
T H E M I N N E S O T A
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A S S O C I A T I O N

Minnesota County Attorneys Association's Position Regarding Probation Reform

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Probation is an important aspect of the criminal justice system and is an intrinsic part of insuring appropriate levels of accountability for criminal offenders and protecting the public safety. Questions have recently been raised regarding the need to reform Minnesota's probation system. Some believe limits should be placed upon the length of probation for all convicted offenders who receive such sanctions. Fair and equal treatment for similarly situated individuals across our state is also a legitimate concern as to probation that needs to be addressed. The Minnesota County Attorney Association (MCAA) supports a review of Minnesota's system of probation, and believes an independent and comprehensive analysis of the issue should be completed to appropriately inform that effort.

Consequently, MCAA believes that the Minnesota Legislature should order a comprehensive review by an entity, such as the Legislative Auditor, of data surrounding probation practices both within Minnesota and across America. Information, statistics and best practices should be gathered from both Minnesota judicial districts/counties and jurisdictions across the United States to provide a clear understanding of the range of probation sanctions imposed upon defendants who are convicted of crimes. Both the length of initial probation terms imposed and practices related to early discharge from probation should be evaluated. The review should also consider the impact of these different practices on the goals of probation, including reducing recidivism, ensuring payment of restitution, and promoting successful rehabilitation.

A related issue that should be reviewed relates to current case law and provisions in Minnesota Sentencing Guidelines that allow for an additional criminal history point to be added to a newly committed offense in some circumstances where an offender has been discharged from probation for the prior conviction but the full initial term of probation has not yet expired. The reason this practice should be reviewed is to determine its fairness and equity in sentencing and the negative impact on public safety if it were to be eliminated in its entirety.

The MCAA also supports the following principles which should be applicable to probation sanctions in our state:

1. The interests of public safety should be the primary factor considered in determining what changes, if any, are appropriate to the probation system in Minnesota.
2. The severity of the crime committed should be a factor in determining the length of the period of probation imposed for a criminal conviction. Longer periods of probation are warranted for more severe crimes. For example, certain crimes such as criminal sexual conduct should carry statutorily mandated periods of probation with no early discharge being possible. However, the severity of the offense should not be the only factor as to the appropriate length of probation. The length of probation in an individual case must in part be based upon mitigating and aggravating factors

associated with the commission of the offense, individual characteristics of the defendant (i.e., criminal history, chemical dependency, mental health concerns, etc.) and the impact of the crime upon the victim (for example, a longer probation period may be needed to enforce a restitution order).

3. There should not be significant differences throughout Minnesota's judicial districts/counties as to the length of probation and early discharge from probation for similar offenses and similarly situated individuals. The same concepts of fairness and equal treatment that underlie Minnesota's Sentencing Guidelines should be equally applicable to probation.

By adhering to these principles, Minnesota can insure fairness and equality in the use of probation throughout our state.