

PROBATION AND
PAROLE:

Under Section 549.071, RSMo 1969, the duration of an extension of the term of probation is not limited by the original probation period so long as the total term is within the period of five years for felony cases and two years for misdemeanor cases.

OPINION NO. 19

February 22, 1971



Mr. W. G. Sartorius, Chairman
Missouri Board of Probation and
Parole
211 Marshall Street
Jefferson City, Missouri 65101

Dear Mr. Sartorius:

This will acknowledge receipt of your request for an opinion from this office pertaining to Section 549.071, RSMo 1969, which states:

"1. When any person of previous good character is convicted of any crime and commitment to the state department of corrections or other confinement or fine is assessed as the punishment therefor, the court before whom the conviction was had, if satisfied that the defendant, if permitted to go at large, would not again violate the law, may in its discretion, by order of record, suspend the imposition of sentence or may pronounce sentence and suspend the execution thereof and may also place the defendant on probation upon such conditions as the court sees fit to impose. The probation shall be for a specific term which shall be stipulated in the order of record. In the case of a felony offense no probation under this chapter shall be granted for a term of less than one year, and no

Mr. W. G. Sartorius

probation shall be granted for a term of longer than five years. In the case of a misdemeanor offense no probation shall be granted for a term of longer than two years. The court may extend the term of the probation, but no more than one extension of any probation may be ordered.

"2. The courts, subject to the restrictions herein provided, may, in their discretion, when satisfied that any person against whom a fine has been assessed or a jail sentence imposed, will, if permitted to go at large, not again violate the law, parole the defendant upon such conditions as the court sees fit to impose."

Specifically, you question whether the court may extend the term of probation for a period of time longer than the time contained in the original order.

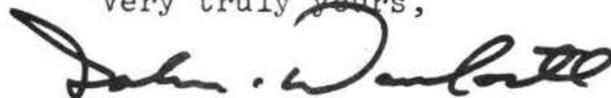
In our view, there is no limitation upon the time of the second probation except the prohibition which is contained in subsection 1 of Section 549.071, limiting the total term to five years for felony cases and to two years for misdemeanor cases. Even though such statutes are frequently strictly construed, there is nothing to indicate that the legislature intended the period of the extended term to be limited by the first.

CONCLUSION

It is the opinion of this office that under Section 549.071, RSMo 1969, the duration of an extension of the term of probation is not limited by the original probation period so long as the total term is within the period of five years for felony cases and two years for misdemeanor cases.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John C. Klaffenbach.

Very truly yours,



JOHN C. DANFORTH
Attorney General