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Criminal Procedure pc1 Normal pc1 2 11 2002-01-11T10:01:00Z 2002-01-11T10:01:00Z 3 1131 6450 sc 53 12 7921 9.2720 110

Checklist III

How To Deal With Incidents During Probation

I. Modification of Probation Condition/s or Period

1. On receipt of the application for modification of the condition/s and/or period of probation, direct the clerk of court to set the application for hearing, with due notice to the probationer and the probation officer, keeping in mind that the governing law²⁵⁸ provides that during the probation period, the court may, upon application of either the probationer or the probation officer, revise or modify the conditions or period of probation and that both probationer and probation officer must be given an opportunity to be heard thereon.
2. Hear the probationer and the probation officer on the application on the date and hour set for hearing thereof.
3. If you find the application to be unmeritorious, issue Order denying it, with due notice to the probationer and the probation officer.
4. If you find the application to be meritorious, issue Order granting it²⁵⁹ with due notice to the probationer and the probation officer.

II. Revocation of Probation

1. On your own initiative or upon receipt of proper application, issue Order setting forth the violation of the probation conditions charged against the probationer and directing the issuance of a warrant for his/her arrest since the governing law²⁶⁰ provides pertinently that at any time during probation, the court may issue a warrant for the arrest of the probationer for any serious violation of the probation conditions; that once arrested, the probationer shall immediately be brought before the Court for a hearing of the violation charged; that the defendant may be admitted to bail pending such hearing; and, that the provisions regarding release on bail of persons charged with a crime shall be applicable to the probationer in such case.
2. Upon receipt of the return on the probationer's arrest and detention pursuant to said warrant, direct the clerk of court to set the charge against the probationer for hearing, with due notice to the probationer and the probation officer.
3. Conduct the hearing as scheduled, keeping in mind that the governing law²⁶¹ provides pertinently that the hearing shall be summary in nature; that the court shall not be bound by the technical rules of evidence but may inform itself of all the facts which are material and relevant to ascertain the veracity of the charge; that the probationer shall have the right to be informed of the violation charged and to adduce evidence in his/her favor; and, that the State shall be represented by a prosecuting officer in any contested hearing.
4. If the violation is established, issue Order either revoking the probation or continuing the probation and

modifying the conditions thereof, keeping in mind that the governing law²⁶² provides pertinently that if the grant of probation is revoked, the court shall order the probationer to serve the sentence originally imposed and that an Order revoking the grant of probation or modifying the terms and conditions thereof shall not be appealable.²⁶³

5. If the grant of probation is revoked, issue Order of commitment on final sentence.

6. If the violation is not established, issue Order dismissing the charge and continuing the probation under the same terms and conditions of the Probation Order, with corresponding directive for the probationer's immediate release from custody or the cancellation of his/her bail bond, as the case may be.

III. Transfer of Control over Probationer

1. On receipt of application therefor, examine and determine if the same is meritorious or not.

2. If meritorious, issue Order granting the application, keeping in mind that the governing law²⁶⁴ provides pertinently that whenever a probationer is permitted to reside in a place under the jurisdiction of another court, control over him shall be transferred to the Executive Judge of the Regional Trial Court (formerly, the Court of First Instance) of that place²⁶⁵ and in such a case, a copy of the Probation Order, the post-sentence investigation report, and other pertinent records shall be furnished the said Executive Judge, and thereafter, the said Executive Judge shall have the power with respect to the probationer that was previously possessed by the court which granted the probation to the defendant.

IV. Termination of Probation

1. After the period of probation and upon consideration of the corresponding report and recommendation of the probation officer, issue Order directing the final discharge of the probationer if you find that he has fulfilled the terms and conditions of his/her probation, keeping in mind that the governing law²⁶⁶ provides pertinently that upon the issuance of such Order the case is deemed terminated; that the final discharge of the probationer shall operate to restore to him all civil rights lost or suspended as a result of his/her conviction and to fully discharge his/her liability for any fine imposed as to the offense for which probation was granted and that the probationer and the probation officer shall each be furnished a copy of such Order.²⁶⁷

Probation Court Form No.

(Order Revoking Probation)

REPUBLIC OF THE PHILIPPINES

REGIONAL TRIAL COURT OF _____

Branch _____

_____ Judicial District

Criminal Case No. _____

For: _____

(Crime)

X-----X

ORDER

Upon the recommendation dated _____ of the Probation Officer assigned to this case and finding the same to be well taken, the same is approved and the probation granted to the accused, (name) , is hereby revoked.

The execution of the sentence originally imposed upon the said accused is hereby set for (Date) at (Place) .

Let copies of this Order be furnished the probationer and the probation officer.

SO ORDERED

(Place) (Date)

Judge _____

Or other appropriate court

Probation Court Form No.

(Order Modifying the Conditions of Probation)

REPUBLIC OF THE PHILIPPINES**REGIONAL TRIAL COURT OF _____**

Branch _____

_____ Judicial District

Criminal Case No. _____

For: _____

(Crime)

X-----X

ORDER

Upon the recommendation dated _____ of the Probation Officer assigned to this case and finding the same to be well taken, the probation is hereby modified as follows:

Let copies of this Order be furnished the probation and the probation officer.

SO ORDERED

(Place) (Date)

Judge _____

Or other appropriate court

Probation Court Form No.

(Order Modifying the Conditions of Probation)

REPUBLIC OF THE PHILIPPINES

REGIONAL TRIAL COURT OF _____

Branch _____

_____ Judicial District

Criminal Case No. _____

For: _____

(Crime)

X-----X

ORDER

Upon the recommendation dated _____ of the Probation Officer assigned to this case and finding the same to be well taken, the probation is hereby modified as follows:

Let copies of this Order be furnished the probation and the probation officer.

SO ORDERED

(Place) (Date)

Judge _____

Or other appropriate court

258 PD 968, Sec. 12, 1[st] par.

259 PD 968, Sec. 12, 2[nd] par.

260 PD 968, Sec. 13, 1[st] par.

261 PD 968, Sec. 18, 2[nd] par.

262 PD 968, Sec. 13, last par., 2[nd] par.

263 Baclayon v. Mutia, No. L-59298, April 30, 1984, 129 SCRA 148; Bala v. Martinez, G. R. No. 67301, January 29, 1990, 181 SCRA 459.

264 PD 968, Sec. 13, 2[nd] par.

265 Bala v. Martinez, supra, note 262.

266 Sec. 16, PD 968

267 Bala v. Martinez, supra, note 262.

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