

Effective 5/4/2022

77-27-11 Revocation of parole.

- (1) The board may revoke the parole of any individual who is found to have violated any condition of the individual's parole.
- (2)
 - (a) If a parolee is confined by the department or any law enforcement official for a suspected violation of parole, the department:
 - (i) shall immediately report the alleged violation to the board, by means of an incident report; and
 - (ii) make any recommendation regarding the incident.
 - (b) A parolee may not be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.
- (3) Any member of the board may:
 - (a) issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee; and
 - (b) upon arrest of the parolee, determine, or direct the department to determine, if there is probable cause to believe that the parolee has violated the conditions of the parolee's parole.
- (4) Upon a finding of probable cause, a parolee may be further detained or imprisoned again pending a hearing by the board or the board's appointed examiner.
- (5)
 - (a) The board or the board's appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against the parolee.
 - (b) The board or the board's appointed examiner shall provide the parolee the opportunity:
 - (i) to be present;
 - (ii) to be heard;
 - (iii) to present witnesses and documentary evidence;
 - (iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and
 - (v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.
 - (c)
 - (i) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred.
 - (ii) The appointed examiner shall then refer the case to the board for disposition.
 - (d)
 - (i) A final decision shall be reached by a majority vote of the sitting members of the board.
 - (ii) A parolee shall be promptly notified in writing of the board's findings and decision.
- (6)
 - (a) If a parolee is found to have violated the terms of parole, the board, at the board's discretion, may:
 - (i) return the parolee to parole;
 - (ii) modify the payment schedule for the parolee's criminal accounts receivable in accordance with Section 77-32b-105;
 - (iii) order the parolee to pay pecuniary damages that are proximately caused by a defendant's violation of the terms of the defendant's parole;

- (iv) order the parolee to be imprisoned, but not to exceed the maximum term of imprisonment for the parolee's sentence; or
- (v) order any other conditions for the parolee.
- (b) If the board returns the parolee to parole, the length of parole may not be for a period of time that exceeds the length of the parolee's maximum sentence.
- (c) If the board revokes parole for a violation and orders incarceration, the board may impose a period of incarceration:
 - (i) consistent with the guidelines under Subsection 63M-7-404(5); or
 - (ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from the guidelines.
- (d) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)(c):
 - (i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and
 - (ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

Amended by Chapter 115, 2022 General Session