



Conditional Sentences

What is a conditional sentence?

When a court finds a person guilty of a crime, the person may be sentenced to time in prison or, in certain circumstances, may be allowed to serve the sentence in the community. This is called a conditional sentence.

During a conditional sentence, the offender is supervised and must follow the rules set by the judge or risk going to prison.

When is a conditional sentence possible?

A judge can give an offender a conditional sentence when:

- the *Criminal Code* does not set a minimum prison term for the offence;
- the judge decides that the sentence should be less than two years;
- the judge setting the sentence is convinced that allowing the offender to remain in the community is not a danger to the public; and
- the judge is convinced that a conditional sentence is consistent with the purposes and principles of sentencing set out in the *Criminal Code*.

The judge has the authority to decide on the appropriate punishment for the offender and could decide to send an offender to prison even if a conditional sentence is possible.





What types of conditions can a judge set?

All conditional sentences have the following conditions. The offender must:

- keep the peace and be of good behaviour;
- go to court when required;
- report to a criminal justice system supervisor regularly;
- stay in the area under the court's authority and get written permission to travel outside this area; and
- tell the court or criminal justice system supervisor before moving or when changing jobs.

In addition to these conditions, a judge can tailor the conditions to the needs of the offender, the victim and the community by setting other conditions that the offender has to follow. For example, a judge might require the offender to:

- pay the victim restitution;
- make other reparations to the victim or to the community;
- participate in a treatment program (for example an alcohol, drug or anger management program);
- provide support for any dependents (such as a child or spouse);
- do up to 240 hours of community service work; or
- respect a curfew, for instance by staying at home except to go to work or to approved activities, such as a treatment program or community service.

As well, a judge could prohibit an offender from:

- using alcohol or drugs, and
- possessing a gun, rifle or other weapon.

The Supreme Court of Canada decided several cases involving conditional sentencing. The Court has made it clear that conditional sentences should generally include punitive conditions that restrict an offender's liberty, such as house arrest. The Court has said that a conditional sentence is a punishment, which also promotes a sense of responsibility in the offender and has the objectives of rehabilitation and reparation to the victim and the community.

What happens if the offender does not follow the conditions in the sentence?

A conditional sentence is a prison term that the offender is allowed to serve in the community, according to the set conditions. If the offender does not follow the conditions, he or she will be brought back to court and the judge can order the offender to serve the rest of the sentence in prison.

Can a victim of the crime have a say in court?

Yes. A victim can prepare a victim impact statement, describing the harm done and the loss suffered. Although the victim impact statement should not include the victim's views on a punishment, it may help the judge to decide on appropriate conditions to include in a conditional sentence, if a conditional sentence is being considered.

A judge must take a victim impact statement into account when deciding on the appropriate punishment for an offender.

Where is more information available?

If you or someone you know have been a victim of crime, help is available. All provinces and territories have services for victims of crime. They can help if you need information or other assistance.

For more information about Canada's justice system and links to victim services, visit our Web site:

www.canada.justice.gc.ca/victim

Policy Centre for Victim Issues
Department of Justice
112 Kent Street, Suite 870
Ottawa, Ontario K1A 0H8

Fax: (613) 952-1110

Other fact sheets with related information:

Victim Impact Statement