

Sixth District Department of Correctional Services POLICY		Issue Date 07/15/92	Effective Date 08/15/22	Policy Number 411-22
Subject REPORT OF VIOLATION			Review Month December	Author 0323 (RER)
Rescinds 411-18	References YUKON/DOC Portal/ICON Business Rules/CBC Business Rules Iowa Code Sections 907.2, 907.7, 908.11			

POLICY:

Department staff takes corrective action when violations of probation are confirmed. Agents utilize intermediate sanctions and either impose internal sanctions or recommend court action commensurate with the client's risk to public safety and criminogenic needs.

DEFINITION:

1. Violation – Breach of the Probation Agreement (402A) by the client.
2. Major violations:
 - A. An arrest for an aggravated misdemeanor or felony offense;
 - B. Willful and continued failure to abide by the installment payment plan as ordered by the Court;
 - C. Repeated failure to report to the Agent as required;
 - D. Repeated and willful failure to comply with specific court-ordered conditions;
 - E. Excessive substance abuse and failure to control such abuse through treatment;
 - F. Physically assaultive or violent behavior other than a simple misdemeanor assault;
 - G. Absconding from supervision;
 - H. The new arrest is for a simple/serious misdemeanor offense which is substantially similar to or analogous to the offense for which the client is under supervision. Examples of major violations include:
 - 1) A client who is on probation for Theft by shoplifting is arrested for Theft in the Fifth Degree by shoplifting;
 - 2) A client who is on probation for Operating While Intoxicated is arrested for Public Intoxication or Driving Without License offense;
 - 3) Violation of a domestic abuse no-contact order.

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DEFINITION: (continued)

3. Minor violations:
 - A. Law Violations – Arrest of a client for a simple or serious misdemeanor is a minor violation except when:
 - 1) The client has incurred a number of arrests for simple misdemeanor offenses while on probation.
 - B. Technical Violations – Violations of the Probation Agreement (402A) which are not violations of the criminal law.
4. While prison recommendations are not generally made for clients whose violations are entirely technical, there are some situations in which agents may recommend it. The following issues are considered when determining whether prison is a reasonable response to violating behavior:
 - A. The characteristics of the client – this includes the criminal history, risk level, protective factors, progress of supervision, benefits of continued supervision, etc.
 - B. The nature of the violation:
 - 1) The behavior is identified as a risk factor for that client;
 - 2) The behavior becomes a facility management problem in a residential facility, disrupting services to other clients;
 - 3) The behavior is willful, blatant and reoccurring, with the client defiantly refusing to abide by non-negotiable terms of the supervision agreement (note that at times such behavior is dealt with by recommending a contempt sentence followed by discharge from supervision);
 - 4) A fundamental program requirement has been violated, such as a “zero tolerance” violation;
 - 5) The available resources, interventions and intermediate sanctions appropriate for that client have been used.
5. Recommendations are based on updated assessments required under Case Management Policy (100).

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PROCEDURE:

1. Agents keep records of their work and make reports to the court when alleged violations occur and within no less than thirty (30) days before the period of probation expires.
2. Violations of the Probation Agreement are entered in ICON. Rule Violation Incidents may be entered manually via the Violation Incident screen in ICON or may originate automatically as related events are recorded in ICON. The Violation Comments include:
 - A. When the violation occurred and any details obtained from the client and/or collateral sources regarding the violation;
 - B. The precise behavior engaged in by the client which resulted in the violation;
 - C. Any statements the client made when questioned by the Agent with the violation.
3. The Agent consults with the supervisor when major violations of probation occur and a Report of Violation (411A) is contemplated.
4. When a PPVI (410A) is filed, a Report of Violation is delivered to the County Attorney within five (5) working days of the date the PPVI is filed.
5. The Agent considers the following factors to decide whether to prepare a Report of Violation and determine the appropriate recommendation:
 - A. Risk to Public Safety – The Agent assesses the degree of the risk posed by the client. The primary consideration is protection of the victims/community from further offenses by the client.
 - B. Nature of Violation – The emphasis is on the causal factors which lead to the client's original offense and the relationship of the current violations to those causal factors. For example, if the client's consumption of alcohol played a part in the original offense, continued alcohol consumption is seen as a serious violation.
 - C. Benefits of Continued Supervision – Continued supervision may be warranted when there is evidence the client will benefit from additional supervision and does not pose a substantial risk to society. The rehabilitation of the client is encouraged; however, the client should also be held accountable for violations. In considering the benefits of continued supervision, the Agent takes into account the following factors:
 - 1) Nature of the circumstances of the violations;
 - 2) Progress of supervision to date, including the client's risk level, protective factors, reporting history, cooperation and progress in treatment programs and the client's employment and family situations;

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PROCEDURE: (continued)

- 3) Intermediate Sanctions – Section 901.B, Code of Iowa and the Intermediate Sanctions Matrix provides various responses to probation violations and each alternative is considered in light of the above factors.
5. When preparing a Report of Violation, the agent reviews the active Violation Incidents in ICON, updating as needed and attaching the rules violated and behavior codes to violations that are included in the Report of Violation. The Report of Violation contains all the information as noted in ICON Business Rules.
The following is the link to ICON Business Rules:
<http://docweb.doc.gov.state.ia.us/ICON/CBC%20Business%20Rules/Forms/AllItems.aspx>
6. Upon supervisory approval, the Report of Violation is submitted in ICON and provided to the County Attorney's Office, by clerical, according to current business practices. Forms and orders that accompany the Report of Violation are listed 411B-411H.
7. When a Report of Violation has been submitted to the County Attorney and additional violations occur or are discovered prior to the hearing, the Agent may submit an Addendum to the Report of Violation (411H). The Agent consults with the Supervisor regarding the necessity of an addendum.
8. The Addendum is completed according to ICON Business Rules. New violations are documented pursuant to Procedure 5.
 - A. The Comments/Recommendations section of the Addendum states the date of the original Report and the reasons the Addendum is being submitted.
 - B. The Agent describes the new alleged violations or circumstances. If the Agent's recommendation has changed since the original Report was submitted, the Agent states the recommendation and the reasons for the change. If the Agent first recommended the client be summoned into Court, but now believes an arrest warrant should be issued, the Agent requests a warrant and states the reasons for the change.
 - C. Upon supervisory approval, the Addendum is submitted in ICON and provided to the County Attorney's Office, by clerical, according to current business practices.
9. The Agent attends the revocation hearing and testifies as required by the County Attorney and/or the Court. The hearing response is entered in ICON by clerical.
10. If a probation violation is established, the Court may:
 - A. Continue the probation with or without an alteration of the conditions of probation;
 - B. Hold the client in Contempt of Court and sentence the client to a jail term while continuing the probation;

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PROCEDURE: (continued)

- C. Extend the period of probation for up to one (1) year including one (1) year beyond the maximum period;
- D. Revoke the probation and require the client to serve the sentence imposed or any lesser sentence, and, if imposition of sentence was deferred, may impose any sentence which might originally have been imposed.

BY ORDER OF:

Bruce Vander Sanden, District Director