

# WEST VIRGINIA CODE: §50-2-3A

## **§50-2-3a. Sentencing; probation.**

(a) In addition to sentencing authority granted in other provisions of this code to magistrate courts, magistrate courts have authority to suspend sentences and impose periods of unsupervised probation for a period not to exceed two years, except for offenses for which the penalty includes mandatory incarceration and offenses defined in sections eight and nine, article eight-b, chapter sixty-one of this code and subsection (c), section five, article eight-d of said chapter.

(b) Notwithstanding any other provision of law to the contrary, magistrate courts have the authority to impose periods of supervision or participation in a community corrections program created pursuant to article eleven-c, chapter sixty-two of this code. Periods of supervision or participation in community corrections programs imposed pursuant to this subsection are not to exceed two years.

(c) Release on probation is subject to the following conditions:

(1) That the probationer may not, during the term of his or her probation, violate any criminal law of this state, any other state of the United States or the United States;

(2) That he or she may not, during the term of his or her probation, leave the state without the consent of the court which placed him or her on probation;

(3) That he or she shall comply with the rules or terms prescribed by the court;

(4) That he or she shall make reasonable restitution if financially able to do so, in whole or in any part, immediately or within the period of probation: Provided, That the magistrate conducts a hearing prior to imposition of probation and makes a determination on the record that the offender is able to pay restitution without undue hardship; and

(5) That he or she shall pay any fine and the costs assessed as the court may direct: Provided, That the magistrate conducts a hearing prior to imposition of probation and makes a determination on the record that the offender is able to pay the costs without undue hardship.

(d) On motion by the prosecuting attorney, and upon a hearing and a finding that reasonable cause exists to believe that a violation of any condition of probation has occurred, the magistrate may revoke probation and order execution of the sentence originally imposed.