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| Chapter: Parole | | | | |
| Subject: Interstate Compact Administration: Violations | | | | |

I. Authority

In accordance with 22 AAC 05.155, the Department will maintain a manual composed of policies and procedures established by the Commissioner to interpret and implement relevant sections of the Alaska Statutes and 22 AAC.

II. References

Alaska Statute

AS 33.36.110

Alaska Administrative Code

22 AAC 20.430 (a)(2)

Interstate Commission for Adult Offender Supervision

Rules for Interstate Compact for Adult Offender Supervision

III. Purpose

To establish uniform procedures within the Department for administrating violations of parole and probation for offenders supervised in Alaska under the Interstate Compact for Adult Offender Supervision.

IV. Application

All employees and offenders supervised under the Interstate Compact for Adult Supervision.

V. Policy

- A. The State of Alaska is a member of the Interstate Compact for Adult Offender Supervision and the rules promulgated by the Commission for Adult Offender Supervision shall be followed.
- B. Offenders supervised in Alaska under the Interstate Compact shall be supervised and arrested and remanded to custody for violating the terms of supervision in the same manner as Alaska offenders.
- C. All communications with other states regarding an Interstate Compact offender shall only be made by the Alaska Interstate Compact Administrator, Deputy Compact Administrator or designee.
- D. Offenders arrested and detained shall be afforded a probable cause hearing to determine if probable cause exists that the offender committed the alleged violation. Probable cause hearings for probationers shall be conducted as specified in this policy.
- E. Probable cause hearings for parolees shall be conducted by the Alaska Parole Board in accordance with 22 AAC 20.380 – 20.480(a)(2).

VI. Procedures

A. Violation Reports

- 1. An Offender Violation Report shall be prepared for each significant violation of interstate probation and parole. A significant violation is the failure to comply with the terms or conditions of supervision that would result in a request for revocation of supervision for an Alaska offender.
- 2. A violation report shall contain
 - a. offender's name and location

- b. offender's state-issued identifying numbers;
 - c. date of the offense or infraction that forms the basis of the violation;
 - d. description of the offense or infractions;
 - e. status and disposition, if any, of offense or infraction;
 - f. dates and descriptions of any previous violations;
 - g. recommendations of actions to be taken;
 - h. name and title of officer making report; and
 - i. if the offender has absconded, the offender's last known address and telephone number, name and address of the offender's employer, and the date of the offender's last personal contact with the supervising officer.
 3. The violation report shall be provided to the Interstate Compact Administrator or the designated deputy within five (5) working days of the violation. The Alaska Interstate Compact Office shall notify the sending state of a significant violation within 30 days by sending a copy of the violation report.
 - B. Arrest of Interstate Compact Violators
 1. A supervising officer may, without a warrant, arrest an offender on interstate supervision for a violation of the terms of interstate supervision if there is danger to the public, if there is a likelihood that the probationer will flee, or if the probationer committed a crime in the presence of the probation officer.
 2. If the interstate offender is arrested without a warrant, the supervising officer shall provide a written notice to the Interstate Compact Administrator immediately or on the next business day following the arrest. The Administrator or designated deputy shall notify the sending state.
 3. An interstate offender arrested for violating the terms of supervision is not entitled to bail.
 - C. Probable Cause Hearings
 1. The supervising officer shall provide the offender with notification of the probable cause hearing at least 72 hours before the hearing. The notification must include the alleged violations, the date, location, and time of the hearing.
 2. The waiver of probable cause hearings by an offender shall not be accepted unless the waiver includes an admission of violation of supervision, knowingly signed by the probationer unless such waivers are prohibited by the sending state.
 3. The probable cause hearing shall be conducted within fifteen (15) working days of arrest unless the offender knowingly and voluntarily waives part or all of the fifteen (15) working days (to be noted on the Sending State Warrant).
 4. The offender may be represented by counsel at the probable cause hearing.
 5. The offender may present evidence and call witnesses at the probable cause hearing. The offender must submit a written request to call witnesses 24 hours prior to the hearing. This request must identify the witnesses and state the substance of the witnesses' testimony.
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6. A hearing officer shall preside at probable cause hearings for interstate probationers and will decide on any matters in dispute at the hearing. The hearing officer may not be the officer who supervised the offender or have taken part in the decision to arrest or violate the offender.
 - a. The hearing officer shall determine the weight to be given to any evidence or testimony presented at a hearing.
 - b. The hearing officer shall be the trier of fact.
 - c. If the hearing officer determines that a witness might be subject to a risk of harm if the witness' identity is disclosed, the hearing officer may examine the witness outside the presence of the probationer and his or her attorney.
 - d. The hearing officer may continue the hearing to a future date if the hearing officer determines additional information is needed, or for other good cause.
7. The hearing officer shall determine if probable cause exists to believe that the offender committed the violation. If probable cause is found, the offender shall remain in custody pending disposition of the violation from the sending state.
8. The hearing officer shall complete an order following the completion of the hearing which will state the decision made by the hearing officer, the evidence considered at the hearing, and the reasons for the decision. The hearing officer shall ensure that the offender and probation officer are provided with a copy of the hearing decision order. The original copy of the order shall be forwarded to the Interstate Compact Office immediately or the next business day.
9. All probable cause hearings shall be electronically recorded. A tape or electronic recording of the hearing will be maintained for six months after the date of the hearing. The hearing tape or electronic recording may be erased upon the discharge of the parolee/probationer from the custody of the department. No transcript of the hearing shall be prepared by the Department. The original copy of the recording shall be forwarded to the Interstate Compact Office within three (3) working days.
10. A copy of the hearing tape or electronic recording shall be provided, upon written request, to an attorney representing the probationer involved in the hearing. A copy of the tape or electronic recording will be provided directly to the probationer if the probationer is not being represented by an attorney.

If the request for the tape or electronic recording of the hearing is made by an attorney that did not represent the probationer at the hearing, documentation must accompany the request indicated that the attorney has been appointed for or retained by the probationer. The department may charge a reasonable fee to cover the cost of the copying of the recording.
11. The failure or malfunction of the electronic recording equipment at a hearing, or the loss of a tape or electronic recording, does not invalidate the proceeding or any action taken at the hearing. The damage or destruction of an electronic recording of a hearing while being copied does not invalidate the proceeding or any action taken at the hearing.

VIII. Implementation

This policy and procedure is effective as of the date signed by the Commissioner. Each Manager shall incorporate the directions outlined in this document into local policy and procedure. All local policies and procedures must conform to these directions.

June 13, 2011

Date



Joseph D. Schmidt, Commissioner
Department of Corrections

Applicable Forms to this Policy:

915.03 Interstate Compact Return of Service Technical and Non-Technical Violations