

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER P96

PROBATION ACT

Showing the Law as at 15 December 2014

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises —

Act 7/2011, in force 2 August 2012

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PROBATION ACT

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PROBATION ACT

PART 1

PRELIMINARY

Interpretation

1. In this Act—

"appointed person" means a person who is appointed by the Court under section 25(3);

"breach report" means a report that contains the information referred to in section 32(8);

"community outreach officer" means a person holding the public office of community outreach officer and who supervises an offender in respect of whom a probation order with a condition of community service has been made;

"Court" means the Court in which a person has been, is being, or is likely to be tried for an offence;

"date set for sentencing" means the date on which the Court will determine whether or not to make a probation order in relation to an offender;

"Department of Probation" means the department responsible for probation;

"designated institution" means an institution designated by the Governor for the rehabilitation of juvenile offenders;

"juvenile" means a person under the age of 16 years;

"offender" means—

(a) a person who pleads guilty to or has been convicted of an offence; or

(b) a person in respect of whom the Magistrate's Court is satisfied that a charge is proved but who has not been convicted of an offence by that Court;

"parent", in relation to a juvenile, means a person who has legal custody of the juvenile or who is liable to maintain the juvenile and includes a legal guardian;

"probation officer" means a person holding the public office of probation officer;

"probation order" means an order that contains the conditions specified in section 14; and

"victim" means—

(a) the person to whom harm is done or who suffers financial, physical or emotional loss as a result of the commission of the offence; and

(b) where the person described in paragraph (a) is dead, ill or otherwise incapable of making a victim impact statement referred to in section 10, the spouse or any

relative of that person, anyone who in law or fact has the custody of that person or is responsible for the care or support of that person, or a dependant of that person.

Application

2. This Act applies when a person has been charged with a criminal offence.

Purposes of community sentencing

3. The Court shall, in exercising its powers under this Act, have regard to the following purposes of community sentencing—

(a) to assist in rehabilitating offenders;

(b) to promote a sense of responsibility in offenders by acknowledging the harm done to victims and to the community;

(c) to provide offenders the opportunity to make positive behavioural changes and to become productive members of the community; and

(d) to reduce the incidence of crime by providing programmes for offenders that encourage and facilitate law abiding behaviour.

PART 2

DEPARTMENT OF PROBATION

Department of Probation

4. For the purposes of this Act, the Department of Probation consists of the following officers holding a public office—

(a) Chief Probation Officer who is the head of the department;

(b) probation officers;

(c) community outreach officers;

(d) supervisor of a designated institution;

(e) juvenile care workers at a designated institution; and

(f) corrections counsellor.

Duties of Department of Probation

5. (1) The duties of the Department of Probation are to—

(a) investigate the history of an offender as required by the Court, report its findings to the Court by way of a social inquiry report or a pre-sentence report, as the case may be, and generally assist the Court in determining the most appropriate way of dealing with an offender;

(b) supervise, counsel and assist an offender who is the subject of a probation order;

(c) ensure an offender observes the conditions of his probation order and report to the Court as to the offender's behaviour;

(d) monitor the progress of an offender who is the subject of a probation order and provide opportunities for his rehabilitation and reintegration in the community;

(e) assess an offender's risk of re-offending and take appropriate steps to reduce that risk to ensure the protection of the public;

(f) assist the Court in enforcing the conditions of the probation order; and

(g) perform all other duties imposed by this Act.

(2) The powers and duties conferred or imposed on the Department of Probation under this Act shall be exercised by any person listed in section 4 selected by the Chief Probation Officer.

Preparation of social inquiry report

6. (1) The Court may, at any stage of the proceedings, direct that the Department of Probation prepares and files with the Court a social inquiry report in relation to the accused person.

(2) The social inquiry report shall include information on any of the following matters as directed by the Court—

(a) the accused person's age, maturity, character, home circumstances, general health, employment history, behaviour, attitude, willingness to make amends and criminal history, if any;

(b) the harm caused by the offence; and

(c) where appropriate, the accused person's need for appropriate treatment and the availability and suitability of treatment programmes.

Preparation of pre-sentence report

7. (1) The Department of Probation shall, at the Court's direction, prepare and file with the Court a pre-sentence report relating to an offender for the purpose of assisting the Court in determining whether the offender is a suitable candidate for probation.

(2) The Department of Probation shall take all necessary and appropriate steps to obtain information for the pre-sentence report including, carrying out investigations, reviewing all relevant

documentation and interviewing persons one of whom shall be the offender, unless he refuses to be interviewed.

(3) The pre-sentence report shall contain information on any matter directed by the Court, and in all cases shall contain information on the following matters—

(a) the offender's age, maturity, character, home circumstances, employment history, behaviour, attitude and willingness to make amends;

(b) the offender's criminal history, if any;

(c) the history of any measures other than imprisonment used to deal with the offender and the offender's response to those measures;

(d) an analysis of the likelihood of the offender to re-offend;

(e) the loss, damage or harm caused by the offence;

(f) the feasibility of the offender complying with the conditions of a probation order;

(g) where appropriate, the offender's ability to make restitution of property or to pay sanctions including paying compensation;

(h) where appropriate, the offender's need for correctional treatment and the availability and suitability of treatment programmes; and

(i) a sentencing recommendation.

Oral reports

8. (1) Notwithstanding sections 6(1), 7(1) and 11(1), if the circumstances warrant, the Court may direct that the Department of Probation presents an oral social inquiry report or an oral pre-sentence report to the Court.

(2) An oral report referred to in subsection (1), shall as far as practicable, contain the information specified in sections 6(2) or 7(3) as the case may be.

Directions and orders of the Court

9. A direction or order of the Court to the Department of Probation, shall be transmitted to the department by the Clerk or Registrar of the Court.

PART 3

PROCEDURE BEFORE MAKING PROBATION ORDER

Victim impact statement

10. (1) When the Court is minded to exercise its powers under section 13 to make a probation order, the Court shall, before making such an order—

(a) set another date for sentencing, unless the circumstances warrant otherwise; and

(b) inform the victim of the victim's right to make a victim impact statement, the form of that statement and time that the statement should be made or filed, as the case may be.

(2) The victim impact statement shall describe the harm done to, or loss suffered by, the victim as a result of the commission of the offence.

(3) If the victim chooses to make a victim impact statement, the victim impact statement may be made orally by the victim on the date set for sentencing, or it may be made in writing.

(4) In the event that the victim chooses to make the victim impact statement in writing, the victim impact statement shall be filed in triplicate with the Court within the time specified by the Court.

(5) Upon the written victim impact statement being filed, the Clerk or Registrar of the Court shall provide a copy of the victim impact statement to the offender or his counsel, the prosecutor and the Department of Probation.

(6) On the date set for sentencing a written victim impact statement shall, with the victim's consent, be read in Court by the Clerk or Registrar of the Court.

Pre-sentence report

11. (1) Before making a probation order, the Court may direct that the Department of Probation prepares and files a pre-sentence report in triplicate within such time as the Court directs.

(2) Upon the pre-sentence report being filed with the Court, the Clerk or Registrar of the Court shall provide a copy of the pre-sentence report to the offender or his counsel and to the prosecutor at least 3 days before the date set for sentencing.

(3) On the date set for sentencing, the Court may invite the offender or his counsel, and the prosecutor to comment on the pre-sentence report.

Considerations of Court before making probation order

12. In determining whether to make a probation order, the Court may consider the contents of the pre-sentence report, the victim impact statement if any, and the following—

(a) the nature and seriousness of the offence, including any physical or emotional harm done to the victim;

(b) any damage, injury or loss caused by the offender;

(c) the need for the community to be protected from the offender;

(d) the prevalence of the offence;

(e) the presence of aggravating circumstances relating to the offence and the offender;

(f) the presence of mitigating circumstances relating to the offence and the offender;

(g) where appropriate, any diminished responsibility of the offender;

(h) a plea of guilty and any assistance the offender gave to the police;

(i) a voluntary apology, compensation or restitution provided to the victim by the offender;

(j) the offender's plea in mitigation;

(k) any comments made in relation to the pre-sentence report; and

(l) any other matter the Court thinks is appropriate.

PART 4

PROBATION ORDERS

Power of Court to make probation order

13. (1) When a person pleads guilty to or is convicted of an offence, the Court may—

(a) instead of passing sentence, discharge the offender on the condition that he complies with conditions set out in a probation order; or

(b) in addition to fining the offender, direct that he complies with conditions set out in a probation order.

(2) Without prejudice to its powers under subsection (1), if the Magistrate's Court is satisfied that a charge is proved, it may, without proceeding to conviction, discharge the offender on the condition that he complies with conditions set out in a probation order.

Compulsory conditions

14. When the Court exercises it powers under section 13, the Court shall order that the offender complies with the following conditions which constitute a probation order—

(a) not to commit another offence during the period of the order;

(b) to appear before the Court when required to do so by the Court;

(c) to notify the Department of Probation in writing in advance of any intended change of address and to promptly notify the Department of Probation of any change of employment or occupation;

(d) to report to the Department of Probation within the times stated in the order and thereafter when required by the Department of Probation and in the manner directed by the Department of Probation;

(e) not to leave Anguilla without the written permission of the Department of Probation; and

(f) to maintain employment with an employer approved by the Department of Probation, or to attend an educational institution, as appropriate.

Optional conditions

15. In addition to the conditions outlined in section 14, the Court may, if it thinks fit, order that the offender complies with one or more of the following conditions of a probation order—

(a) to perform up to 1,200 hours of community service over a period not exceeding 12 months;

(b) to abide by the terms of any curfew as the Court directs and to refrain from—

(i) participating in specified activities or attending specified places,

(ii) associating with a specified person or class of persons;

(c) to submit to drug and alcohol testing as directed by the Court and to abstain from the consumption of controlled drugs within the meaning of the Drugs (Prevention of Misuse) Act and the consumption of alcohol;

(d) to participate in a drug or alcohol treatment or rehabilitative programme approved by the Department of Probation;

(e) to participate in other rehabilitative programmes designed to correct the offending behaviour, improve social skills and reduce the risk of re-offending;

(f) to serve intermittent periods of incarceration as the Court thinks fit;

(g) to do one or more of the following—

(i) pay compensation,

(ii) pay costs, or

(iii) make restitution of property,

in accordance with sections 42, 43, 286 or 305 of the Criminal Code, as the case may be; or

(h) to abide by such other reasonable conditions as the Court may direct for the purpose of ensuring the successful reintegration of the offender into the community.

Community service order

16. (1) In this section "community service site" means the location at which the offender is required to perform his community service.

(2) Subject to section 20, a probation order that includes a condition under section 15(a) is called a "community service order".

(3) Where the Court makes a community service order, the offender is required to perform unpaid work for such number of hours and in such manner as prescribed by the order, and in accordance with instructions and advice given under subsection (5).

(4) The Court shall not make a community service order unless the offender consents and the Court is satisfied that the offender has the capacity to perform the work under the order.

(5) A community outreach officer and the supervisor of the community service site shall instruct and advise the offender regarding general and specific expectations and tasks to be met and performed by the offender while on site.

(6) Any instructions or advice given under subsection (5) shall as far as practicable avoid conflict with the offender's religious beliefs and with the times, if any, during which he normally works or attends an educational institution.

(7) The Chief Probation Officer may engage the voluntary services of persons, as he thinks fit, to assist the Department of Probation in the supervision of the offender.

(8) When the Court makes community service orders in respect of 2 or more offences by the same offender, the Court may order that the hours of work specified in the orders be concurrent with or consecutive to each other, but the total number of consecutive hours shall not exceed 1,200.

Curfew and exclusion order

17. (1) Subject to section 20, a probation order that includes a condition under section 15(b) is called a "curfew and exclusion order".

(2) The Court may make a curfew and exclusion order for any period not exceeding 12 months and shall fix the times when the offender is required to remain at home, avoiding as far as practicable, conflict with the offender's religious beliefs and the times, if any, during which the offender normally works or attends an educational institution.

Drug and alcohol testing or treatment order

18. (1) Subject to section 20, a probation order that includes a condition under section 15(c) or 15(d) is called a "drug and alcohol testing order" or a "drug and alcohol treatment order" as the case may be.

(2) The Court may make a drug and alcohol testing order or a drug and alcohol treatment order when it is satisfied that the offender's offending behaviour may be caused by his addiction to drugs or alcohol and the offender agrees to comply with the terms of the order.

(3) The Court shall not make a drug and alcohol treatment order unless it is satisfied that an appropriate programme is available for the treatment and rehabilitation of the particular offender.

Order for intermittent custody

19. (1) Subject to section 20, a probation order that includes a condition under section 15(f) is called an "order for intermittent custody".

(2) The Court may make an order for intermittent custody directing that the offender be incarcerated at specified times and for specified periods which shall not exceed 90 days in aggregate.

(3) In making an order for intermittent custody the Court may have regard to the times, if any, during which the offender normally works or attends an educational institution.

(4) When the Court makes orders for intermittent custody in respect of two or more offences by the same offender, the Court may order that the specified periods of incarceration in those orders shall be concurrent with or consecutive to each other, but the total period of incarceration shall not exceed 90 days.

Combination order

20. A probation order that includes more than one condition under section 15, section 23 or both sections 15 and 23, is called a "combination order".

Procedure on making probation order

21. (1) When the Court makes a probation order, it shall—

(a) take reasonable steps to ensure the offender understands the order;

(b) explain the procedure for applying for a change to the optional conditions;

(c) explain the consequences of being convicted of an offence while on probation;

(d) explain the consequences of non-compliance with the probation order;

(e) require the offender to sign the probation order and in the case of a juvenile offender require the parent or appointed person, as the case may be, to co-sign the probation order; and

(f) cause a sealed or court stamped copy of the order to be given to the offender.

(2) A probation order comes into force when made, except that where the offender at that time is incarcerated in respect of another offence, the probation order shall come into force on such date as the Court orders or when no such order is made, on the date that the offender is released from prison, save when the offender is released pursuant to a parole licence granted under the Parole of Prisoners Act in which case the probation order shall not come into force.

(3) If an offender who is bound by a probation order is subsequently imprisoned in relation to an offence committed prior to the making of the probation order, the order is suspended during the period of imprisonment and shall at the Court's direction continue in force when the offender is released from prison, save when the offender is released pursuant to a parole licence granted under the Parole of Prisoners Act in which case the probation order shall cease to have effect.

(4) A probation order continues in force for such period as the Court may specify in it, but unless suspended under subsection (3), no probation order shall continue in force for more than 3 years after the date on which it came into force.

PART 5

JUVENILE OFFENDERS

Applicability of Part 4 to juvenile offenders

22. Part 4 of this Act applies to a juvenile offender except that in relation to a juvenile offender, the Court shall not—

(a) order the juvenile offender to complete more than 200 hours of community service, or a period of community service in excess of 12 months;

(b) make an order for intermittent custody unless it has received from the Department of Probation a report, by the supervisor of a designated institution, regarding the juvenile offender's suitability to be detained at the institution and it is satisfied that the juvenile offender should be detained there; or

(c) order the juvenile offender to pay compensation or costs.

Additional conditions in relation to juvenile offenders

23. (1) Without prejudice to its powers under sections 15(b) and 17, the Court shall in every probation order in relation to a juvenile offender, include a condition that the juvenile offender abides by a curfew for any period determined by the Court not exceeding 3 months.

(2) Without prejudice to its powers under section 15, the Court may, if it thinks fit, impose one or more of the following conditions in a probation order in relation to a juvenile offender—

(a) that the juvenile offender undertakes a programme of activities at an institution or facility approved by the Department of Probation at such times as instructed by the Department, to assist the offender to address the cause of his offending;

(b) that the juvenile offender be subject to the co-supervision of the Department of Probation and a parent or an appointed person;

(c) that the juvenile offender resides in a specified place, including a designated institution, for a specified period not exceeding the duration of the order; or

(d) that the parent of the juvenile offender do one or more of the following—

(i) attend counselling sessions with the juvenile offender at such times as agreed with the Department of Probation,

(ii) attend parenting classes at such times as agreed with the Department of Probation,

(iii) enter into a recognizance for the juvenile offender's good behaviour and to take proper care of and to exercise proper control over the juvenile offender,

(iv) pay compensation in accordance with section 15(g), or

(v) pay costs in accordance with section 15(g).

Attendance order

24. (1) Subject to section 20, a probation order that includes a condition under section 23(2)(a), is called an "attendance order".

(2) The Court may make an attendance order for any duration not exceeding 150 hours and shall specify in the order that the times between which the juvenile offender is instructed to undertake the programme of activities shall not conflict with the juvenile offender's religious beliefs and the times during which the juvenile offender normally attends an educational institution.

(3) The Court shall not make an attendance order unless it is satisfied that the premises at which the juvenile offender is required to attend are reasonably accessible to him having regard to his age, the means of access available to him and any other circumstances.

Supervision order

25. (1) Subject to section 20, a probation order that includes a condition under section 23(2)(b), is called a "supervision order".

(2) The Court shall not make a supervision order unless it is satisfied that the likelihood of re-offending may be reduced if the juvenile offender is subject to strict supervision.

(3) The Court may order that the juvenile offender shall have a specified number of contact hours per week with the Department of Probation and with his parent, and may, in place of the parent of the juvenile offender, appoint a fit person who consents to supervise the juvenile offender.

(4) The number of contact hours per week shall not exceed—

(a) 5 hours in the case of contact with the Department of Probation; or

(b) 30 hours in the case of contact with a parent or an appointed person, of which a minimum of 2 hours must be spent at the educational institution which the juvenile attends and a maximum of 28 hours must be spent at the place where the juvenile resides while the supervision order is in effect.

(5) Where the Court makes a supervision order, the parent or appointed person shall take all necessary and reasonable steps to ensure that there is contact with the juvenile for the specified number of hours and that the juvenile is properly supervised at all times, and shall make scheduled and unscheduled visits to the education institution which the juvenile offender attends.

Residence order

26. (1) Subject to section 20, a probation order that includes a condition under section 23(2)(c) is called a "residence order".

(2) The Court may make a residence order where it is satisfied that the home environment of the juvenile offender may have contributed to his offending behaviour.

(3) The Court shall not make a residence order requiring a juvenile offender to reside in a designated institution, unless the Court has received from the Department of Probation a report made by the supervisor of the institution, regarding the juvenile offender's suitability to reside in the institution and the Court is satisfied that the juvenile offender should reside there.

(4) A residence order may be of any duration not exceeding the term of the probation order.

(5) Subject to subsection (6), when the Court makes a residence order requiring a juvenile offender to reside in a designated institution, the Court may order that the parent of the juvenile offender makes a contribution to the maintenance of the juvenile offender in such amount as the Court considers reasonable having regard to the means of the parent.

(6) When the Court is minded to make an order under subsection (5) and a maintenance order is already in effect in relation to the parent of the juvenile offender under another Act, the Court may direct that the sums paid pursuant to that maintenance order or a portion of such sums shall be forwarded to the Department of Probation for the maintenance of the juvenile offender.

Parenting order

27. (1) Subject to section 20, a probation order that includes a condition under section 23(2)(d) is called a "parenting order".

(2) The Court may make a parenting order when the Court is of the view that the parent of the juvenile offender should play an active role in his rehabilitation and is satisfied that such an order is desirable in the interest of preventing the commission of further offences by the juvenile offender.

(3) The Court shall not make a parenting order without first giving the parent an opportunity of being heard.

Applicability of probation order when juvenile ceases to be juvenile

28. Where a probation order has been made in relation to a juvenile offender and that offender thereafter ceases to be a juvenile, the probation order shall continue in force until it is discharged or otherwise ceases to have effect.

PART 6

VARIATION, DISCHARGE AND BREACH

Variation of probation order

29. (1) An application to vary a probation order may be made to the Court at any time by—

(a) the offender who is the subject of the probation order;

(b) the Department of Probation;

(c) where the Court has made a supervision order, the parent of the juvenile offender, or the appointed person; or

(d) where the Court has made a parenting order, the parent of the juvenile offender.

(2) After hearing the applicant and the Department of Probation, the Court may—

(a) make any changes to the optional conditions in a probation order, that in the opinion of the Court are rendered desirable by—

(i) a change in the circumstances, or

(ii) information obtained from the Department of Probation,

since such conditions were imposed;

(b) relieve the offender, parent or appointed person either absolutely or on such terms or for such period as the Court thinks desirable, of compliance with any optional condition; or

(c) decrease the term for which the probation order is to remain in force,

and the Court shall endorse the probation order accordingly, inform the offender of its action, require the offender to sign the probation order as amended and cause a sealed or court stamped copy of the order to be given to the offender.

Early discharge of probation order

30. (1) The Department of Probation may apply to the Court for an order that a probation order be discharged before the expiration of its term, where—

(a) the offender has served at least three quarters of his probation period;

(b) the offender has been fully compliant with the conditions in the probation order; and

(c) the Department of Probation is satisfied that the offender is sufficiently rehabilitated that his likelihood of re-offending is negligible.

(2) The Court may, after hearing the Department of Probation and the offender, discharge the probation order.

Discharge of probation order on expiration of term

31. Unless the Court orders otherwise, a probation order is automatically discharged on the expiration of its term.

Violation of probation order

32. (1) This section applies when there is a violation of a probation order.

(2) When an offender, a parent or an appointed person violates a condition in a probation order, the Department of Probation shall take appropriate steps to determine whether the violation is voluntary or involuntary and use available measures to ensure compliance with the conditions in the probation order including—

(a) counselling the offender, parent or appointed person;

(b) sending letters to the offender, parent or appointed person, informing of the violation and requiring it to be remedied;

(c) if the probation order permits, re-scheduling the times during which or re-arranging the manner in which the offender, parent or appointed person, must perform an act required by the probation order; or

(d) providing any other reasonable assistance to the offender, parent or appointed person.

(3) Where the Department of Probation has taken measures to ensure an offender's compliance with a probation order, or the compliance of a parent or an appointed person with a probation order, and the offender, parent or appointed person continues to violate the order, the Department of Probation shall treat the order as having been breached and shall file in the Magistrate's Court information on oath regarding the breach, a breach report, and supporting documentation, if any.

(4) The Department of Probation shall not file information on oath that a juvenile offender is in breach of a condition in a probation order, unless it is satisfied that all available measures have been taken to ensure that the juvenile offender complies with the conditions in the order.

(5) Notwithstanding subsections (2), (3) and (4), when a violation of a probation order is of such a serious nature that in the opinion of the Department of Probation the offender, parent or appointed person should be brought before the Court as soon as practicable, the Department of Probation shall treat the order as having been breached and shall file in the Magistrate's Court information on oath regarding the breach, a breach report, and supporting documentation, if any.

(6) If it appears to a Magistrate on information on oath that an offender, a parent or an appointed person is in breach of a condition of a probation order, the Magistrate may issue a summons requiring that the offender, parent or appointed person, appear before the Magistrate's Court at a specified time, not exceeding one month from the date the information was filed, or may issue a warrant for the offender's arrest.

(7) When the offender, parent or appointed person is brought before the Magistrate's Court pursuant to subsection (6), the Magistrate's Court shall cause the offender, parent or appointed person to be provided with a copy of the information on oath, breach report and supporting documentation, if any.

(8) A breach report filed in accordance with this section shall contain the following information—

(a) the conditions of the probation order;

(b) details of any arrangements made by the Department of Probation in accordance with the probation order;

(c) an overview of the offenders progress and performance during the probationary period;

(d) details of the violations complained of; and

(e) details of the steps taken by the Department of Probation to ensure compliance with the conditions of the probation order, if applicable.

Breach of probation order made by Magistrate's Court

33. (1) When an offender, a parent or an appointed person is brought before the Magistrate's Court for breach of a probation order made by the Magistrate's Court, the Magistrate's Court shall enquire whether that person admits or denies the alleged breach and shall if necessary, conduct a hearing in relation to the alleged breach immediately.

(2) Without prejudice to section 36, where the Magistrate's Court made the probation order and it is proved to the satisfaction of the Magistrate's Court that the offender, parent or appointed person is in breach of a condition of that probation order, the Magistrate's Court shall—

(a) amend the order by cancelling any of the optional conditions in the order or by inserting any other optional conditions;

(b) extend the period of the order, but the period of the order so extended shall not exceed 3 years from the date the order first came into effect; or

(c) revoke the order and deal with the offender for the offence in respect of which the probation order was made, in any way in which the Magistrate's Court may have dealt with him if the Magistrates' Court had just convicted him of that offence or had just found the charge against him proved.

(3) After the Magistrate's Court exercises its powers under subsection (2), the Magistrate's Court shall—

(a) endorse the probation order with the action taken by the Magistrate's Court;

(b) inform the offender of such action; and

(c) unless the probation order is revoked under paragraph (2)(c), require the offender to sign the amended probation order and cause a sealed or court stamped copy of the amended probation order to be given to the offender.

(4) If the Magistrate's Court revokes the probation order under paragraph (2)(c), it may also order that the parent of a juvenile offender or an appointed person pay a fine not exceeding $2,000.

Breach of probation order made by High Court

34. (1) Where an information on oath is filed in respect of a breach of a probation order made by the High Court, the Magistrate's Court shall—

(a) remand the offender in custody or release him on bail until he can be brought before the High Court;

(b) send to the High Court, the information on oath, breach report and supporting documentation, if any, filed by the Department of Probation;

(c) send to the High Court, a notice in the prescribed form indicating how the offender was dealt with by the Magistrate's Court along with a copy of the remand order or order for bail as appropriate.

(2) When an offender, a parent or an appointed person is brought before the High Court for breach of a probation order made by the High Court, the High Court shall enquire whether that person

admits or denies the alleged breach and if necessary, shall conduct a hearing in relation to the alleged breach immediately.

(3) Without prejudice to section 36, where it is proved to the satisfaction of the High Court that the offender, parent or appointed person is in breach of a condition of the probation order, the High Court shall—

(a) amend the order by cancelling any of the optional conditions in the order or by inserting any other optional conditions;

(b) extend the period of the order, but the period of the order so extended shall not exceed 3 years from the date the order first came into effect; or

(c) revoke the order and deal with the offender for the offence in respect of which the probation order was made, in any way in which the High Court may have dealt with him if the High Court had just convicted him of that offence.

(4) After the High Court exercises its powers under subsection (3), the High Court shall—

(a) endorse the probation order with the action taken by the High Court;

(b) inform the offender of such action; and

(c) unless the probation order is revoked under paragraph (3)(c), require the offender to sign the amended probation order and cause a sealed or court stamped copy of the amended probation order to be given to the offender.

(5) If the High Court revokes the probation order under paragraph (3)(c), it may also order that the parent of a juvenile offender or an appointed person pay a fine not exceeding $5,000.

Special provisions regarding juvenile offenders

35. (1) A juvenile offender remanded in custody under section 34(1)(a) shall be detained at a designated institution.

(2) The Court shall revoke a probation order in relation to a juvenile offender only when it is satisfied that probation has not resulted and is unlikely to result in the rehabilitation of a juvenile offender.

(3) Where under this Part a juvenile offender is required to sign an amended probation order, that order shall be co-signed by the parent of the juvenile offender or an appointed person, as the case may be.

Offence of breach

36. An offender who is bound by a probation order and who, without reasonable excuse breaches a condition of that order commits an offence and is liable on summary conviction to imprisonment for one year or to a fine of $2,000 or to both.

Commission of further offence

37. If an offender who is bound by a probation order is convicted of an offence committed during the term of the probation order, in addition to any punishment that may be imposed for that offence, the Court shall, after hearing the prosecutor and the offender or his counsel, exercise its powers under section 33(2) or 34(3) as the case may be.

PART 7

MISCELLANEOUS PROVISIONS

Assault on probation officer, etc.

38. Any person who assaults or wilfully obstructs any probation officer, community outreach officer, supervisor of a designated institution or juvenile care worker acting in the due execution of his duty or any person acting in aid of such officer, commits an offence and is liable on summary conviction to imprisonment for 2 years or to a fine of $2,000 or to both.

Regulations

39. The Governor in Council may make regulations for the better carrying out of this Act and, may make regulations—

(a) prescribing forms and their use; and

(b) designating an institution for the rehabilitation of juvenile offenders.

Citation

40. This Act may be cited as the Probation Act, Revised Statutes of Anguilla, Chapter P96.

Transitional provisions

41. Notwithstanding the repeal of Probation of Offenders Act, R.S.A. c. P95—

(a) a probation order made under the Probation of Offenders Act, R.S.A. c. P95 shall, if in force on 2 August 2012 continue in force as if made under this Act; and

(b) any act, decision or matter carried out pursuant to the Probation of Offenders Act, R.S.A. c. P95 shall be deemed to have been carried out under this Act.