



**PROBATION AND PAROLE BUREAU
STANDARD OPERATING PROCEDURES**

Procedure No.: P&P 100-1	Subject: REPORT OF VIOLATION ON PROBATIONERS AND PAROLEES	
Reference: 46-18-203, MCA; 46-18-225, MCA; 46-23-1012, MCA; 46-23-1023, MCA; 46-23-1024, MCA; 46-23-1025, MCA; 20.25.801, ARM; 37.78.206, ARM	Page 1 of 6	
Effective Date: 07/30/01	Revision Dates: 11/15/01; 06/17/02; 01/13/03; 03/06/04; 03/01/05; 08/01/05; 08/20/07; 03/14/14; 08/19/14	
Signature / Title: /s/ Ron Alsbury, Probation & Parole Bureau Chief		

I. BUREAU DIRECTIVE:

Probation & Parole Bureau employees will follow established procedures when preparing a Report of Violation to submit to the District Court for probationers or the Board of Pardons and Parole for parolees.

II. DEFINITIONS:

Central Office – The Department’s office located in Helena.

Department – The Montana Department of Corrections.

OMIS-Offender Management Information System – The Department’s electronic data collection and reporting system.

III. PROCEDURES:

Upon the filing of a petition for revocation of a suspended or deferred sentence showing probable cause an offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of parole imposed pursuant to §45-5-310, §45-5-311, §45-5-503(4), §45-5-507(5), §45-5-601(3), §45-5-602(3), §45-5-603(2)(b), or §45-5-625(4), the judge may issue an order for a revocation hearing.

A. *P&P 100-1(A) Report of Violation (ROV)* may only be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral, but not after the period has expired.

1. Prior to filing an ROV on an offender’s suspended or deferred sentence before that sentence has begun, the supervising Probation & Parole Officer (Officer) will staff the offender’s case with the Probation & Parolee Officer II (POII) or Regional Administrator (RA), and the County Attorney if appropriate.
2. Expiration of the period of suspension or deferral after the ROV has been filed, does not deprive the court of jurisdiction to rule on the ROV; however, the Department no longer has the authority to supervise the offender once his/her sentence expires. Therefore, the supervising Officer will make the following OMIS entries if an offender’s period of suspension or deferral expires while an ROV is pending:

- a. Correctional Status: Released
 - b. Change Reason: Past Sentence Expiration – Court Action Pending
 - c. Location (end date)
 - d. Officer (end date)
3. If ROV is dismissed, Officer will make the following OMIS entries:
- a. Correctional Status: remains “Released”
 - b. Request sent to COR Service Desk to change Status Reason to: “Sentence Expiration”
 - c. Complete termination process
4. If offender is revoked, he/she will be reassigned to Probation, Alt-Secure or Secure as appropriate. OMIS entries are as follows:
- a. Correctional Status
 - i. Revoked – Deferred Sentence
 - ii. Revoked – Suspended Sentence
 - iii. Revoked – Deferred and Suspended
 - b. Assign Officer if needed
 - c. Assign Location
 - d. Update all applicable OMIS Profile categories for offender
- B. For parole offenders being supervised in another state, the Montana Adult Interstate Bureau (Interstate) will complete a *Notice of Violation* and an *Interstate Offender Violation Report (OVR)* and forward them to the Board of Pardons and Parole (BOPP). In cases where a parole offender absconds and commits further violations after the initial OVR is completed, Interstate will file an addendum to the report indicating such violations (see *P&P 130-2 Report of Violation for Montana Offenders Supervised in Other State*).

C. PROCEDURES:	RESPONSIBILITY:
1. Officer will conduct investigation to determine circumstances when violations of conditions of probation or parole are suspected.	P&P Officer
2. If there is reason to believe the alleged violation(s) has occurred, Officer will carefully review and discuss issues with immediate supervisor or RA prior to submitting <i>P&P 100-1(A) Report of Violation</i> to determine if there are alternatives to revocation and incarceration, such as an intervention hearing and appropriate sanctions.	P&P Officer POII/RA
a. Officer makes chronological entry regarding discussion and includes results of discussion.	P&P Officer
b. If a probationer is detained and bond is set and the ROV is deemed necessary, it must be filed with the court within ten (10) days of the offender’s arrest.	P&P Officer
3. If ROV is deemed necessary, <i>Report</i> should be completed on white paper:	P&P Officer
a. If offender is on a traditional Intensive Supervision Program (ISP), the supervising ISP Officer is responsible for completing the ROV.	ISP Officer

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- b. If offender is on ISP as a sanction, the original supervising Officer will complete the ROV. Supervising P&P Officer
- c. If an offender fails to report to the supervising Officer when discharged from prison to his/her suspended sentence, on furlough, or on parole, the supervising Officer is responsible for completing the ROV. Supervising P&P Officer
- 4. Supervisor/RA will review ROV completed by probationary employees, or permanent employees new to the position, prior to distribution. POII/RA
- 5. The jurisdiction where the ROV was initiated will be responsible to complete all paperwork associated with the revocation procedures. P&P Officer
- 6. Because most law enforcement records are confidential criminal justice information (i.e. police reports), do not attach these reports to the ROV being submitted to the court, instead, quote from the reports. The ROV should be completed as follows:
 - a. Legal History: Include background information on conviction(s), such as date of sentencing, sentencing judge, judicial district, county and city, length of sentence, (include deferred/suspended/DOC/MSP). If paroled, include date of parole and conditions given by the BOPP. Also include the date the conditions of supervision were signed by offender; if not signed, please note.
 - b. Alleged Violation(s): State the number and rule/condition violated. Describe each violation separately in the chronological order of occurrence, giving date, time, and nature of violation.
 - c. Supporting Evidence: State information/evidence which supports each alleged violation, quoting from reports.
 - d. Adjustment of Supervision: Note offender's behavior while under supervision and his/her progress and performance on the job, at home and in the community. Note all alternatives available and pursued, treatment programs used, and disciplinary hearings held during the period of supervision. Note adherence to court- and/or BOPP-ordered conditions specifically, and victim restitution payments.
 - e. Intermediate Sanctions Imposed and Considered: Note intermediate sanctions that were considered and/or imposed on the offender to try to gain compliance. This may include intervention hearings and any sanctions imposed such as curfew, increase in supervision level, referral to treatment, etc. If no intermediate sanctions were attempted, the Officer will need to indicate the reason for such.P&P Officer

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- f. Recommendations: Be specific in stating recommendations to the court or the BOPP. If offender absconds, request bench warrant from District Court judge or Parole Violator at Large (PVAL) from Interstate at Central Office. Include all possible alternatives to incarceration.
 - g. Witnesses: List appropriate Officer(s) and other witnesses with occupation and addresses.
 - h. Closing: Respectfully submitted; name; title (State Probation & Parole Officer); address; and signature.
 - i. Affidavit in Support of Petition: Prepare an affidavit for probationers and attach to ROV. Refer to *P&P 140-2 Preliminary (On-Site) Hearings*, for information regarding a formal hearing for parolees.
7. The ROV and *P&P 140-2 (B) Notice of On-Site Hearing for Montana Parolees* must be served on a parolee prior to a preliminary (on-site) hearing (see *P&P 140-2 Preliminary (On-Site) Hearings*). P&P Officer
8. Distribution of ROV is as follows: P&P Officer
- a. Probationer:
 - i. District Court Judge filed with Clerk of Court, original (must include *P&P 100-1(B) Affidavit of Petition for Revocation*)
 - ii. County Attorney
 - iii. Defense Attorney
 - iv. Probationer, and
 - v. Field File
 - b. Parolee, if revocation by BOPP is pursued (must include *P&P 140-2(A) Summary of On-Site Hearing*):
 - i. BOPP, original
 - ii. Interstate Bureau, if PVAL is requested
 - iii. Parolee
 - iv. Hearings Officer, and
 - v. Field File
9. If *P&P 30-1(A) Pre-Sentence Investigation (PSI)* is ordered by the court for a revocation disposition in a jurisdiction other than where the defendant resides or is on current supervision, the P&P region where the court resides will be responsible for completing the PSI. Exceptions may apply; therefore the RAs of the jurisdictions involved will discuss the circumstances of each applicable case and make a determination. P&P Officer
10. If the offender commits new violations after the initial ROV has been submitted, complete an addendum and forward to the sentencing court or BOPP. P&P Officer

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- e. A certified copy of the Information (if revoked deferred or revoked suspended sentence);
- f. *P&P 100-1(A) Report of Violation*;
- g. Copy of signed *P&P 150-1.1(A&B) Conditions of ISP* or *P&P 150-6(A&B) Conditions of Conditional Release* (if applicable).

16. If the offender is a drug offender and is receiving public assistance or food stamps, and is revoked by the court or BOPP, the Officer will secure a copy of the *Request and Verification to Remove Disqualification for Benefits* form from the field file and fill out the relevant part, notifying DPHHS of the person's non-compliance with the conditions of supervision, and mail the form to: DPHHS, c/o TANF Participation Specialist, HCSD-PAB, PO Box 202952, Helena, MT 59620-2952. P&P Officer

17. Field Files: P&P Officer

- a. When an offender is returned to custody as a probation or parole violator, the field file is sent to the BOPP. The BOPP maintains this file until the offender is paroled or discharged, then forwards it to the assigned supervising P&P Officer.
- b. The files of a parole violator placed in an ACCD program will be sent to BOPP pursuant to *P&P 150-1(F) Where Files Go*.
- c. The files of a probation violator sentenced to DOC and placed in an ACCD program will be sent to the appropriate location pursuant to *P&P 150-1(F) Where Files Go*.

IV. CLOSING:

Questions concerning this procedure shall be directed to the immediate supervisor or RA.

V. FORMS:

P&P 100-1 (A)	Report of Violation
P&P 100-1 (B)	Affidavit in Support of Petition for Revocation
P&P 150-1 (F)	Where Files Go
DPHHS	Request and Verification to Remove Disqualification for Benefits (<i>this form is to be pulled from the field file and completed</i>)