

**PROBATION OFFICER PROTECTION ACT OF 2016**  
**ONE-PAGE SUMMARY**

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**Background:**

Under current law, a federal probation officer may arrest a probationer or individual on supervised release if the officer has probable cause to believe that the offender has violated a condition of his or her probation or release. *See* 18 U.S.C. § 3606. The officer may make the arrest with or without a warrant. *Id.*

In practice, formal arrests by probation officers are rare. Rather, probation officers use this authority to lawfully engage in less restrictive uses of force, such as ordering an offender to stand aside during a search; instructing an offender not to interfere with the officer's movements; or, in rare cases, temporarily restraining an offender who poses a physical danger.

Current law does not, however, address a probation officer's arrest authority in situations where a third party attempts to physically obstruct the officer or cause the officer physical harm. Although obstructing a probation officer in the performance of his or her official duties is illegal, when a probation officer encounters an uncooperative or violent third party, the officer may be forced to retreat because he or she lacks authority to restrain the third party. This lack of authority and resulting need to retreat exposes probation officers to greater risk of harm and allows the third party—along with any evidence or individual the third party is attempting to shield—to elude capture. As a result, evidence that an offender has violated a condition of his or her probation or supervised release, or evidence of other criminal activity, may be lost.

In some circumstances, a probation officer may be able to enlist the assistance of local police in responding to a hostile third party. But this is not, in and of itself, an adequate solution. First, unless the probation officer knows in advance that he or she is likely to encounter a hostile third party and can find an available police officer to accompany him or her, the probation officer must wait for police backup to arrive. This is often not a viable option. Second, even if a local police officer is available to accompany the probation officer, because the probation officer lacks arrest authority, he or she cannot lawfully assist the police officer if the police officer is accosted. Third, requiring federal probation officers to rely on local law enforcement in responding to uncooperative or violent third parties burdens local police departments and diverts police resources from other uses.

**Key Provisions:**

- Authorizes a probation officer to arrest a third party if there is probable cause to believe the third party has forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with the officer, or a fellow probation officer, while the officer was engaged in the performance of official duties.
  - *Note:* This language parallels 18 U.S.C. § 111, which makes it a crime to forcibly assault, resist, oppose, impede, intimidate, or interfere with an officer or employee of the United States while the officer or employee is engaged in the performance of official duties.
- Provides that such arrest authority shall be exercised in accordance with rules and regulations prescribed by the Administrative Office of the U.S. Courts.
- Does not give probation officers general arrest authority. Rather, authorizes arrest in the narrow circumstance where a third party forcibly interferes with a probation officer in the course of the officer's performance of his or her official duties. This limited arrest authority will protect officers, offenders, and third parties alike by preventing obstruction from escalating to actual violence, consistent with the rehabilitative mission of the federal probation system. State probation officers in many jurisdictions have similar third-party arrest authority.