

Alabama Rules of Criminal Procedure

Rule 27. Probation and probation revocation.

Rule 27.2. Modification and clarification of conditions and regulations.

The sentencing court, with or without a hearing, may modify or clarify any condition or regulation imposed by it and any instructions issued by a probation officer. A probation officer may modify or clarify any instructions which the officer has issued. A probationer or a probation officer, at any time prior to absolute discharge, may request the sentencing court to modify or to clarify any condition or regulation. The sentencing court may, where appropriate, hold a hearing on such request. A written copy of any order of modification or clarification shall be given to the probationer, following which the probationer shall have ten (10) days to request a hearing on said order of modification or clarification.

Committee Comments

In providing a method for the modification and clarification of probation conditions, the rule protects the probationer from arbitrary or unsupported changes by giving the probationer the right to request an explanation of standards which the court expects the probationer to meet. This right, in effect, balances the court's "right to revoke or modify any condition or period of probation" that it has legally imposed. *Reynolds v. State*, 28 Ala.App. 246, 181 So. 797 (1938). See *Stout v. State*, 45 Ala.App. 262, 229 So.2d 37 (1969).

Ala.Code 1975, § 15-22-52, authorizes the court to make necessary modifications in the conditions of probation. There is no particular statutory provision for a probationer's request for clarification of the conditions of probationer's probation. However, the practice is generally followed and is also suggested as the preferred standard in ABA, *Standards for Criminal Justice, Sentencing Alternatives and Procedures*, 18-7.3 (2d ed. 1986).