assume that the court has ordered the defendant to be placed on probation for two years. When the defendant has completed the six-year executed portion of his sentence and is released from prison, he will be placed on probation for a period of two years. Because he is on probation, he will not be placed on parole.

PROBATION

Probation is not required by statute; therefore, the trial court must give notice to the defendant at his sentencing hearing if a portion of the defendant's sentence will be served on probation. The length of the probation period may only be a few months, or it may be as long as ten years. However, the executed portion of a defendant's sentence plus the initial period of probation may not exceed the maximum sentence allowed for the offense for which the defendant was convicted.

Probation is administered at the county level, so defendants report to probation officers located within their county. Probation usually consists of regular reporting, often in person, to a probation officer and compliance with certain rules, such as maintaining employment, refraining from using alcohol or drugs, random drug screens, paying all probation user fees, etc.

If a defendant is accused of violating probation, the trial court decides whether his probation should be revoked, and, if so, the punishment for the violation.

PAROLE

Parole, on the other hand, is required by statute for defendants convicted of a felony and ordered to serve their sentences in the Department of Correction. Therefore, the trial court generally does not give notice to the defendant that he will be placed on parole after completing the executed portion of his sentence.

In general, a defendant will be subject to a two-year period of parole, with the following exceptions:

- If the defendant was sentenced to a period of probation following the executed portion of his sentence, he will not be released on parole; instead, he will be released to probation.

- If the defendant was assigned to a community transition program by the trial court, the court can find that he may be discharged without the requirement of parole.
- If this is the first time the defendant is being placed on parole, his conviction was not for a “crime of violence,” he is not a sex offender, and he completed the last six months of his executed sentence without violating a rule at his facility, his parole period may be reduced to one year, rather than two years.
- Sex offenders who are not designated as “sexually violent predators” will be placed on parole for a period of ten years.
- “Sexually violent predators” and people convicted of either murder or voluntary manslaughter will be placed on parole for life.

Parole differs from probation in that parolees are supervised by employees of the State in one of nine separate districts. (For a map of the parole districts in Indiana, click [here](#).) Thus, a parolee reports to a parole officer in his district, which may or may not be located within the county where he lives.

Similar to probation, parole consists of regular reporting to a parole officer and compliance with certain rules, such as maintaining employment, refraining from using alcohol or drugs, random drug screens, etc.

Unlike probation, however, if a defendant is accused of violating parole the Indiana Parole Board decides whether his parole should be revoked, and, if so, the punishment for the violation.