Probation Violations

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Overview

A notice that your probation officer has filed a violation can feel like the system has already decided the outcome. It has not. But the hearing that follows operates under different rules than the original trial. The standard of proof is preponderance of the evidence, not beyond a reasonable doubt. Defendants who assume they will receive the same procedural protections are often caught off guard by how quickly a judge can revoke probation and impose a suspended sentence.

Whether the allegation involves a missed appointment, a failed drug test, or a new criminal charge, the consequences can include immediate incarceration. The judge retains broad discretion, including imposing the full sentence originally suspended at the time of a plea or conviction. If you are facing a probation violation in Massachusetts or Rhode Island, the time to build a defense strategy is before the hearing, not during it.

How We Defend Against Probation Violations

Massachusetts probation violations fall into two categories, and the defense strategy differs for each.

Technical violations occur when a person fails to comply with a condition of probation: missing a check-in, failing a drug test, not completing a required program, or falling behind on fees. These do not involve new criminal conduct, but they carry the risk of incarceration if the court concludes the violation was willful. An experienced VOP defense attorney will focus the court's attention on documented compliance and steps the client has taken to correct the issue.

New law violations arise when a person on probation is arrested or charged with a new criminal offense. These are treated more seriously, and the allegation often moves forward regardless of whether the new charge leads to a conviction. We tell our clients that a pending charge does not mean the violation is undefendable. The prosecution still carries the burden of proof, and strong mitigation can persuade a judge to continue probation.

In many cases, the strongest outcome is persuading the court to modify probation conditions rather than revoke probation entirely. Our approach centers on assembling evidence of compliance, preparing credible mitigation, and presenting the court with a plan it can endorse as an alternative to incarceration.

Why Clients Choose Cohen Cleary

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

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Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our criminal defense work, this approach helps clients navigate probation violation proceedings with clarity, efficiency, and confidence.

Strategic Preparation for Violation Hearings

Probation violation hearings in Massachusetts District and Superior Courts move quickly, and judges hearing violation matters often have a full docket of similar cases the same day. We prepare each case to present a compelling narrative in a compressed timeframe. That means assembling documentation of compliance, treatment records, employment verification, and character references well before the hearing date. When a new criminal charge underlies the violation, we coordinate the defense of both matters to ensure that statements or admissions in one proceeding do not undermine the defense in the other.

Probation Violation Defense Across Massachusetts and Rhode Island

Probation practices and judicial expectations vary by courthouse. A violation hearing lawyer who appears regularly in a particular court understands how that court's probation department operates, what documentation carries weight, and how specific judges respond to different mitigation strategies. That local knowledge is not a luxury; it is often the difference between continued probation and incarceration. Cohen Cleary's attorneys handle probation violation cases in District Courts, Superior Courts, and Juvenile Courts across southeastern Massachusetts and Rhode Island, with particular presence in Bristol County, Plymouth County, and Norfolk County. With offices in Taunton and Plymouth, we have the capacity to serve clients

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across New England.

Protect Your Freedom. Act Before the Hearing. Call Cohen Cleary.

A probation violation hearing can happen quickly, and the consequences of an adverse finding can include immediate incarceration. If you have been notified of a violation allegation, contact Cohen Cleary to discuss your defense options and fight the violation effectively. Call our offices in Taunton or Plymouth to schedule a consultation.

Frequently Asked Questions About Probation Violations

What is the difference between a technical violation and a new law violation?

A technical violation occurs when you fail to comply with a condition of probation, such as missing a check-in, failing a drug test, or not completing a required program. A new law violation occurs when you are arrested or charged with a new criminal offense while on probation. New law violations are generally treated more seriously, but both types can result in revocation of probation and incarceration.

Can I go to jail for a probation violation?

Yes. If the court finds that you violated a condition of probation, the judge has discretion to modify your probation, extend the probation period, add new conditions, or revoke probation entirely and impose the original suspended sentence. The outcome depends on the nature of the violation, your compliance history, and the strength of any mitigation you present at the hearing.

What is the burden of proof at a probation violation hearing?

The prosecution must prove the violation by a preponderance of the evidence, which means “more likely than not.” This is a significantly lower standard than the “beyond a reasonable doubt” standard required at a criminal trial. Because of this lower threshold, the defense strategy at a violation hearing focuses heavily on mitigation and rehabilitation evidence rather than solely contesting the facts of the allegation.

Can probation conditions be modified instead of revoked?

Yes. In many cases, the court can modify the conditions of probation rather than revoke it entirely. This might include adding substance abuse treatment, increasing reporting requirements, extending the probation period, or imposing a brief period of incarceration followed by continued probation. A probation violation lawyer experienced in these hearings can advocate for modification as an alternative to full revocation.

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