

**PROBATION AND PAROLE VIOLATION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lee B. Perry**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill clarifies that parole or probation officers that work for local law enforcement agencies may issue 72 hour holds for probation violations.

**Highlighted Provisions:**

This bill:

▶ clarifies that parole or probation officers that work for local law enforcement agencies may issue 72 hour holds for probation violations under certain circumstances;

▶ requires that local law enforcement agencies notify the proper court when a probationer has been held; and

▶ clarifies that a written order from a local law enforcement agency is sufficient authorization for a peace officer to incarcerate a probationer who has violated the conditions of the probationer's probation.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**64-13-29**, as last amended by Laws of Utah 2015, Chapter 412



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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **64-13-29** is amended to read:

**64-13-29. Violation of parole or probation -- Detention -- Hearing.**

(1) (a) The department or local law enforcement agency shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the ~~[department's supervision,]~~ supervision of the department, the local law enforcement agency, or the Board of Pardons and Parole ~~Ĥ~~→ **[Ĥ] in the case of parolees under the**

**department's**

**supervision [Ĥ] ←Ĥ** when:

(i) a sanction of incarceration is recommended; or

(ii) the department or local law enforcement agency determines that a graduated sanction is not an appropriate response to the offender's violation and recommends revocation of probation or parole.

(b) In cases where the department desires to detain an offender alleged to have violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or court will conduct a hearing within a reasonable time to determine if the offender has violated his conditions of parole or probation, the department shall hold an administrative hearing within a reasonable time, unless the hearing is waived by the parolee or probationer, to determine if there is probable cause to believe that a violation has occurred.

(c) If there is a conviction for a crime based on the same charges as the probation or parole violation, or a finding by a federal or state court that there is probable cause to believe that an offender has committed a crime based on the same charges as the probation or parole violation, the department need not hold an administrative hearing.

(2) The appropriate officer or officers of the department shall, as soon as practical following the department's administrative hearing, report to the court or the Board of Pardons and Parole, furnishing a summary of the hearing, and may make recommendations regarding the disposition to be made of the parolee or probationer.

(3) Pending any proceeding under this section, the department may take custody of and detain the parolee or probationer involved for a period not to exceed 72 hours excluding weekends and holidays.

(4) In cases where probationers are supervised by a local law enforcement agency, the

59 agency may take custody of and detain the probationer involved for a period not to exceed 72  
 60 hours excluding weekends and holidays if:

61 (a) the probationer commits a major violation or repeated violations of probation; and

62 (b) it is unlikely that the court will conduct a hearing within a reasonable time to

63 determine if the offender has violated the conditions of probation ~~H→~~ ; **and**

63a **(c) the law enforcement agency conducts an administrative hearing within a reasonable**  
 63b **time to determine if there is probable cause to believe the offender has violated the conditions**  
 63c **of probation, unless the hearing is waived by the probationer** ~~←H~~ .

64 (5) If the requirements for Subsection (4) are met, the local law enforcement agency  
 65 shall ensure the proper court is notified.

66 [~~3~~] (6) If the hearing officer determines that there is probable cause to believe that the  
 67 offender has violated the conditions of his parole or probation, the department may detain the  
 68 offender for a reasonable period of time after the hearing or waiver, as necessary to arrange for  
 69 the incarceration of the offender. [Written] A written order of the department is sufficient  
 70 authorization for any peace officer to incarcerate the offender. The department may  
 71 promulgate rules for the implementation of this section.

72 (7) A written order from the local law enforcement agency is sufficient authorization  
 73 for any peace officer to incarcerate the offender if:

74 (a) the probationers are supervised by a local law enforcement agency; and

75 (b) the appropriate officer or officers determine that there is probable cause to believe  
 76 that the offender has violated the conditions of probation.

76a ~~H→~~ **(8) If a probationer supervised by a local law enforcement agency commits a**  
 76b **violation outside of the jurisdiction of the supervising agency, the arresting agency is not**  
 76c **required to hold or transport the probationer for the supervising agency.** ~~←H~~