



**PROBATION AND PAROLE BUREAU
STANDARD OPERATING PROCEDURES**

Procedure No.: P&P 140-5	Subject: INTERVENTION HEARINGS
Chapter 140: STATE (ADMINISTRATIVE) HEARINGS AND SANCTIONS	Page 1 of 8
Signature: /s/ Ron Alsbury	Revision Date: 10/31/01; 06/17/02; 09/10/02; 01/13/03; 03/01/05; 8/01/05; 02/15/06; 10/27/06; 02/02/07; 08/20/07 Effective Date: 09/24/01

I. BUREAU DIRECTIVE: Probation & Parole Bureau employees will follow established procedures for conducting Intervention Hearings to determine if an offender is not complying with Probation, Parole, Conditional Release, or ISP conditions, including inmates on ISP, and develop a strategy for achieving compliance.

II. AUTHORITY:

- 46-23-1002, M.C.A. *Powers of the department*
- 46-23-1004, M.C.A. *Duties of department*
- 46-23-1011, M.C.A. *Supervision on Probation*
- 46-23-1012, M.C.A. *Arrest when violation of probation-probation compliance plan-probation violator intervention*
- 46-23-1015, M.C.A. *Informal Probation Violation Intervention Hearing*
- 46-23-1021, M.C.A. *Supervision on Parole*
- 46-23-1023, M.C.A. *Arrest of alleged parole violator*
- 53-1-203, M.C.A. *Powers and Duties of the Department of Corrections*

III. DEFINITIONS:

Intervention Hearing means an informal administrative hearing performed by Regional Administrator or PO II at the request of a Probation & Parole Officer.

Hearings Officer means Regional Administrator or PO II employed by Department of Corrections.

Intermediate Sanction means a consequence for violation of Probation and Parole agreement not including return to court or prison.

Jail Sanctions means the ability of an Officer to use a detention center for offender confinement, for 30 days or less, when an offender has violated the terms of their supervision.

Alternative Sanctions means a range of offender penalties that can be utilized by an Officer when an offender has violated the terms of their supervision. The penalties are less severe than imprisonment.

Graduated Sanctions means offender penalties that can be utilized by an Officer when an offender has violated the terms of their supervision. The penalties increase in degree of severity and are between imprisonment and probation.

Zero Tolerance means the Bureau will vigorously pursue and eliminate [offender violations][illegal drug use] through urinalysis, observation, searches, investigation, treatment and other means of intervention.

Procedure No.: P&P 140-5	Chapter: State (Administrative) Hearings and Sanctions	Page 2 of 8
Subject: INTERVENTION HEARINGS		

IV. PROCEDURES:

A. Staffing Offender's Case

The Probation & Parole Officer will consult with the Regional Administrator or PO II prior to writing all reports of violation. The Regional Administrator/POII will determine if an Intervention Hearing is acceptable in lieu of an On-site Hearing for parolees or interstate offenders, a probation revocation for probationers, or an Adult Discipline Hearing for offenders on ISP DOC Inmate status or conditional release status.

B. Appropriate Offenses

Examples of offenses that may be appropriate for intervention hearings and subsequent, immediate, intermediate sanctions include, but are not limited to:

- minor driving offenses
- Fish & Game violations
- use of alcohol and drugs
- failing to report
- failing to attend treatment
- possession of a scanner
- presence of guard dogs
- use of surveillance cameras
- travel permit violations
- changing residence without permission
- changes in employment
- financial issues – failure to pay or remain current on fines, restitution and/or supervision fees
- association with known probationers, parolees, prison inmates or persons in custody of a law enforcement agency without the P&P Officers permission
- possession of contraband (alcohol, drug paraphernalia, etc.)
- failure to complete community service hours
- other technical violations
- Class III-Minor Infractions

The Intervention Hearing will provide the offender written notice of non-compliance and the opportunity to address those issues with the Probation and Parole Bureau without a revocation of their status. Intervention Hearings are an alternative and are a lesser sanction than a Probation or Parole revocation, while still holding the offender accountable. Intervention Hearings shall be used to develop a strategy for achieving compliance of Parole, Probation, Conditional Release, or ISP.

C. Jail Sanctioning Guidelines

1. **Goals of Sanctioning**

The Probation and Parole Bureau has the ability to use and enforce various types of sanctions on offenders who have violated the terms of their supervision, up to and including jail sanctions of 30 days or less. To assure these sanctions are employed consistently and effectively, the goals of sanctioning must be understood and recognized.

Procedure No.: P&P 140-5	Chapter: State (Administrative) Hearings and Sanctions	Page 3 of 8
Subject: INTERVENTION HEARINGS		

The goals of the Officer's response to violations and revocations are:

- a. to deter violations and revocations, both for technical violations and for new crimes by administering immediate sanctions, meaningful sanctions, which holds the offender accountable.
- b. to reduce the number of offenders entering the prison from probation violations, parole violations, conditional release violations, or ISP violations by providing immediate & meaningful sanctions;
- c. to provide consistent, equitable sanctions which are proportional to seriousness of violation and offender's history;
- d. to provide for public safety;
- e. to effectively address victims and their concerns;
- f. to provide for an opportunity for assessment, programming, counseling, treatment for offenders;
- g. to measure whether jail sanctioning will be effective;
- h. to use graduated sanctioning when appropriate;
- i. to reduce the backlog of the court's calendar and the backlog of the Board of Pardons & Parole calendar by addressing Probation & Parole violations without a formal revocation;
- j. to provide consistency among hearing officers and Probation & Parole Officers in their response to violations;
- k. to assess each violation and respond appropriately;
- l. to provide an array of responses available to officers and hearing officers;
- m. to preserve the integrity of community and improve the credibility of Probation & Parole with communities and other Criminal Justice officials.
- n. to electronically enter all necessary data and collect pertinent information relative to the effectiveness of this sanctioning procedure; measuring outcomes will be required

2. Procedural Guidelines:

National research indicates that three days in jail is optimum for violations. However, the law provides that an offender could be ordered to jail for 30 days.

- a. Probation & Parole Officers will alert offenders they are supervising to new procedure of jail sanctions.
- b. Hearing Officers will implement jail sanctions consistently and will order the offender to pay jail costs whenever possible.
- c. To implement jail sanctions, an Intervention Hearing, On-Site Hearing, or a Disciplinary Hearing (for those offenders on ISP as inmates) will be held.
- d. On probationers who are sanctioned to jail by a Hearing Officer, the sentencing court may be alerted via a short progress and conduct report with copies to the county attorney and the defense attorney, when appropriate.
- e. If a probationer is arrested prior to the hearing, the probationer shall be given credit for time served.
- f. Various jail sanctions can be used, including weekends in jail or days that the offender is not working. The offender should be ordered to pay for jail costs.

Subject: **INTERVENTION HEARINGS**

- g. Jail sanctions will be considered for absconders.
- 3. Implementation of Probation Violator Intervention:**
- a. All Officers may orally authorize the arrest of a probationer so long as the Officer delivers a written statement to the place of the probationer's detention within 12 hours of the arrest.
 - b. As stipulated in the probation compliance plan – probation violator intervention per 46-23-1012, (3), MCA
 - 1) A Probation and Parole Officer may authorize a detention center to hold a probationer arrested under this section without bail for 72 hours. Within 72 hours following the probationer's detention, the Probation and Parole Officer shall:
 - a) authorize the detention center to release the probationer;
 - b) hold an intervention hearing; or
 - c) arrange for the probationer to appear before a magistrate to set bail.
 - 2) If the probationer is detained and bond is set, the Probation and Parole Officer shall file a report of violation within 10 days of the arrest of the probationer.
 - 3) After the Probation and Parole Officer files a report of violation, the court may proceed with revocation of probation in the manner provided in 46-18-203, MCA.
- 4. Implementation of Informal probation violation intervention hearing-Jail Sanction:**
- a. A Probation and Parole Officer who reasonably believes that a probationer has violated a condition of probation may initiate an informal probation violation intervention hearing to gain the probationer's compliance with the conditions of probation without a formal revocation hearing under 46-18-203, MCA.
 - b. A Hearings Officer designated by the Department shall conduct the intervention hearing.
 - c. If the Hearings Officer determines by a preponderance of the evidence that the probationer has violated a condition of probation, the Hearings Officer may order the probationer to serve up to 30 days in a county detention center, with credit for time served since the time of arrest, and order the probationer to pay the costs of incarceration. The Department shall pay the incarceration costs not paid by the probationer.
 - d. The offender **ONLY** has the following rights in this process:
 - 1) The offender must have NOTICE that he/she is going to have a hearing. The Notice, which is currently given offenders for an intervention hearing is adequate for this Notice. If the offender is incarcerated without bail, the notice will necessarily be rather short. If, however, the offender is released from jail, the offender **MUST** be given notice when he is released of when and where the hearing will be conducted. The Officer should attempt to give the offender 48 hours notice. Less time is sufficient if 48 hours notice is not possible.

Procedure No.: P&P 140-5	Chapter: State (Administrative) Hearings and Sanctions	Page 5 of 8
Subject: INTERVENTION HEARINGS		

- 2) The offender has the right to be personally present at the hearing to explain their version of events.
- 3) If the Hearing Officer determines the offender has violated probation, the offender has the right to receive a written explanation of the Hearing Officer's decision, sanction imposed, and the reasons for the sanction using *P&P 140-5 (C) Probation Violator Diversion Program Report*.

This will also suffice for Notice to the sentencing judge that the DOC held a hearing with the offender and imposed a sanction or sanctions.

- e. The Probation and Parole Officer **MUST** record that an offender had a hearing. The results from the hearing, and the sanction imposed. *P&P 140-5 (C) Probation Violator Diversion Program Report* will be emailed or faxed to Central Office, P&P Administrative Support for data collection.
- f. Probation and Parole Officers may use this program for any person currently on probation. Officers will inform their offenders when they report that there is statutory authority to impose a sanction of up to 30 days in jail for a violation of probation.
- g. If an offender is violated or is sanctioned, a report may be submitted to the court. This may or may not be a Report of Violation.

5. Reporting

The Bureau will analyze collected data and determine the effectiveness of new procedure on violations and revocations, which includes jail sanctions.

- a. Probation and Parole Officers will send all required data for the jail sanction database to Central Office Administrative Support.
- b. Computerized reports of specific data collected may be required for submission on a scheduled basis.

PROCEDURE:

A. PRE-HEARING

1. Staff offender's case with RA or POII.
2. Schedule time and place for Intervention Hearing
3. Prepares and mails or personally serves offender *P&P 140-5 (A) Summons To Be Present At An Intervention Hearing*, which includes the notice of hearing (*date, time and place of hearing*), issues of non-compliance and possible consequences.

B. HEARING

1. Information and evidence relative to the alleged violation(s) and case problems are orally presented to the Hearings Officer.

RESPONSIBILITY:

P&P Officer

P&P Officer/Hearing Officer

P&P Officer

P&P Officer

Subject: **INTERVENTION HEARINGS**

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| 2. Offender is afforded an opportunity to speak on their behalf. Witnesses may also be allowed to speak. | Hearings Officer |
| 3. Offender is requested to admit or deny alleged violations. | Hearings Officer |
| 4. Provides oral decision of his/her findings at the conclusion of the hearing, which may include formal Revocation or intermediate sanctions. | Hearings Officer |

C. DISPOSITION

If an offender admits to the allegation(s) or is found to be in violation of his/her probation, parole or ISP conditions, the following procedure is to be followed: (See *P&P 140-1 (J) Hearing Sanction Options* for a quick reference of what options exist for sanctions through an intervention hearing.)

Hearings Officer

1. “Intermediate Sanctions” are to be considered in lieu of a formal revocation, if offender agrees to accept responsibility and is willing to follow conditions.

Hearings Officer/P&P Officer
Offender**POSSIBLE INTERMEDIATE SANCTIONS:**

1. Verbal Warning
2. Contract for treatment
3. Increased Supervision
4. Jail sanction of up to 30 days at own expense (See P&P 140-3) (The Hearings Officer needs to be specific on start and end dates of this sanction in the *Intervention Hearing Agreement*.) Hearings officer also needs to make sure that all hearings documents are forwarded to the facility monitoring the sanction.)
 - a) MASC Sanctioning Component
 - b) Passages ASC Sanctioning Component
 - c) Prerelease Sanctioning Component
 - d) START Program Sanctioning Component
 - e) TSCTC Sanctioning Component
5. Community Service
6. Electronic Monitoring
7. Increased UA testing
8. Referral to “Relapse Group”
9. Assignment to different P&P Officer
10. Recommendation to BOPP - District Court – CCD Administrator for modification of court order/parole conditions

Subject: **INTERVENTION HEARINGS**

11. Curfew
 12. Daily/Weekly Reporting
Recommend Chemical Dependency evaluation and follow all recommendations of said evaluation
 13. ISP Sanction Program (See P&P 140-3) – *P&P 140-3 (A) ISP Sanction Program Contract* will need to be completed
 14. Referral to Day Reporting, where available (see P&P 140-3)
 15. Referral to Enhanced Supervision Program, where available (See P&P 140-3). *P&P 140-3 (C) ESP Referral Form* will need to be completed to identify the services to be provided by the prerelease.
 16. Referral to CCP (males)/Passages ADT (females) for placement in a sanction bed (**parole and conditional release offenders**). *(There is no need to contact the BOPP for approval to place a parole offender into the CCP sanction beds from an intervention hearing. It is not necessary to formally revoke a parole offender to place in the CCP/Passages ADT program from an intervention hearing.)* (See P&P 140-3)
 17. Referral to Montana Chemical Dependency Center (MCDC) Probation Intervention Project for chemical dependency treatment (See P&P 140-3). This option is only available for **probation** offenders. *P&P 140-3 (G) MCDC Probation Intervention Project Referral Form* will need to be completed. See P&P 140-3 for procedures for referral and placement to this program.
 18. Referral to TSCTC Sanction Program. See P&P 140-3 for procedures for referral and placement to this program.
 19. Return appearance in one month to review compliance with *Intervention Hearing Agreement*.
 20. Establish payment schedule for supervision fees/restitution
 21. Referral to other Department sanctioned programs
2. Develops *P&P 140-5 (B) Intervention Hearing Agreement* that lists all sanctions set forth. P&P Officer/Hearings Officer
 3. The *Intervention Hearing Agreement* is signed and a copy is provided to offender. Offender/P&P Officer
Hearings Officer

Subject: **INTERVENTION HEARINGS**

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| 4. If jail sanctions were imposed, fills out <i>P&P 140-5 (C) Probation Violator Diversion Program Report</i> and forwards to the appropriate parties indicated on the form. | Hearings Officer |
| 5. Copy of the <i>Intervention Hearing Agreement</i> is placed in offender's file. | P&P Officer |

If the Regional Administrator/Hearings Officer believes special conditions of probation, parole, conditional release, or ISP need to be amended, he/she must get approval from District Court Judge (for probationers), BOPP (for Parolees), or the CCD Administrator (for conditional release offenders), respectively.

- V. **CLOSING:** Questions concerning this procedure shall be directed to the Regional Administrator or Probation and Parole Bureau Chief.

Forms

P&P 140-1 (J)	Hearing Sanction Options
P&P 140-3 (A)	ISP Sanction Program Contract
P&P 140-3 (C)	ESP Referral Form
P&P 140-3 (G)	MCDC Probation Intervention Project Referral Form
P&P 140-5 (A)	Summons to be present at an Intervention Hearing
P&P 140-5 (B)	Intervention Hearing Agreement
P&P 140-5 (C)	Probation Violator Diversion Program Report