

## ADULT MODIFICATION PETITION

<b>AUTHORITY:</b>	Administrative Directive and Judicial Concurrence
<b>RESCINDS:</b>	Procedure Manual Item 2-3-004, dated 11/20/13
<b>FORMS:</b>	Modification Petition <b>Nonappearance, Adult</b> (Automated/Word) Defendant's Waiver of Appearance (Automated/Word)
<b>PURPOSE:</b>	To standardize the procedure for obtaining a modification of a court order in matters not requiring the defendant's appearance in court.

### I. GENERAL INFORMATION

#### A. Definition

A Modification Petition is a petition submitted for the purpose of modifying an order of the court or a condition of probation. This can consist of adding a condition of probation or deleting a condition of probation. The defendant, the defendant's attorney, or the probation officer can submit them. They are authorized under Section 1203.3 of the Penal Code.

1203.3(b)(1) states, "Before any sentence or term or condition of probation is modified, a hearing shall be held in open court before the Judge. The prosecuting attorney shall be given a two-day notice and an opportunity to be heard on the matter." Domestic violence cases with a protective order require a five-day notice to the prosecuting attorney.

Waiver (**Automated/Word**) - a document signed by the probationer witnessed by the probation officer/financial officer that authorizes the modification without benefit of a hearing in the probationer's presence.

#### B. Reasons for submitting a Modification Petition

1. Informal handling of violation
2. Deleting conditions of probation
3. Adding a condition of probation (waiver required). If the probationer was represented by an attorney at the time the plea was entered, they should be advised they have a right to be represented again should they wish. If they decline further representation and sign the waiver, it may be submitted. If the defendant desires to appear or to have an attorney present the matter should be calendared for a hearing. The condition should be relevant to current grant/behavior.
4. Early termination of probation.
5. Relief of supervision.

6. Modification to Conditional Sentence Court Order/Restitution Paid (requires notification to DA).
7. Modification to Conditional Sentence – Court Order/Restitution Not Owed.
8. Revocation of Probation in conjunction with already issued warrant.
9. Warrant recall – **Active Case**. Should explain reasons for recall.
10. Warrant recall – Old Case.
11. To modify jail sentence to residential treatment program, with reason.
12. Court approval for the probationer to reside **in home** with victim, with reason.
13. Extension of Probation (waiver required). If the probationer was represented by an attorney at the time the plea was entered, they should be advised they have a right to be represented again should they desire. If they decline further representation and sign the waiver, it may be submitted. If the defendant desires to appear or to have an attorney present the matter should be calendared for a hearing.
14. To convert Cal Trans Service to Community Service Hours.
15. Informal handling of probation violation with Cal Trans/community service.

C. Resources

Refer to the Word templates AMPO1.DOT – AMP18.DOT for various templates.

II. PROCEDURE

A. Deputy Probation Officer (DPO)

1. Complete the automated Modification Petition **form** and submit to the unit clerk.
2. If a standard format is not used, submit with completed text and recommendation.

B. Unit Clerk

1. Types and emails template for review; prior to printing on NCR paper.
2. Submits form to DPO for review and signature.
3. DPO will submit to Unit SPO for review and signature.
4. **Copy/Upload to On Base/ICMS**

5. Route all copies (intact) with **original** waiver attached to the appropriate Resident Probation Officer.

C. Resident Probation Officer (RPO)

1. RPO reviews all Mod Pets for case #, name, case facts.
2. Submit Modification Petition to Judicial Officer.
3. After Judicial Officer approves/denies, the RPO clerk retains the original for the court file and a copy for the District Attorney.
4. The RPO clerk returns remaining copies to originating DPO.

D. After Court Processing by DPO

1. Provide copy of Modification Petition to the probationer.
2. Send the file to the Unit Clerk who will **ensure** all court orders **are entered** into the Integrated Case Management System (ICMS).

**REFERENCES:**

Procedure:                    2-1-104                    Chronological History Sheet-Adult

S. Sandoval

**APPROVED BY:**