

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
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DEBRA C. POPLIN
Clerk of the Court

JOHN L. MEDEARIS
Chief Deputy Clerk

NOTICE

Pursuant to 28 U.S.C. § 2071(b), the Clerk of the Court hereby gives notice of and an opportunity for comment regarding the Court's proposal to abrogate Local Rule 83.10 (Supervised Release or Probation) in its entirety and substitute the following in its place:

LR83.10 Mandatory and Standard Conditions

- (a) The following mandatory conditions shall be included if applicable when terms of supervised release are imposed by this Court in a criminal case:
- (1) The defendant must not commit another federal, state or local crime.
 - (2) The defendant must not unlawfully possess a controlled substance.
 - (3) The defendant must refrain from any unlawful use of a controlled substance. The defendant must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court. This drug testing condition may be suspended, based on the Court's determination that the defendant poses a low risk of future substance abuse.
 - (4) The defendant must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution.
 - (5) The defendant must cooperate in the collection of DNA as directed by the probation officer.
 - (6) The defendant must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
 - (7) The defendant must participate in an approved program for domestic violence.

(b) The following mandatory conditions shall be included if applicable when terms of probation are imposed by this Court in a criminal case:

- (1) The defendant must not commit another federal, state or local crime.
- (2) The defendant must not unlawfully possess a controlled substance.
- (3) The defendant must refrain from any unlawful use of a controlled substance. The defendant must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court. This drug testing condition may be suspended, based on the Court's determination that the defendant poses a low risk of future substance abuse.
- (4) The defendant must cooperate in the collection of DNA as directed by the probation officer.
- (5) The defendant must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- (6) The defendant must participate in an approved program for domestic violence.
- (7) The defendant must make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 366A, and 3664.
- (8) The defendant must pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- (9) If this judgment imposes a fine, the defendant must pay in accordance with the Schedule of Payments sheet of this judgment.
- (10) The defendant must notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

(c) The following standard conditions shall be included when terms of supervised release or probation are imposed by this Court in a criminal case:

- (1) The defendant must report to the probation office in the federal judicial district where the defendant is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- (2) After initially reporting to the probation office, the defendant will receive instructions from the Court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed.
- (3) The defendant must not knowingly leave the federal judicial district where the defendant is authorized to reside without first getting permission from the Court or the probation officer.

- (4) The defendant must answer truthfully the questions asked by the defendant's probation officer.
- (5) The defendant must live at a place approved by the probation officer. If the defendant plans to change where the defendant lives or anything about the defendant's living arrangements (such as the people the defendant lives with), the defendant must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- (6) The defendant must allow the probation officer to visit the defendant at any time at the defendant's home or elsewhere, and the defendant must permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that the probation officer observes in plain view.
- (7) The defendant must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, the defendant must try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about the defendant's work (such as the defendant's position or job responsibilities), the defendant must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- (8) The defendant must not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- (9) If the defendant is arrested or questioned by a law enforcement officer, the defendant must notify the probation officer within 72 hours.
- (10) The defendant must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- (11) The defendant must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the Court.
- (12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant must comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- (13) The defendant must follow the instructions of the probation officer related to the conditions of supervision.

Comments should be directed in writing to Debra C. Poplin, Clerk of Court, by December 1, 2017, at the above address.

Comments:

On October 2, 2017, the Court entered an order that paragraph (a) of Local Rule 83.10 (Supervised Release or Probation) be abrogated in its entirety and substituted with language reflecting the recommendations of the Criminal Law Committee approved by the Judicial Conference. On October 5, 2017, the Criminal Law Committee released a recommended revision, approved by the Judicial Conference, to add as a mandatory condition of supervised release a requirement that the defendant “make restitution in accordance with sections 3663 and 3663A, or any other statute authorizing a sentence of restitution.”

In reviewing the suggested revision, the Court noted that the revision to Local Rule 83.10 adopted by the Court on October 2, 2017, included the same mandatory conditions for both supervised release and probation, but that the mandatory conditions recommended by the Criminal Law Committee included slightly different mandatory conditions for supervised release and probation.

Accordingly, the proposed amendment provides two paragraphs separately delineating the mandatory conditions for supervised release and probation. Paragraph (a) states the required mandatory conditions for supervised release, and adds the language suggested by the October 5, 2017, Criminal Law Committee recommendation as section (a)(4). Similarly, paragraph (b) states the required mandatory conditions for probation, mirroring the language recommended by the Criminal Law Committee, as approved by the Judicial Conference. There are no changes to the language of the section on standard conditions, although that section is now referenced as section (c).

Finally, the proposed amendment changes the name of Local Rule 83.10 from “Supervised Release or Probation” to “Mandatory and Standard Conditions,” as this title better reflects the content of the amended rule.