

1 **PROBATION AND PAROLE VIOLATION AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lee B. Perry**

5 Senate Sponsor: Lyle W. Hillyard

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

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

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

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **64-13-29**, as last amended by Laws of Utah 2015, Chapter 412

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

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

31 **64-13-29. Violation of parole or probation -- Detention -- Hearing.**

32 (1) (a) The department or local law enforcement agency shall ensure that the court is
33 notified of violations of the terms and conditions of probation in the case of probationers under
34 the [~~department's supervision;~~] supervision of the department, the local law enforcement
35 agency, or the Board of Pardons and Parole in the case of parolees under the department's
36 supervision when:

37 (i) a sanction of incarceration is recommended; or

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

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

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

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

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

58 (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; and

64 (c) the law enforcement agency conducts an administrative hearing within a reasonable
65 time to determine if there is probable cause to believe the offender has violated the conditions
66 of probation, unless the hearing is waived by the probationer.

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

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

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

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

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

80 (8) If a probationer supervised by a local law enforcement agency commits a violation
81 outside of the jurisdiction of the supervising agency, the arresting agency is not required to
82 hold or transport the probationer for the supervising agency.