

77-16a-201 Probation.

- (1)
 - (a) In felony cases, when the court proposes to place on probation a defendant who has pled or is found guilty with a mental illness at the time of the offense, it shall request UDC to provide a presentence investigation report regarding whether probation is appropriate for that defendant and, if so, recommending a specific treatment program. If the defendant is placed on probation, that treatment program shall be made a condition of probation, and the defendant shall remain under the jurisdiction of the sentencing court.
 - (b) The court may not place an offender who has been convicted of the felony offenses listed in Section 76-3-406 on probation, regardless of whether the offender has, or had, a mental illness.
- (2) The period of probation for a felony offense committed by a person who has been found guilty with a mental illness at the time of the offense may be for no less than five years. Probation for those offenders may not be subsequently reduced by the sentencing court without consideration of an updated report on the mental health status of the defendant.
- (3)
 - (a) Treatment ordered by the court under this section may be provided by or under contract with the department, a mental health facility, a local mental health authority, or, with the approval of the sentencing court, any other public or private mental health provider.
 - (b) The entity providing treatment under this section shall file a report with the defendant's probation officer at least every six months during the term of probation.
 - (c) Any request for termination of probation regarding a defendant who is receiving treatment under this section shall include a current mental health report prepared by the treatment provider.
- (4) Failure to continue treatment or any other condition of probation, except by agreement with the entity providing treatment and the sentencing court, is a basis for initiating probation violation hearings.
- (5) The court may not release an offender with a mental illness into the community, as a part of probation, if it finds by clear and convincing evidence that the offender:
 - (a) poses an immediate physical danger to self or others, including jeopardizing the offender's own or others' safety, health, or welfare if released into the community; or
 - (b) lacks the ability to provide the basic necessities of life, such as food, clothing, and shelter, if released into the community.
- (6) An offender with a mental illness who is not eligible for release into the community under the provisions of Subsection (5) may be placed by the court, on probation, in an appropriate mental health facility.

Amended by Chapter 366, 2011 General Session