

A cartoon illustration of a man with a worried expression, wearing a grey suit, white shirt, and red tie. He is standing behind vertical grey bars, suggesting he is in a prison or jail. The background is a light grey color.

# **HOW TO SURVIVE PROBATION 101**

**Jefre Goldtrap**  
*Attorney at Law*

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Jefre Goltrap, Attorney at Law  
Goldtrap Law & Legal Services  
208 3<sup>rd</sup> Avenue North, 5<sup>th</sup> Floor  
Nashville, TN 37201  
Office: 615-245-1471  
Fax: 615-254-1323  
Email: [goltraplaw@gmail.com](mailto:goltraplaw@gmail.com)  
Website: [www.goldtraplaw.com](http://www.goldtraplaw.com)

## HOW TO SURVIVE PROBATION 101

There are rules of probation. If you can keep the rules you can survive. For four years I was a state probation officer. As a lawyer I have represented hundreds of folks charged with violation of probation. Some have gone on to complete their probation service. I have created this free e-book to help you. I am here to help you SURVIVE PROBATION.

First rule of surviving probation – DO NOT PICK UP ANY NEW ARRESTS. There are several ways to not pick up new arrests. First and foremost is this....do not break the law. If you were convicted of burglary do not go into someone else's house without the owner standing there with you. If you were convicted of drug charges do not smoke weed anymore, do not hold someone else's weed for them and do not sell the weed that you used to smoke. STOP IT NOW. Another way to not get arrested is to stop hanging around with the folks you used to get arrested with. I have helped many folks over the years but I have also known many clients who get arrested with the same set of friends over and over and over. Look around someday and I bet you will notice something – watch with me; cats will stroll around with other cats, dogs with dogs, birds with birds; isn't that interesting. There is an old phrase "birds of a feather flock together". In my world the pot heads hang out with pot heads; the pill guys hang out with pill guys, the domestic violence assaulters and victims hang with other folks who commit or are victims of domestic violence. Find a new set of friends. This will not be easy but nothing worth having will be easy. Think of the fun you will have six months from now when you say "in the last six months I have not been arrested". You can do it!

If you are arrested what should you do? Tell your probation officer is the rule. Whether your probation officer will ever find out depends on a few things like whether your probation officer watches the local arrest reports, whether they are on the job or just playing at it and how much of a hassle you are to them. More often than not your probations officer is going to find out that you got arrested. If your probation officer is going to find out anyway isn't it better that they find out from you rather than reading about it in the "arrested today" column? While we are on the topic what is "arrested"? I have had lots of clients over the years say, "I wasn't arrested I was just given a ticket". If you were ordered to do something by a police officer, if you were not free to leave, if you were taken downtown or told you had to book yourself later on, you were arrested. If you talk to a police officer for more than two minutes and the discussion is not about the weather or fishing tell your probation officer. Bad news is easier to swallow if you are telling it.

While on probation DO NOT own a gun! While on probation DO NOT handle a gun! While on probation DO NOT be in the same room with a gun! You have several reasons to avoid guns. First, if you are convicted of a felony you can be charged with a Federal offense. If you were convicted of certain violent offenses you are a prime target for an "enhancement" if you are caught in a new charge that involves a weapon. An enhancement simply means this – if you commit a crime your new charge could end in years for the new offense and more years for the weapon and worse yet ALL RUNNING WILD. Treat a gun like a poison snake. When I say DO NOT own a gun be thinking "do not be in the same house with a gun". Let's imagine for a

moment, you are on felony probation. The music is too loud or you and your wife argue too loud. Someone calls the police and an officer knocks on your door. Soon enough the police are in your house looking around. A pistol or shotgun are found. Whose gun do you think it is? It's not your gun of course, right? Who will believe you? You are the guy or girl on probation. It must be your gun. I can hear the probation violation warrant being written now. Lesson for the day: NO GUNS!!

While on probation you must report to your probation officer. When you are put on probation be sure you know where your probation officer is located. Your probation officer will probably give you an appointment time. Make this an important occasion. Think for a minute – do you have reliable transportation? Do you have a good license? Do you have gas money? Is there anything that you can think of that will keep you from getting to your probation officer appointment? Helpful hint – be on time or a little early for your PO appointment. Many probation officers have only one day a week or a few days a month that they set aside to see probationers. If you respect their time they will think kindly of you and will be more likely to think twice before violating your probation. When you have an appointment keep it! If you go to the probation, sign in at the reception desk. If you have a cell phone take a picture of yourself signing in or going to the probation office. If there is a warrant for your arrest and it says you never reported to your probation officer wouldn't it be good to have a picture of yourself reporting to the probation office or a sign in sheet with the time and day of your report to the probation office. If you call your probation officer remember that they have from sixty to one hundred and fifty probationers. You will call and they will have NO record of your call. For easy "probation insurance" go to your local Dollar General, Walmart or some other retailer. Buy a spiral notebook and use it for your probation notebook. Every time you make a phone call to your probation officer make a note of the time and date and subject of the call. If you go see your probation officer make a note of the day, time and subject of your visit. For even more insurance, each time you see your probation officer write a letter to the officer saying "we talked on X date, we discussed these things, you told me to work on these things". The probation insurance will come in handy if you ever have a probation violation and have to prove that you communicated with your probation officer.

While on probation you will have to tell your probation officer where you live. If you move you have to tell your probation officer where you moved to. Did you get probation in Tennessee and you live somewhere else? You must get permission from your probation officer before you leave Tennessee. If you want to move inside the state of Tennessee you have to get permission from your probation officer BEFORE you move. To get permission you have to tell the probation officer where you want to move and have time for the receiving office to accept or reject your transfer. If you get permission to move remember that you can still violate probation. If you violate probation you get sent back to the original judge to be sentenced. You got on probation in Nashville and moved to Memphis. In Memphis you picked up a new charge and a probation violation warrant is issued. You would either come to Nashville, turn yourself in and wait to appear before the judge or you would be arrested in Memphis and be transported to Nashville for a hearing.

On the topic of probation violations many folks have asked “what will my bond be?” When you were arrested, before you were put on probation, a bond amount was set. The bond amount could be challenged and negotiated because you have a “right” to bond. When you’re on probation you can be violated for many reasons. When a judge signs your probation violation warrant they may or may not give you a bond. Some lawyers argue that you have no right to a bond on a probation violation. The legal issues about probation violation bonds are not settled so listen to your lawyer on this topic.

While you are on probation you must work. “But Jef,” you say, “I did not have a job before I was placed on probation.” This is your opportunity! Get a job. “But I can’t find a job because I have a felony!” Great! Get a job! If no one will give you a paid job, volunteer. If you cannot get a paying job think of things you can do for yourself. If no one will hire you, hire yourself. You can do this. You must do this!

While on probation, you may have “special conditions.” If you are on probation for a drug charge you will probably be required to get into drug counseling and complete it. If you were told to go to counseling you **MUST** attend. If the counseling place says, “We think you should go to twelve sessions,” you have to complete all twelve sessions. You cannot say that you did not sign up for counseling. You **MUST** complete it! I have heard people say, “Well, I didn’t know it would cost money.” There may be ways for you to get a price break if you cannot afford counseling. Ask your probation officer. At the end of the day, you were **ORDERED** to complete counseling. If you attend ten out of twenty sessions, you have violated. If you attend nineteen out of twenty sessions, you have violated. Attend and **COMPLETE** counseling so that you can survive probation.

Sometimes special conditions will include public service work. This will also be a non-negotiable, and failure to comply can result in going to jail. Do the free work. “Wait, Jef, you mean I have to work for free?” Yup! Community service work is free work for your community. You’re not going to get paid. You must go to where your probation officer tells you, sign up like you’re told, report like you’re told, and do what you’re told. Do you see a pattern here? Community service work is a way you pay back the community for the “privilege of probation.” I have seen many people in court who have completed some of the community service work hours. They went to jail! Do your hours! Survive probation!

Some special conditions will limit who you can contact. Here is an example: If you are on probation for assault most of the time the judge will tell you not to have contact with the victim. If you are convicted of theft the judge will say not to go to the store, the house or the business from which you stole. Remember that while you are on probation the simple act of going to a place could be a violation. K-Mart may have the best price on potato chips, but if you were told to “stay away” from K-Mart you could actually go to jail for buying potato chips! Wouldn’t it be terrible to be in prison and the other guys say, “I am here for murder, I am here for robbery, what about you?” “Oh, I’m here for buying potato chips at K-mart.” Do not go to jail for a simple or silly reason. Survive probation.

When you plead guilty the judge will probably tell you to pay court costs. There are two reasons to pay court costs. First, you are ordered to pay by the judge who put you on probation. My free suggestion – take care of everything on your to-do list as far as probation goes. If you do everything except pay court costs many judges will not put you back in jail just for court costs. I am NOT saying that a judge will never lock you up for not paying court costs. I am just saying take care of everything else first. The second good reason to pay court costs is that Tennessee law says if you do not pay off your court costs the state can suspend your driver's license. This may not seem like a big deal but remember the goal is to survive probation. If you do not have a valid license you are not supposed to drive. If you drive anyway the chances are good you will be stopped, get a new charge and violate probation. When you have questions about your court costs ask your lawyer, your probation officer or the local court clerk. Remember, I want you to survive probation.

Let's talk honestly. You are on probation. You cannot use drugs. What is difficult to understand here? In case you do not understand, MARIJUANA IS A DRUG! Do not smoke weed. You may have smoked weed since you were 12. You have always smoked marijuana, your brother, sister, mom and dad smoke marijuana. You have grown it, cultivated it, given it away, shared it, and maybe sold a little over the years. Now you are on probation. The goal is not going back to court. The real goal is not going back to jail. I want you to survive probation! Here's how! Go to your house and clean out all your usual places for keeping weed. Find someone to hold you responsible, someone, someone who will go with you to clean out your house, your car, your barn, etc. Ask yourself this: "If the drug dog came to my house tomorrow and sniffed around, would it find something?"

Another tool in your "not using drugs" toolbox is for you to avoid old places and people with whom you usually smoked or used. I usually have a cup of coffee in the morning. I have a favorite cup and sit in a favorite chair and read the local newspaper. If you usually went to the same part of the house, kept your drugs in the same place, used the same paraphernalia, used things to set the mood with or used with the same people then you can begin to break the chain. First, get all the drugs out of your house, out of your car, out of your outbuilding. Second, get rid of all the paraphernalia, bong, grinders, needles, spoons, etc. that you used. Next, find non-using folks to hang out with. If drugs have been a part of your life for years the next comment will come as a shock, but here goes.....some folks do not use drugs! When I wanted to be a Boy Scout I hung out with Boy Scouts. When I wanted to learn how to fish I hung out with and watched folks who fished. When I want to quit any habit I need to find others who do not have that habit and learn from them. While on probation do not use drugs, and you will survive probation.

While on probation you will be given drug tests. When you signed up on probation you agreed to "submit" to drug tests. "Submit" means you are going to take a drug test. The drug tests can come a couple times a year. The tests can come every time you see the probation officer. You have NO control over how many times they come. You can complain, but what about? You are supposed to take drug tests. The only part of this picture that you can control is whether or not you are ready to take the test. Are you ready? First, let me inform you that THC is the chemical

that gives you a buzz when you smoke marijuana. Other chemicals such as cocaine metabolites, opiates, benzo's, etc. are chemicals which give you the high and can be found in your blood or urine during a drug test. Here is how you can find out. For fun we can look at the make believe guy who has smoked weed since he was 12. He has had THC in his system all of his adult life. THC will stay in your system for as long as 4 weeks after you smoke. Remember, you can test positive and not be under the influence. You can say, "Jef, I was not high!" I agree! You were not high, but finding drugs in your blood or urine means you were using and, shocker, you are not supposed to use drugs while on probation. Just for you, today and today only, here is a top secret way to pass a drug screen, told to you by a former probation officer. Ready? **DON'T USE DRUGS! DON'T SMOKE MARIJUANA, DON'T USE COC, PILLS, IV DRUGS, OR WHATEVER!** Are we clear? I want you to survive probation. I know you can. If you need help to stop using, drugs there are groups that will help. It will not be easy. It will be tough. It will be worth it. You can survive probation!

While you're on probation you have waived your rights to object to a search. This is a new requirement and waives a valuable Constitutional right. As a citizen, I can demand that a police officer show me his search warrant before he comes into my house. As a person on probation, you have given up the right to object to a search. By waiving your right that does not mean that you cannot ask the court to suppress evidence or object to other legal issues. Get a lawyer, listen to your lawyer and fight your case. Survive probation!

You are on probation. Either you entered a plea or a judge sentenced you. While you are on probation you will notice that several people will begin probation and not complete it. They will go back to jail. You do not have to go back to jail! You can survive probation! I will be here to congratulate you! Follow the rules and you will **SURVIVE PROBATION!**