**Sentencing Alternatives:**

**Prison, Probation, Fines, and Community Service**

**A convicted defendant's punishment need not include prison.**

***Adapted from nolo.com***

A sentence may involve one or more different elements, including incarceration (prison, jail), probation, restitution (victim compensation), and community service.

**Prison Sentences**

Some state laws require the judges to impose what are called "determinate" prison sentences. A determinate sentence is a fixed-term sentence pronounced by a judge. For example, a defendant sentenced to "30 days in county jail" or "five years in state prison" has received a determinate sentence.

Other state laws require judges to give "indeterminate sentences." Indeterminate sentences are those in which the legislature sets a minimum and/or maximum time of incarceration but leaves the decision as to when to release an inmate to prison officials. As a general rule, indeterminate sentences are only imposed on people who are sentenced to state prison after being convicted of a felony.

**Suspended Sentences and Probation**

Sometimes a defendant's prison sentence is "suspended." A suspended sentence is jail or prison time that is put on hold if the defendant complies with certain other obligations, for example, the conditions of probation or the completion of a drug treatment program.

Under a suspended sentence, if the prosecution or probation department can convince a judge that the defendant violated the condition that led to the sentence being suspended in the first place, the judge has authority to order the defendant to serve the original sentence. The probationer is not entitled to a full-blown trial when the question is only whether the defendant violated probation, though the prosecution can choose to also file charges on the incident.

Most states limit when and under what circumstances a court may impose probation on a criminal defendant. For instance, some states do not allow a judge to impose probation on defendants who have a prior conviction for cocaine sales.

Offenders who are put on probation are typically required to adhere to a number of "conditions of probation," including:

* Obey all laws (even petty laws like jaywalking have been known to land a probationer back in jail).
* Abide by any court orders, such as an order to pay a fine or restitution.
* Report regularly to the probation officer.
* Report any change of employment or address to the probation officer.
* Abstain from the excessive use of alcohol or the use of any drugs.
* Submit to regular alcohol or drug testing.
* Refrain from travel outside of the jurisdiction without prior permission of the probation officer.
* Avoid certain people and places.

If a probation violation is discovered and reported, it is likely that the court will conduct a probation revocation hearing.

**Fines**

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Fines are a common punishment for a variety of crimes, especially less serious offenses committed by first-time offenders. Offenses that are typically punished by a fine include minor drug possession (of a small amount of marijuana, for example), fish and game violations, shoplifting, traffic violations, and first-time drunk driving cases. In more serious offenses or where the defendant has a criminal record, many judges combine a fine with other punishments, such as incarceration, community service, and probation.

**Restitution**

While fines go to the state (or federal or local government prosecuting the crime), restitution is money paid by the defendant to the victim or to a state restitution fund. Offenders may be required to return or replace stolen or damaged property, to compensate victims for physical injuries or for medical and psychological treatment costs, or to pay funeral and other costs where a victim dies.

In some cases, the "victim" is society, such as in welfare and Medicare fraud schemes, where defendants may be sentenced to pay the state back the money defrauded. Typically, the defendant will be ordered to pay restitution as just one part of the sentence, in addition to prison, community service, and/or probation.

**Community Service**

Judges can sentence defendants to perform unpaid community work called "community service" to repay a debt to society for having committed the offense. The defendant may be required to perform community service in addition to receiving some other form of punishment, such as probation, a fine, or restitution.

**Miscellaneous "Alternative Sentences"**

There are many different types of "alternative sentences," which can include fairly innovative punishments. Offenders have been required to:

* install breathalyzer devices in their cars so that their cars will not start unless the offender has "clean" breath
* give lectures or teach classes about the dangers of criminal behavior
* attend lectures given by crime victims
* complete a drug or alcohol treatment program
* do weekend jail time, or
* stay at home under "house arrest."

**Diversion**

Some cases can be "diverted" out of the criminal justice system. Criminal charges are normally dropped when a defendant successfully completes a diversion program. Diversion gives defendants a chance to escape the stigma of a criminal conviction.

Defendants whose cases are diverted typically have to participate in a treatment or rehabilitation program. Diversion programs are most often available to defendants charged with misdemeanors and nonviolent felonies involving drugs or alcohol. In some jurisdictions, diversion may be available to defendants charged with domestic violence, child abuse or neglect, traffic-related offenses, or even writing bad checks.

Prosecutors sometimes voluntarily offer diversion to defendants who are clearly eligible under a community's guidelines. Defense counsel may also suggest diversion to prosecutors, sometimes even before formal charges are filed.