

Defendant pleaded guilty to two counts of driving under the influence of alcohol, and admitted allegations that he had suffered prior drunk driving-related convictions. He was sentenced to more than three years in state prison. Pursuant to a plea agreement, the prison sentence was suspended and defendant was placed on three years of supervised probation under conditions that, among other things, he keep his probation officer “informed of place of [his] residence, cohabitants and *pets*, and give written notice to the probation officer twenty-four (24) hours prior to any changes.” In this proceeding, defendant challenges only the “pet-notification” condition.

When granting probation to a defendant, a trial judge has authority to impose any reasonable condition that is designed to accomplish justice and rehabilitate the probationer. When the Court of Appeal or the Supreme Court reviews the validity of probation conditions, it does so under an “abuse of discretion” standard — meaning, in essence, that the reviewing court will not find that the trial court erred unless there is no legal basis for the trial court’s decision. Under this deferential standard, a reviewing court generally will *uphold* a probation condition unless the condition (1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct that is not in itself criminal, *and* (3) requires or forbids conduct that is not reasonably related to future criminality. All three parts of this test must be satisfied before a reviewing court will invalidate a probation term.

All parties agree that the pet-notification condition has no relationship to driving under the influence of alcohol, and of course pet ownership is not itself criminal. Defendant contends, however, that the pet notification condition is not reasonably related to future criminality, that it improperly limits his ability to keep a pet, and that the condition is overbroad.

The trial court denied defendant’s request to eliminate the pet-notification condition. The Court of Appeal, with three justices hearing the case, affirmed that determination in a split decision. The Court of Appeal majority (two justices) held that the condition is reasonably related to deterring future criminality because it provides information that is useful for effective probation supervision. For example, a pet might threaten a probation officer’s safety during a probation visit, distract an officer attempting to conduct a probation search, or prevent the officer from entering a probationer’s residence in the first place. One Court of Appeal justice disagreed, concluding that the pet-notification condition should be limited to dogs and/or pets that pose a risk of injury to individuals entering the premises.

In addressing this dispute, the Supreme Court will resolve conflicts that have arisen concerning the same issue in other Court of Appeal cases.

