



**DEPARTMENT OF CORRECTIONS  
PROBATION AND PAROLE DIVISION  
OPERATIONAL PROCEDURE**

Procedure:	<b>PPD 6.4.203 YOUTH PAROLE REVOCATION/WAIVER</b>
Effective Date:	02/20/2018 <span style="float: right;">Page 1 of 6</span>
Revision Date(s):	08/23/2018
Reference(s):	52-5-129, MCA; 20.9.302 ARM; 20.9.315 ARM; Applicable ACA Standards: 2-7154, 2-7158
Signature / Title:	/s/ Kevin Olson, Probation and Parole Division Administrator

**I. PURPOSE:**

Parole Officers will investigate alleged parole violations and proceed with a revocation process to return youth to the youth correctional facility from which they were released whenever parole violations are of a serious and/or chronic nature. Community protection, accountability, and competency development will be considered during the revocation process.

**II. DEFINITIONS:**

**Hearings Officer** – A Probation & Parole Officer II (POII) employed by Department of Corrections who has not been directly involved in the case of the youth for whom the hearing is held and whom is not the direct supervisor for the parole officer who is bringing the alleged parole violations to hearing.

**PPD-Probation and Parole Division** – The Division oversees the Probation & Parole regional offices, interstate transfers, and the facilities providing assessments and sanctions, prerelease, and treatment services.

**Youth Parole Violation Report** – A report written by a parole officer and completed prior to an on-site hearing or the signing of a waiver on every youth who is recommended for return to a youth correctional facility.

**Revocation** – The process by which a youth is returned to the youth correctional facility in which he/she was released due to serious and/or chronic parole violations.

**Youth Parole Agreement** – A document outlining conditions of parole and signed by a youth prior to release from a correctional facility or secure-care facility contracted with the state of Montana.

**III. PROCEDURES:**

**A. PAROLE VIOLATIONS:**

1. Alleged violations are investigated to determine if there is sufficient evidence to pursue revocation (see *PPD 6.4.201 Youth Parole Violation Investigation*). The PO may review the allegations and case history with his/her immediate supervisor to determine if there is sufficient cause to pursue a revocation or to have an intervention (see *PPD 6.3.103 Youth Interventions*).
2. Determine if detention criteria are met and detain youth if appropriate (see *PPD 6.4.101 Youth Detention*).

Subject: YOUTH PAROLE VIOLATION/WAIVER

3. The county attorney's office and juvenile probation office should be notified in any of the following circumstances with youth who have allegedly violated their parole:
  - a. Youth who are alleged to have committed:
    - 1) a violent offense;
    - 2) an offense involving significant property damage or loss where restitution may be appropriate;
    - 3) an alleged high-profile offense that has received significant media or public attention:
      - a) an alleged offense that for any reason may result in the county attorney's office prosecuting this as a new delinquent offense;
      - b) a transferable offense according to §41-5-206, MCA, and the youth falls within the age requirements of this statute;
      - c) significant parole violations when the youth has previously been sentenced in both youth court and district court or is under an extended jurisdiction prosecution.
  - b. The county attorney's office will decide whether a new petition will be filed alleging a new delinquent offense in youth court; information will be filed in district court; or, whether the county attorney's office will not take any action. It will also decide whether to detain the youth for prosecution.
    - 1) If the county attorney's office/juvenile probation office authorizes the detention of the youth and intends to prosecute the youth for a new delinquent offense, detention costs become the responsibility of the county attorney/juvenile probation.
    - 2) The PO will maintain ongoing contact with these agencies throughout prosecution.
    - 3) *PPD 6.4.101(A) Certificate to Detain Youth* should remain active in case there is bond set by the youth court or the county attorney's office determines that a DOC on-site hearings process is the best temporary plan.
    - 4) In the event of a new adjudication/disposition in youth court or a conviction/sentencing in district court, PO will obtain the new court order and consult with the supervisor or designee regarding further actions to take and whether continuing parole supervision is appropriate.
4. If there are sufficient violations warranting a revocation, prepare *PPD 6.4.203(A) Youth Parole Violation Notice* as follows:
  - a. Specifically list the parole condition number (from the juvenile parole agreement) that the youth has violated and the date the violation occurred. If the alleged violation would be a criminal offense if the youth were an adult, list the Montana Code Annotated (MCA) code for this offense. **Example: “#9, Laws and Conduct: On January 1, 2001, you committed Theft (F) by taking a motor vehicle belonging to John Smith and depriving the owner of this property.”**
  - b. List the parole condition, felony/misdemeanor/technical designation, and MCA code reference on this form for every violation listed.
  - c. Specifically list each parole violation according to the violations listed in MCA:
    - 1) felony = (F);
    - 2) misdemeanor = (M); or
    - 3) technical = (T):
      - a) Technical violations are all violations that are not listed in MCA because they are not crimes.
      - b) Traffic offenses (except DUIs), city ordinance violations, status offenses, and other violations that are not considered misdemeanors will be listed as technical violations.
  - d. Specifically list the basic facts that define the behavior as a parole violation.
  - e. List all physical/circumstantial evidence that could be introduced at the on-site hearing.
  - f. List all witnesses that could be called to testify at the hearing, including the PO.

Subject: YOUTH PAROLE VIOLATION/WAIVER

- g. When alleging a youth has committed “Criminal Possession of Dangerous Drugs” due to physical possession of or having a positive urinalysis test for marijuana, all offenses will be listed as misdemeanors.
  - h. All other drugs listed in §45-9-102, MCA, definitions in §50-32-101, MCA, and specific drug schedules listed in §50-32-202, §50-32-222, §50-32-224, §50-32-226, §50-32-229, and §50-32-232, MCA, are listed as felony offenses.
  - i. Alleged parole violations that were previously listed on an *PPD 6.3.103(A) Youth Intervention Agreement* can also be listed on *PPD 6.4.203(A) Youth Parole Violation Notice* due to the intervention agreement being a voluntarily agreement with the youth and his/her parent/guardian.
5. Serve *PPD 6.4.203(A) Youth Parole Violation Notice* to the youth as soon as possible, preferably within one (1) working day of detainment.
    - a. The youth must initial each on-site hearing legal right listed on the form. The PO will help the youth understand the rights as listed. This must be done in an impartial way. The PO will **not** make any commitment regarding future placements or length of stay to the youth or the attorney in exchange for the youth waiving his/her right to a hearing.
    - b. The youth and PO sign the bottom part of the form.
    - c. The youth is given a copy of the form.
  6. Ask the youth whether he/she intends to have a hearing or waive the right to a hearing.
  7. The PO will assist the youth in securing an attorney to represent the youth.
    - a. If the youth or parent/guardian/custodian/representative choose to hire their own attorney, this must be done within 48 hours.
    - b. If a youth has failed to retain counsel, or if the family cannot afford to hire an attorney, the Hearings Officer shall appoint an attorney to represent the youth. This attorney can be from a previous youth court proceeding, a public defender, or another attorney knowledgeable about youth matters.
    - c. In response to this appointment, the Hearings Officer or PO will contact the youth’s attorney.
      - 1) payment for attorneys will be at the established rate for the first hour (\$100) and prorated for all time exceeding one hour;
      - 2) the state’s current per diem rate for mileage will be paid for attorneys traveling out of town; and
      - 3) the hourly rate for travel time is \$50 per hour.
  8. **If the youth is requesting a hearing, stop here and follow procedures of *PPD 6.4.204 Youth On-Site Hearings*.**

## **B. WAIVER:**

1. Prior to the attorney meeting with the youth, the PO provides the attorney, parent/guardian/custodian/representative, and Hearings Officer with:
  - a. *PPD 6.4.203(A) Youth Parole Violation Notice*;
  - b. *PPD 6.4.203(B) Youth Waiver of Right to a Hearing*;
  - c. *YSD 6.1.208(F) Youth Parole Agreement*;
  - d. court order;
  - e. law enforcement reports;
  - f. *PPD 6.4.202(A) Youth Parole Violation Report*;
  - g. the most recent Case Plan/Progress Review;

Subject: YOUTH PAROLE VIOLATION/WAIVER

- h. any treatment-related correspondence, reports, or discharge summaries; and
  - i. other relevant reports and evidence.
2. The PO confirms the time for the youth's attorney to meet privately with the youth. The signed *PPD 6.4.203(B) Youth Waiver of the Right to a Hearing* form is returned to the PO following this meeting.
3. The PO signs the *Youth Waiver* form and submits it to the hearings officer.
4. When a youth and attorney sign *PPD 6.4.203(B) Youth Waiver of Right to a Hearing*, the youth is admitting to all alleged parole violations. Should the youth make any written statement on the *Waiver* that denies any of the allegations or admits only to violating technical parole conditions, the PO should advise the Hearings Officer whether the specific allegations in question will be dismissed or whether a hearing is required.
  - a. If the PO dismisses an alleged violation,
    - 1) the PO will strike out the alleged violations on *PPD 6.4.203(A) Youth Parole Violation Notice*;
    - 2) the PO, youth, and the youth's attorney initial the strike outs;
    - 3) the Hearings Officer will not consider the alleged violations that have been struck out;
    - 4) the youth correctional facility will use only the admitted violations in determining the youth's length of stay at the facility.
  - b. If the PO wants to proceed with the alleged violations in question, the PO will request an on-site hearing.
5. If a youth meets with his attorney and decides to have a hearing instead of signing a *Waiver*, the Hearings Officer will schedule an on-site hearing no sooner than 24 hours from this time.
6. The Hearings Officer may not base a decision to revoke a youth's parole based solely on the youth's waiver but must review the facts of the case and other evidence to independently conclude whether a revocation is appropriate.
7. The Hearings Officer is empowered to revoke a youth's parole and return the youth to a youth correctional facility or to have the department pursue a different plan for custody and supervision of the youth. The process for community placements is guided by *YSD 6.2.101 Youth Placements*.
8. When the decision is to not return the youth to the youth correctional facility, the PO will meet with the youth, youth's attorney, parent/guardian/custodian/representative, and Hearings Officer. *PPD 6.4.203(C) Youth On-Site Agreement*, is used to list specific conditions for the youth to follow in lieu of revocation.

### C. REVOCATION:

1. When the Hearings Officer decides to return a youth to the youth correctional facility from which he/she was previously released, *PPD 6.4.203(D) Youth Order of Revocation* is completed.
  - a. The violations listed on the *Order* are only those that are admitted by the youth.
  - b. Primarily, the specific violations, dates, and MCA codes [with the designation of felony (F), misdemeanor (M), or technical (T)] are listed. **Example: “#9, Laws and Conduct: January 29, 2013, Theft (F), 45-6-301 MCA, by obtaining or exerting unauthorized control over property (a Nissan Altima) valued at \$2,000.”**
  - c. The violations listed on this form **only** are used to determine the length of stay at the youth correctional facility.

Subject: YOUTH PAROLE VIOLATION/WAIVER

2. When the PO is notified of the Hearings Officer's decision to return the youth to a youth correctional facility, the PO will contact a transportation officer to arrange for the youth's return:
  - a. travel plans will be made as soon as possible following the Hearings Officer's decision;
  - b. verbal notification to a youth correctional facility will be made prior to transporting the youth; and
  - c. female youth returning to the 5 County Youth Treatment and Rehabilitation Center (5Cs), collaboration must occur with the Youth Case Plan System Specialist to ensure the facility is prepared to receive the youth.
3. After signing *PPD 6.4.203(D) Youth Order of Revocation*, the Hearings Officer scans/emails or faxes *Order* to the PO and the following persons:
  - a. For female youth returning to secure care at 5Cs:
    - 1) Youth Case Plan System Specialist at the DOC Central Office;
    - 2) YCC Transportation Officer; and
    - 3) YCC Program Manager.
  - b. For male youth returning to Pine Hills Correctional Facility, scan/email to [CORPHCFYouthRev@mt.gov](mailto:CORPHCFYouthRev@mt.gov).
4. The Hearings Officer uploads *PPD 6.4.203(D) Youth Order of Revocation* into the Youth Management System (YMS).
5. The Hearings Officer sends the following documents to the youth's attorney and parent/guardian/custodian/representative:
  - a. *PPD 6.4.203(E) Youth Waiver Review*;
  - b. *PPD 6.4.203(B) Youth Waiver of the Right to a Hearing*; and
  - c. *PPD 6.4.203(D) Youth Order of Revocation*.
6. The Hearings Officer will upload the following documents into YMS entitled "Revocation Packet" under "Revocation Documents" within three (3) working days after *PPD 6.4.203(D) Youth Order of Revocation* has been signed:
  - a. *PPD 6.4.203(A) Youth Parole Violation Notice*;
  - b. *PPD 6.4.203(B) Youth Waiver of the Right to a Hearing*;
  - c. *PPD 6.4.202(A) Youth Parole Violation Report*;
  - d. law enforcement reports;
  - e. other relevant reports and evidence;
  - f. any treatment-related correspondence, reports, or discharge summaries; and
  - g. *PPD 6.4.203(E) Youth Waiver Review*.
7. The Hearings Officer enters *Youth Order of Revocation* information in the hearings screen in YMS within three (3) working days in accordance with *YSD 1.5.5 Youth Management System (YMS)*.

#### IV. CLOSING:

Questions concerning this procedure should be directed to the immediate supervisor.

#### V. FORMS:

- PPD 6.4.203 (A) Youth Parole Violation Notice
- PPD 6.4.203 (B) Youth Waiver of Right to a Hearing
- PPD 6.4.203 (C) Youth On-Site Agreement
- PPD 6.4.203 (D) Youth Order of Revocation

Subject: YOUTH PAROLE VIOLATION/WAIVER

PPD 6.4.203 (E) Youth Waiver Review

PPD 6.4.203 (F) Montana Placement Guideline