BILL ESSENTIALS NO. 15 OF 2025–2026 1st Session, 13th Parliament

BILL ESSENTIALS

THE PROBATION OF OFFENDERS (AMENDMENT) BILL, 2026

Date Introduced: **March 24, 2026**
Introduced by: **The Minister of Justice**

House: **Senate**
Senate Bill **No. of 2026**

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BACKGROUND

1. The **Probation of Offenders (Amendment) Bill, 2026** (hereinafter referred to as the **"Bill"**) was introduced in the Senate by the Honourable Devesh Maharaj, Minister of Justice and Minister in the Ministry of the Attorney General, on March 24, 2026.

2. The Bill seeks to amend the **Probation of Offenders Act, Chap. 13:51** (hereinafter referred to as the **"Act"**), which empowers the Court to sentence offenders to a period of imprisonment, followed by a period of probation.

3. The Bill, once passed, will come into effect on such date as fixed by the President by Proclamation.

KEY FEATURES OF THE BILL

4. **Clause 4** of the Bill amends **section 2** of the Act, by inserting new definitions including, *inter alia*:

   - ***"dangerous drugs"*** has the meaning assigned to it in section 3 of the Dangerous Drugs Act[1];
   - ***"electronic monitoring device"*** has the meaning assigned to in section 3 of the Administration of Justice (Electronic Monitoring) Act, 2012[2];
   - ***"firearm"*** has the meaning assigned to it in section 2 of the Firearms Act[3];
   - ***"non-intimate sample"*** has the meaning assigned to it in section 4 of the Administration of Justice (Deoxyribonucleic Acid) Act[4];
   - ***"probation officer"*** means an officer of the Probation Services Division holding, or acting in the public office of probation officer, including a person employed on contract who performs similar duties as a probation officer.

5. **Clause 5** of the Bill amends **section 3** of the Act by repealing and replacing subsection (2) and inserting two (2) new subsections. Currently, the Court imposes a probation order in lieu of a sentence to a term of imprisonment. In respect of offences punishable with imprisonment for five (5) or more years, **new subsection (2)** empowers the Court to impose a sentence of

[1] "*dangerous drugs*" means a narcotic drug listed in the First Schedule or a thing that contains such a drug or a psychotropic substance listed in the Second Schedule or a thing that contains such a substance;"

[2] "*electronic monitoring device*" or "*device*" includes a device which operates on a global positioning system or radio frequency;"

[3] "*firearm*" means any lethal barrelled weapon from which ammunition can be discharged or any prohibited weapon, and includes any component part of any such weapon and any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon, but does not include any air rifle, air gun, air pistol or pepper spray of a type prescribed by Order made by the Minister and of a calibre so prescribed;"

[4] "*non-intimate sample*" means a specimen of— (a) blood obtained by a prick of the finger; (b) epithelial cells obtained by means of a buccal swab; (c) plucked hair; or (d) saliva;"

imprisonment and, upon the offender serving that term, to order his release on probation subject to such conditions as the Court considers just.

6. **New subsection (3)** empowers the Court to request an assessment of the offender from a probation officer prior to making a probation order.

7. The phrase "***term of imprisonment***" is defined in **new subsection (4)** as:
   - *"in relation to a person serving one sentence, one half of his sentence; or*
   - *in relation to a person serving – two or more concurrent sentences, two-thirds of the aggregate of those terms; or two or more consecutive sentences, two-thirds of the aggregate of those terms, after making such deduction as may be necessary to ensure that no period of time is counted more than once."*

8. In the **renumbered subsection (5)** a **new subsection (5)(b)** is inserted, which stipulates that where a probationer was subject to a probation order in lieu of sentencing and fails to comply with the probation order or commits another offence; the probationer shall be sentenced for the original offence. For probationers who served a term of imprisonment, **new subsection (5)(b)** mandates that, where a probationer fails to comply with the probation order or commits another offence commits while on probation, the probationer shall be required to complete the remainder of the term of imprisonment, for which he was sentenced.

9. **Clause 6** extends the maximum duration of a probation order from three (3) years to five (5) years from the date of the order, while maintaining the minimum period of one (1) year, as may be specified by the Court. The extension from three (3) to five (5) years allows for a longer oversight and monitoring period of offenders.

10. **Clause 8** of the Bill amends **section 7** of the Act by increasing the quantum sum that a Summary Court may order, in respect of damages for injury or compensation for loss. A Summary Court may order a probationer to pay up to **Three Thousand Dollars ($3000.00)** which is a significant increase from the current maximum of **One Hundred and Fifty Dollars ($150.00).**

11. **Clause 8** also inserts **new subsection 7(4)** which empowers the Court, when making a probation order, to impose additional conditions on the offender, including, *inter alia*:
    - wearing an electronic monitoring device for a specified period of time;
    - adhering to any curfew imposed by the Court;
    - participating in community service for a period of time, at a specified location for a specified number of hours;
    - maintaining steady employment; and
    - actively participating and cooperating with the programme of supervision.

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12. **Clause 9** repeals and replaces **section 9(1)** of the Act. The amendment empowers a probation officer to lay a complaint before the Court where it appears that a probationer was convicted of an offence while a probation order was in force.

13. **Clause 10** of the Bill authorises a probation officer to lay a complaint before the Court where the probationer has failed to comply with any provisions of the probation order. It further increases the fine the Court may impose on a probationer from **Three Hundred Dollars ($300.00)** to **Five Thousand Dollars ($5000.00)** for failure to comply with the provisions of the order.

14. **Clause 11** amends **section 13(1)** of the Act regarding amendment of probation orders. On an application for a variation of the provisions of a probation order, the Court, pursuant to this amendment may extend the probation order to maximum period of five (5) years from the date of the order. This extension from a maximum period of three (3) years to five (5) years is significant, as it allows for extended monitoring and supervision of the probationer.

15. **Clause 12** of the Bill inserts a **new section 15A** into the Act, to allow probationers who have successfully completed all of the provisions of their probation order to apply to the Court for an order to seal the records in relation to their matter. The proceedings would only be divulged by order of the Court.

16. **Clause 14** of the Bill deletes the words "*welfare officer (probation)"* wherever it occurs in the Act and substitutes with the words "*probation officer*". This amendment standardises the terminology used throughout the legislative framework.

COMPARATIVE LEGISLATION

	JURISDICTION	
	Jamaica	**Barbados**
Act	**The Probation of Offenders Act[5]**	**The Probation of Offenders Act[6]**
Power of the court to permit conditional release of offenders on probation	Section 5(2) - Power of the court to permit conditional release of offenders: *"Where any person is convicted of an offence which is not punishable on summary conviction, and the court is of opinion that, having regard to the circumstances, including the nature of the offence and the character and home surroundings of the offender, it is expedient to release the offender on*	Section 4 - Probation in relation to other offences: *"(1) Where any person is convicted of an offence which is not punishable on summary conviction and the court is of opinion that, having regard to the circumstances, including the nature of the offence and the character and home surroundings of the offender, it is expedient to release the offender on probation, the court may, subject to subsection (2), in*

[5] The Probation of Offenders Act - Jamaica
[6] The Probation of Offenders Act - Barbados

	probation, the court may in lieu of imposing a sentence of imprisonment, make a probation order: *Provided that before making a probation order the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any respect to comply therewith or commits another offence, he will be liable to be sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the provisions of the order."*	*lieu of imposing a sentence of imprisonment make a probation order.* *(2) Before making a probation order under subsection (l), the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any respect to comply therewith or commits another offence, he is liable to be sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the provisions of the order."*
Probation Orders	<u>Section 6(1) - Probation Order:</u> *"A probation order shall have effect for such period **not less than one (1) year** and not more than **three (3) years** from the date of the order as may be specified therein..."*	<u>Section 5 (1) - Probation Order:</u> *"A probation order shall-* *(a) have effect for such period **not less than one** year and **not more than three years** from the date of the order as may be specified therein; and* *(b) require the probationer to submit during that period to the supervision of a probation officer; and* *(c) contain such provisions as the court considers necessary for securing the supervision of the offender and such additional conditions as to residence and other matters as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the offender or for preventing a repetition of the same offence or the commission of other offences.*
Further provisions where Court makes probation order	<u>Section 7(1) - Further provisions where court makes probation order:</u> *"Where a person is placed by a probation order under the supervision of a probation and after-care officer, the court may, without prejudice to its powers of awarding costs against the offender, order the offender to pay such damages for injury or compensation for loss as the court thinks reasonable, but not, in the case of an order made by a court of summary jurisdiction, exceeding in the aggregate **two hundred dollars** or such greater sum as may be allowed by any enactment relating to the offence."*	<u>Section 6(1) - Compensation may be ordered in addition to probation:</u> *"Where a person is placed by a probation order under the supervision of a probation officer, the court may without prejudice to its power of awarding costs against the offender, order the offender to pay such damages for injury or compensation for loss as the court thinks reasonable, but not, in the case of an order made by a court of summary jurisdiction, exceeding in the aggregate **twenty-four dollars** or such greater sum as may be allowed by any enactment relating to the offence."*

Commission of further offences by probationers	Section 8 - Commission of further offences by probationers: *"(1) If it appears to a judge or any magistrate that a probationer has been convicted of an offence committed while the probation order was in force, he may issue a summons requiring the probationer to appear at the place and time specified therein or may issue a warrant for his arrest: Provided that a magistrate shall not issue such a summons or warrant except on information in writing and on oath.* *(2) A magistrate may issue a summons or warrant under subsection (1) notwithstanding that the probation order was made by the Supreme Court.* *(3) A summons or warrant issued under this section shall direct the probationer to appear or to be brought before the court by which the probation order was made…"*	Section 8 - Commission of further offences by probationers: *"(1) Where it appears to a Judge or any magistrate that a probationer has been convicted of an offence committed while the probation order was in force, he may, subject to subsection (2), issue a summons requiring the probationer to appear at the place and time specified therein or may issue a warrant for his arrest.* *(2) A magistrate shall not issue such a summons except on information and shall not issue such a warrant except on information in writing and on oath.* *…* *(4) Where a probationer is convicted by a magistrate of an offence committed while the probation order was in force, the magistrate may commit the probationer to custody or release him on bail, with or without sureties, until he can be brought or appear before the court by which the probation order was made.* *(5) Where it is proved to the satisfaction of the court by which the probation order was made that the probationer has been convicted of an offence while the probation order was in force, then-* *(a) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may convict him of that offence and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or* *(b) if the probationer was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence."*
Failure by probationer to comply with probation order	Section 9 – Failure by probationer to comply with the probation order: *"(1) If it appears to a judge or any magistrate that a probationer has failed to comply with any of the provisions of the probation order, he may issue a summons to the probationer requiring him to appear at the place and time*	Section 9 – Failure by probationer to comply with the probation order: *"(1) Where it appears to a Judge or any magistrate that a probationer has failed to comply with any of the provisions of the probation order, he may, subject to subsection (2), issue a summons to the probationer requiring him to appear at the place and time specified therein or may issue a warrant for his arrest.*

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	specified therein or may issue a warrant for his arrest: *Provided that a magistrate shall not issue such a summons except on information, and shall not issue such a warrant except on information in writing and on oath.* *…* *4(1) If it is proved to the satisfaction of the court by which the probation was made that the probationer has failed to comply with any of the provisions of the probation order, then-* *(a) without prejudice to the continuance in force of the probation order,* ***the court may impose on the probationer a fine not exceeding twenty dollars****; or* *(b)(i) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may convict him and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or* *(ii) if the probationer was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence:* *Provided that where a court has under the provisions of sub-paragraph (a) imposed a fine on the probationer, then, on any subsequent sentence being passed upon the probationer under the provisions of section 8 or of this section, the imposition of the said fine shall be taken into account in fixing the amount of the said sentence."*	*…* *(4) Where it is proved to the satisfaction of the court by which the probation order was made that the probationer has failed to comply with any of the provisions of the probation order, then-* *(a) without prejudice to the continuance in force of the probation order, the court may impose on the probationer a fine of forty-eight dollars; or* *(b) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may convict him and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or* *(c) if the probationer was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence.* *(5) Where a court has, under sub-paragraph (a) of subsection (4), imposed a fine on the probationer, then, on any subsequent sentence being passed upon the probationer under section 8 or this section, the imposition of the fine shall be taken into account in fixing the amount of that sentence."*
Sealing of Records	***(No provision within the Act for Sealing of Records pursuant to the proposed Section 15A)***	

Key Legislation

- The Dangerous Drugs Act, Chapter 11:25
- Administration of Justice (Electronic Monitoring) Act, 2012
- The Administration of Justice (Deoxyribonucleic Acid) Act No. 5 of 2012
- The Firearms Act, Chapter 16:01
- The Probation of Offenders Act, Chapter 13:51

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