

NOT AN OFFICIAL FORM.

Included only as guidelines for assistance with Criminal Harassment cases. For further information contact the National Weapons Enforcement Support Team (NWEST) at 1-800-731-4000 Ext 2053.

Canada,  
Province of \_\_\_\_\_,  
(territorial division)

## PROBATION ORDER

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, A.B., of \_\_\_\_\_, hereinafter called the offender, was found guilty or convicted on the charge that \_\_\_\_\_.

AND WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_ the court adjudged that in addition to complying with the conditions below:

*\*Use whichever of the following forms of disposition is applicable:*

- (a) The offender be discharged;
- (b) The passing of sentence on the offender be suspended;
- (c) The offender pay a fine and surcharge in accordance with the fine order;
- (d) The accused make restitution pursuant to s. 738 or s.739 of the *Criminal Code*;
- (e) The offender be prohibited from owing, possessing or carrying a weapon;
- (f) The offender be imprisoned for a term of \_\_\_\_\_.
- The offender serve the term of imprisonment in the community pursuant to s.742.1.

The Court has considered that an order pursuant to s.110

- is applicable \*
- is not applicable

Section 110(1) provides that:

Where a person is convicted, or discharged under section 736, of

- (a) an offence, other than an offence referred to in any of the paragraphs 109(1)(a), (b) and (c), in the commission of which violence against a person was used, threatened or attempted, or
- (b) an offence that involves, or the subject-matter of which is, a firearm, cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition or an explosive substance and, at the time of the offence, the person was not prohibited by any order made under this Act or any other Act of Parliament from possessing any such thing,

the court that sentences the person or directs that the person be discharged, as the case may be, shall in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, consider whether it is desirable, in the interests of the safety of the person or of any other person, to make an order prohibiting the person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things, and where the court decides that it is so desirable, the court shall so order.

**NOTE: Where the court does not make an order under subsection (1), or where the court does make such an order but does not prohibit the possession of everything referred to in that subsection, the court shall include in the record a statement of the court's reasons for not doing so. Subsection 110(3).**

\* Assuming that it would otherwise apply, s.115 of the Criminal Code shall not apply to this order.

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**CONDITIONS**

**NOW THEREFORE**, the said offender shall, for the period of \_\_\_\_\_ from the date of this order (or where paragraph (f) is applicable the date of expiration of his/her sentence of imprisonment or conditional sentence) comply with the following conditions, namely; **that the said offender shall:**

- (i) **keep the peace and be of good behaviour;**
- (ii) **appear before the court when required to do so;**
- (iii) **notify the court or the probation officer in advance of any change of address;**
- (iv) **promptly notify the court or the probation officer of any change of employment or occupation.**

**AND IN ADDITION**, (here state any additional conditions prescribed pursuant to subsection 732.1(3) of the *Criminal Code*).

- (a) **REPORT** \_\_\_\_\_ (WITHIN 2 WORKING DAYS or as the court directs), in person, to a Probation Officer as directed and, thereafter, be under the supervision of a Probation Officer or a person authorized by the Probation Officer to assist in the supervision of the offender, and report at such times and places as that person may require as follows: \_\_\_\_\_
- (b) **REMAIN WITHIN THE PROVINCE OF** \_\_\_\_\_ unless the written permission to go outside the Province is obtained from the court or the probation officer.
- (c) **ABSTAIN FROM:** the purchase /possession/consumption of alcohol or other intoxicating substances. (Delete any inapplicable words.)
- (d) **ABSTAIN FROM:** the purchase/possession/consumption of drugs except in accordance with a medical prescription. (Delete any inapplicable words).
- (e) **ABSTAIN FROM:** owing, possessing or carrying any weapon.
- (f) **ABSTAIN FROM:** acquiring, or possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance.
- (g) **PROVIDE FOR THE SUPPORT** or care of dependents, namely: \_\_\_\_\_
- (h) **PERFORM** \_\_\_\_\_ hours (maximum 240 hours ) of Community Service work. The work is to commence within \_\_\_\_\_ days of the date of the commencement of this Order and shall be completed at a rate of not less than \_\_\_\_\_ hours per month in consecutive months and shall be completed to the satisfaction of the probation officer or designate, within \_\_\_\_\_ months (not to exceed 18 months).
- (i) **(THE OFFENDER HAVING AGREED** to this condition, and and the Director of the treatment program having accepted the offender), **ATTEND AND COMPLY** with a treatment program for \_\_\_\_\_ (i.e. alcoholism, illness) at/with \_\_\_\_\_ (hospital, medical doctor, clinic, psychiatrist, etc.—must be a person or facility licensed, regulated, or otherwise approved by provincial legislation or regulation).
- (j) **ATTEND AND ACTIVELY PARTICIPATE** in such rehabilitative programs for \_\_\_\_\_ (i.e. anger management, alcoholism, spousal abuse), as recommended by your probation officer.

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- (k) COMPLY WITH ANY ORDER OF RESTITUTION** (made with respect to this offence) under s.738 and s. 739 of the Criminal Code. Such restitution to be paid in instalments of \$\$ \_\_\_\_\_ / month and to be paid in full by \_\_\_\_\_ (date).
- (l) MAKE REASONABLE EFFORTS** to find and maintain suitable full time employment.
- (m) CONTINUE TO ATTEND SCHOOL FULL TIME** and show progress reports to the Probation Officer or designate as required.
- (n) OBEY A CURFEW:** be in your place or residence between the hours of \_\_\_\_\_ a.m./p.m. and \_\_\_\_\_ a.m./p.m. unless permission is obtained in writing from the Probation Officer or designate.
- (o) NOT TO ASSOCIATE** or hold any communication directly or indirectly with \_\_\_\_\_ except \_\_\_\_\_.
- (p) NOT TO BE WITHIN** meters of \_\_\_\_\_.
- (q) APPEAR AT THE JAIL** on time and in sober condition.
- (r) AND IN ADDITION** (Here state any additional conditions prescribed pursuant to subsection 732.1(3)(h) of the *Criminal Code*.) \_\_\_\_\_.

- Yes
- No

**FOR ADDITIONAL CONDITIONS** see reverse side of this form.

I, \_\_\_\_\_, hereby acknowledge that I have read the Probation Order including any additional conditions on the reverse or had it read to me, and I have received a copy of the Probation Order and I understand its terms and conditions, and I have been informed of and understand the provisions of Section 732.2(3) and the provisions of Section 732.2(5) and Section 733.1 of the *Criminal Code* which appear on the reverse of this document.

\_\_\_\_\_  
Name and title of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of offender

\_\_\_\_\_  
Name of Interpreter

\_\_\_\_\_  
Signature of Interpreter

**IT IS ORDERED THAT A COPY OF THIS ORDER BE SENT TO THE CHIEF FIREARMS OFFICER.**

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## ADDITIONAL CONDITIONS

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Offender

\_\_\_\_\_  
Justice/Judge/Local Registrar/  
Clerk of the Court

## VARIATION OF PROBATION ORDER

Upon the application of the probation officer/prosecutor/offender (delete any in applicable words), it is ordered that the probation order dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, be and it is hereby varied as follows: \_\_\_\_\_  
\_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Justice/Judge/Local Registrar/Clerk of the Court

I, the undersigned offender, hereby acknowledge that I have been informed of the above variation of the probation order dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that I have received a copy of the said probation order endorsed accordingly.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Offender

\_\_\_\_\_  
Print name and title of Witness

## TRANSFER OF PROBATION ORDER

Upon the application of the Probation Officer and with the consent of the Attorney General, the foregoing order is hereby transferred to \_\_\_\_\_

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Justice/Judge/Local Registrar/Clerk of the Court

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**IMPORTANT INFORMATION:**

1. You, your probation officer or the prosecutor may apply to the court for a change in the conditions or duration of this probation order by filling an application at the Court Office. (See s.732.2(3) below)
2. If you are convicted of an offence (including breach of probation) you may face the following consequences:
  - (a) Your suspended sentence may be revoked and a different sentence (including incarceration) may be imposed (see s.732.2(5)(d));
  - (b) The conditions of probation may be changed or the duration of probation extended for up to one year (see s. 732.2(5)(e));
  - (c) A conditional discharge may be revoked and you may receive a conviction and a different sentence (see s.730(4)).
3. Failure to comply with probation is a criminal offence (see s.733.1).

**CRIMINAL CODE PROVISIONS:**  
SECTION 732.2(3) and 732.2(4)

- (3) A court that makes a probation order may at any time, on application by the offender, the probation officer or the prosecutor, require the offender to appear before it and, after hearing the offender and one or both of the probation officer and the prosecutor.
  - (a) make any changes to the optional conditions that in the opinion of the court are rendered desirable by a change in the circumstances since those conditions were prescribed,
  - (b) relieve the offender, either absolutely or on such terms or for such period as the court deems desirable, of compliance with any optional condition, or
  - (c) decrease the period for which the probation order is to remain in force, and the court shall thereupon endorse the probation order accordingly and, if it changes the optional conditions, inform the offender of its action and give the offender a copy of the order so endorsed.
- (4) All the functions of the Court under (3) may be exercised in chambers.

SECTION 732.2(5)

- (5) Where an offender who is bound by a probation order is convicted of an offence, including an offence under section 733.1, and
  - (a) the time within which an appeal may be taken against that conviction has expired and the offender has not taken an appeal,
  - (b) the offender has taken an appeal against that conviction and the appeal has been dismissed, or
  - (c) the offender has given written notice to the court that convicted the offender that the offender elects not to appeal the conviction or has abandoned the appeal, as the case may be.In addition to any punishment that may be imposed for that offence, the court that made the probation order may, on application by the prosecutor, require the offender to appear before it and, after hearing the prosecutor and the offender,
  - (d) where the probation order was made under paragraph 731(1)(a), revoke the order and impose any sentence that could have been imposed if the passing of sentence had not been suspended, or
  - (e) make such changes to the optional conditions as the court deems desirable, or extend the period for which the order is to remain in force for such period, not exceeding one year, as the court deems desirable,

and the court shall thereupon endorse the probation order accordingly and, if it changes the optional conditions or extends the period for which the order is to remain in force, inform the offender of its action and give the offender a copy of the order so endorsed.

SECTION 733.1

- (1) An offender who is bound by a probation order and who, without reasonable excuse, fails or refuses to comply with that order is guilty of
  - (a) an indictable offence and is liable to imprisonment for a term not exceeding two years; or
  - (b) an offence punishable on summary conviction and is liable to imprisonment for a term not exceeding eighteen months, or to a fine not exceeding two thousand dollars, or both.
- (2) An accused who is charged with an offence under subsection (1) may be tried and punished by any court having jurisdiction to try that offence in the place where the offence is alleged to have been committed or in the place where the accused is found, is arrested or is in custody is outside the province in which the offence is alleged to have been committed, no proceedings in respect of that offence shall be instituted in that place without the consent of the Attorney General of that province.

CC 1413 (rev. 11/96)

**RENSEIGNEMENTS IMPORTANTS :**

1. Vous, votre agent de probation ou le poursuivant, pouvez demander au tribunal une modification des conditions ou de la durée d'application de l'ordonnance de probation en déposant une demande à cet égard auprès du greffe. (Voir art. 732.2(3) ci-après.)
2. Si vous êtes déclaré coupable d'une infraction (y compris la violation de l'ordonnance de probation), vous risquez de faire face aux conséquences suivantes:
  - (a) La suspension du prononcé de la peine peut être révoquée et une peine différente (y compris l'incarcération) peut être infligée (voir art. 732.2(5)d);
  - (b) Les conditions de probation peuvent être modifiées ou la durée d'application de l'ordonnance de probation peut être prolongée pour une période d'au plus un an (voir art. 732.2(5)e);
  - (c) Une absolution sous conditions peut être révoquée, et une déclaration de culpabilité peut être prononcée contre vous et une peine différente peut être infligée (voir art. 730(4)).
3. Le défaut de se conformer à une ordonnance de probation constitue une infraction criminelle (voir art. 733.1).

**DISPOSITIONS DU CODE CRIMINEL :**  
LES PARAGRAPHES 732.2(3) ET 732.2(4) se lisent comme suit :

- (3) Le tribunal qui a rendu une ordonnance de probation peut, à tout moment, sur demande du délinquant, de l'agent de probation ou du poursuivant, ordonner au délinquant de comparaître devant lui, et après audition du délinquant d'une part et du poursuivant et de l'agent de probation, ou de l'un de ceux-ci, d'autre part :
  - (a) apporter aux conditions facultatives de l'ordonnance les modifications qu'il estime justifiées eu égard aux modifications des circonstances survenues depuis qu'elle a été rendue;
  - (b) relever le délinquant, soit complètement, soit selon les modalités ou pour la période qu'il estime souhaitables, de l'obligation d'observer une condition facultative;
  - (c) abréger la durée d'application de l'ordonnance.Dès lors, le tribunal vise l'ordonnance de probation en conséquence et, s'il modifie les conditions facultatives, il en informe le délinquant et lui remet une copie de l'ordonnance ainsi visée.
- (4) Les attributions conférées au tribunal par le paragraphe (3) peuvent être exercées par le juge en chambre.

LE PARAGRAPHE 732.2(5) se lit comme suit :

- (5) Lorsque le délinquant soumis à une ordonnance de probation est déclaré coupable d'une infraction, y compris une infraction visée à l'article 733.1, et que, selon le cas :
  - (a) le délai durant lequel un appel de cette déclaration de culpabilité peut être interjeté est expiré ou le délinquant n'a pas interjeté appel,
  - (b) il a interjeté appel de cette déclaration de culpabilité et l'appel a été rejeté,
  - (c) il a donné avis écrit au tribunal qui l'a déclaré coupable qu'il a choisi de ne pas interjeté appel de cette déclaration de culpabilité ou d'abandonner son appel, selon le cas,en sus de toute peine qui peut être infligée pour cette infraction, le tribunal qui a rendu l'ordonnance de probation peut, à la demande du poursuivant, ordonner au délinquant de comparaître devant lui et, après audition du poursuivant et du délinquant :
  - (d) lorsque l'ordonnance de probation a été rendue aux termes de l'alinéa 731(1)a), révoquer l'ordonnance et infliger toute peine qui aurait pu être infligée si l'e prononcé de la peine n'avait pas été suspendu;
  - (e) apporter aux conditions facultatives les modifications qu'il estime souhaitables ou prolonger la durée d'application de l'ordonnance pour la période, d'au plus un an, qu'il estime souhaitable.

Dès lors, le tribunal vise l'ordonnance de probation en conséquence et, s'il modifie les conditions facultatives de l'ordonnance ou en prolonge la durée d'application, il en informe le délinquant et lui remet une copie de l'ordonnance ainsi visée.

L'ARTICLE 733.1 se lit comme suit :

- (1) Le délinquant qui, sans excuse raisonnable, omet ou refuse de se conformer à l'ordonnance de probation à laquelle il est soumis est coupable :
  - a) soit d'un acte criminel et passible d'un emprisonnement maximal de deux ans;
  - b) soit d'une infraction punissable sur déclaration de culpabilité par procédure sommaire et passible d'un emprisonnement maximal de dix-huit mois et d'une amende maximale de deux mille dollars, ou de l'une de ces peines.
- (2) Le délinquant qui est inculqué d'une infraction aux termes du paragraphe (1) peut être jugé et condamné par tout tribunal compétent au lieu où l'infraction est présumée avoir été commise, ou au lieu où il est trouvé, est arrêté ou est sous garde, mais si ce dernier lieu est situé à l'extérieur de la province où l'infraction est présumée avoir été commise, aucune poursuite concernant cette infraction ne peut être engagée en ce lieu sans le consentement du procureur général de la province.