GILSHENAN & LUTON
LEGAL PRACTICE



Common court orders in Queensland criminal sentencing

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In Queensland, the *Penalties and Sentences Act 1992* (Qld) ("the Act") contains the sentencing principles, guidelines and options applied by the court when imposing a penalty for a criminal offence.

What types of orders can the court make in criminal sentencing?

Aside from fines and imprisonment, other criminal sentencing orders commonly made include:

- Good behaviour bond;
- Community service order;
- Probation order; and
- Intensive correction order.

Good behaviour bond

A good behaviour bond is essentially a promise to the court that you will be of good behaviour for the period of your order. The length of the order is determined by the Magistrate/Judge when imposing the penalty.

There is always a 'recognisance' attached to the order, which is a sum of money that you must pay to the court if you commit another offence whilst subject to the good behaviour bond. That amount is a discretionary determination made by the sentencing Magistrate/Judge.

Importantly, when facing charges that involve (or are a result of) alcohol and/or drug use, the court can also attach a condition to the good behaviour bond, requiring you to undertake rehabilitative programs, such as alcohol and drug diversion.

If you commit an offence whilst subject to a good behaviour bond, you may have to pay the recognisance amount and be re-sentenced for the original offence (in addition to any new offences).

After the good behaviour period is completed, the matter is finalised and the offender is no longer subject to a ‘promise’ to the court or a recognisance.

Community service order

A community service order is a requirement that you undertake unpaid work under the direction of a community corrections officer. The number of hours ordered can vary from 40 to 240.

The allocated hours are generally required to be completed within 12 months, unless by another date determined by the court.

If the offence was committed in a public place and while you were intoxicated, community service is mandatory. This means that you must be sentenced to a community service order, regardless of, and in addition to, any other penalty imposed.

Usually, you cannot choose what community service you perform. That discretion rests with the community corrections officer. Having said this, your skills and abilities can be taken into account.

If you breach a community service order, you can be brought back before the court to be dealt with for the breach and/or re-sentenced for the original offence.

Probation order

If you are being sentenced for an offence punishable by imprisonment, the court may impose a probation order. The length of the order can vary between six months to three years - the duration of the order is a discretionary determination made by the sentencing Magistrate/Judge.

Similar to a community service order, the offender must agree to comply with the order and the conditions associated with it.

Mandatory conditions of every probation order require you to:

1. must not commit another offence whilst on probation;
2. report to an authorised corrective services officer at the place and time directed;
3. receive visits from an authorised corrective services officer as required;
4. participate in any programs or counselling as directed by the sentencing Magistrate;

5. notify an authorised corrective services officer of any change to the offender's address or employment within two business days after the change occurs;
6. must not leave Queensland without the permission from an authorised corrective services officer; and
7. comply with each reasonable direction of an authorised corrective services officer.

The Magistrate or Judge can also impose additional conditions on the probation order which can require you to:

1. submit to medical, psychiatric or psychological treatment; and
2. comply with any conditions that the sentencing Magistrate deems necessary to impose, to ensure the offender behaves in a way that is acceptable to the community or stop the offender from committing another offence.

If you do not comply with the conditions of your probation order, you can be charged with breaching the order. You can also be re-sentenced for the original offence.

Intensive Correction Order

An Intensive Correction Order ("ICO") is an order that allows you to serve a term of imprisonment in the community, instead of in prison. However, an ICO can only be made where you receive a term of imprisonment of one year or less.

An ICO is similar to a probation order, in that firstly you must agree to the order being made and secondly, you become subject to certain conditions that must be complied with.

The conditions are in identical terms to the mandatory conditions of a probation order. However, an ICO also requires you to:

1. perform community service as directed by an authorised corrective services officer; and
2. reside at a community residential facility if an authorised corrective services officer directs.

As with a probation order, you can also be subject to further conditions requiring them to undertake medical, psychiatric or psychological treatment, or comply with any other conditions that the court considers necessary to ensure you are behaving in an acceptable way in the community and will not commit a further offence.

If you do not comply with the conditions of the ICO, you will be forced to return to court to be re-sentenced for the original criminal offence, which can result in a period of imprisonment.

Court orders and your criminal record

When the sentencing Magistrate/Judge is imposing their sentence, they must also decide whether to record a conviction (unless a term of imprisonment is ordered, in which case a conviction is automatically recorded).

In deciding whether to record a conviction, the sentencing Magistrate/Judge considers the offender's character, age, the nature of the offence and whether a recorded conviction will have any impact on their economic or social wellbeing or their chances of finding employment.

For more on this topic, please read our article 'Criminal records and convictions.'

Get help from a criminal lawyer

Gilshenan &Luton are very knowledgeable in the area of criminal law and have a wide range of experience with sentences and the abovementioned court orders.

If you are being sentenced for an offence, you should contact Gilshenan &Luton for legal advice and assistance.

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