
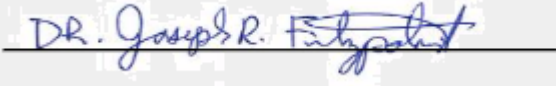


POLICY TITLE: VIOLATION OF PROBATION OR SUPERVISED RELEASE FOR SEX OFFENDERS		PAGE 1 OF 4
POLICY NUMBER: 9.16 - ACC		
CHAPTER 9: SUPERVISION AND CASE MANAGEMENT		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS See Section VII
	EFFECTIVE DATE: July 3, 2006	LATEST REVISION: February 1, 2018

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. Section 1403.

II. APPLICABILITY

Adult Community Corrections

III. POLICY

It is the policy of the Department of Corrections to manage violation behavior using a comprehensive set of responses applied in the least restrictive manner appropriate considering the seriousness of the violation behavior. Violation responses shall include a wide variety of sanctions imposed in a fair and consistent manner. Responses to violation behavior shall always incorporate evidence-based strategies, consider the various factors which impact offender behavior, and focus on long-term offender change.

The Department of Corrections is committed to making every effort to assist offenders in making their supervision successful. This policy sets forth the range of responses and the procedures to be used for managing violation behaviors.

IV. CONTENTS

- Procedure A: Responses to Violation Behavior
- Procedure B: Sanctions Imposed
- Procedure C: Responses to Persons Failing to Report and Absconders

V. ATTACHMENTS

- Attachment A: Graduated Sanctions Grid
- Attachment B: Sanction Agreement Form
- Attachment C: Violation Review Form

VI. PROCEDURES

Procedure A: Responses to Violation Behavior

1. The probation officer shall investigate all alleged violations of the conditions of supervision for an offender on probation or supervised release for sex offenders. The results of that investigation shall be documented in CORIS.
2. Responses available to address violations, including filing a motion to revoke, are included in the Graduated Sanctions Grid (Attachment A) and shall be utilized to respond to all violation behavior. When responding to violation behavior, the following shall be considered:
 - a. the risk of harm the offender presents to the community, a victim, other persons, or the offender;
 - b. the assessed criminogenic risk and needs of the offender;
 - c. the progress the offender has made or failed to make under the case plan;
 - d. the circumstances of the violation, including the offender's attitude and willingness to address the behavior;
 - e. the offender's criminal history and prior violations;
 - f. evidence of the offender's motivation to progress or succeed in supervision;
 - g. interventions or sanctions previously applied and the outcome; and
 - h. adherence to least restrictive principles.

Procedure B: Sanctions Imposed

1. The probation officer shall select sanctions by identifying the type of violation or "undesired behavior" from the grid and selecting a sanction from the appropriate sanction level.
2. For sanctions imposed other than summons or arrest, the probation officer shall develop, with the offender, an agreement using the Sanction Agreement Form (Attachment B) to address the undesired behavior.
3. The probation officer shall record each sanction imposed in the sanctions screen in CORIS. The probation officer shall record the offender's response to the sanction as a case note in CORIS.
4. Should the offender fail to comply with a Sanction Agreement, the probation officer shall reinitiate the sanctioning process, taking into consideration the prior failure to comply.
5. A Violation Review Form (Attachment C) shall be completed by the probation officer and shall be reviewed and approved by the Regional Correctional Administrator, or designee, if the following conditions exist:

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- a. the probation officer is recommending a sanction from a higher sanction level than that prescribed by the grid;
 - b. the probation officer becomes aware of newly charged criminal conduct and the probation officer does not intend to file a motion for revocation;
 - c. the probation officer intends to request the issuance of an arrest warrant;
 - d. the probation officer arrests an offender or authorizes a hold and a Violation Review Form has not previously been completed and reviewed in connection with a request for an arrest warrant; or
 - e. the probation officer intends to file a motion for revocation with a court. (If approved, the probation officer shall file the form with the court along with the motion for revocation and any other required documentation.)
6. Any time a Violation Review Form is required, it shall be submitted to the Regional Correctional Administrator, or designee, by the probation officer:
- a. prior to imposing a sanction from a higher sanction level than that prescribed by the grid;
 - b. within two (2) working days after the probation officer becomes aware of newly charged criminal conduct if the officer does not intend to file a motion for revocation with the court;
 - c. prior to requesting the issuance of an arrest warrant, except as set out in Procedure C.5. below;
 - d. within two (2) working days after the probation officer arrests an offender or authorizes a hold; or
 - e. before a motion for revocation is filed with the court.
7. If a hold order is issued by the probation officer for any reason, it shall take effect immediately. A motion for revocation related to a hold order, which motion must first be approved by the prosecuting attorney, shall be filed with the court within three (3) days excluding Saturdays, Sundays, and holidays.
8. If the probation officer initiates revocation proceedings, the initiation shall be in accordance with 17-A M.R.S.A. Sections 1205, 1205-B and 1205-C, as applicable.

Procedure C: Responses to Persons Failing to Report and Absconders

1. When an offender fails to report as directed or the probation officer receives other information indicating the offender may have absconded, the probation officer shall promptly take appropriate steps to determine whether the offender has absconded from supervision.
2. The probation officer shall use due diligence to contact and locate the offender and, if applicable, require him or her to resume reporting.

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3. If the probation officer cannot contact and locate the offender, the officer shall request a warrant for the offender's arrest no later than three (3) weeks following the missed report or receipt of information indicating that the offender may have absconded.
4. The probation officer shall take the following steps before requesting a warrant for the arrest of an offender who has failed to report or for whom the probation officer has received other information indicating the offender may have absconded:
 - a. conduct a home visit to the offender's last known residence. If no contact is made with the offender, a note shall be left instructing the offender to report no later than a specified date or a warrant of arrest will be requested; or
 - b. a letter shall be sent to the offender's last known mailing address instructing him or her to report no later than a specified date or a warrant of arrest will be requested.

Other contacts, such as to family, friends, and/or employers, shall also be made by the probation officer, when appropriate, in an effort to have the offender resume reporting.

5. If the probation officer has cause to believe that an offender who has failed to report presents a substantial risk of physical harm to self or to others or the probation officer has reliable information that an offender has absconded from supervision, the officer shall immediately request an arrest warrant.

VII. PROFESSIONAL STANDARDS

ACA:

- 4-APPFS-2B-02 All alleged violations of the conditions are investigated and the results are documented in the case record. Substantiated violations are reviewed by the supervisor or as indicated by agency policy.**
- 4-APPFS-2B-03 In accordance with law and with authorization of the court or releasing authority, agency policy dictates what types of violations must be reported to the court or releasing authority and what types may be resolved internally.**
- 4-APPFS-2B-04 Warrants for the arrest and detention of offenders are only requested upon adequate evidence of:**
- **Serious and/or repetitive violation of the conditions; or**
 - **Commission of a new offense; or**
 - **Risk to public safety posed by the offender's continued presence in the community.**
- 4-APPFS-2B-11 When violations occur, alternatives to revocation and incarceration are considered and used to the extent that public safety allows.**
- 4-APPFS-2B-12 When permitted by law, absconders who have committed no new crimes and who do not pose an undue public safety risk, may be continued under supervision in the community.**

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