

CHAPTER 244

CRIMINAL SENTENCES, CONDITIONS,
DURATION, APPEALS

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**244.13 INTENSIVE COMMUNITY SUPERVISION AND INTENSIVE SUPERVISED
RELEASE; ESTABLISHMENT OF PROGRAMS.**

Subdivision 1. **Establishment.** The commissioner of corrections shall establish programs for those designated by the commissioner to serve all or part of a sentence on intensive community supervision or all or part of a supervised release or parole term on intensive supervised release. The adoption and modification of policies and procedures to implement sections 244.05, subdivision 6, and 244.12 to 244.15 are not subject to the rulemaking procedures of chapter 14 because these policies and procedures are excluded from the definition of a rule under section 14.03, subdivision 3, paragraph (b), clause (1). The commissioner shall locate the programs so that at least one-half of the money appropriated for the programs in each year is used for programs in Community Corrections Act counties. In awarding contracts for intensive supervision programs in Community Corrections Act counties, the commissioner shall give first priority to programs that utilize county employees as intensive supervision agents and shall give second priority to programs that utilize state employees as intensive supervision agents. The commissioner may award contracts to other providers in Community Corrections Act counties only if doing so will result in a significant cost savings or a significant increase in the quality of services provided, and only after notifying the chairs of the committees in the senate and house of representatives with jurisdiction over criminal justice policy.

[For text of subds 2 to 4, see M.S.2002]

History: 2003 c 2 art 1 s 24

244.19 PROBATION OFFICERS.

[For text of subds 1 to 3, see M.S.2002]

Subd. 3a. [Repealed, 1Sp2003 c 2 art 6 s 7]

[For text of subds 5 and 6, see M.S.2002]

Subd. 7. **Certificate of counties entitled to state aid.** On or before January 1 of each year, until 1970 and on or before April 1 thereafter, the commissioner of corrections shall deliver to the commissioner of finance a certificate in duplicate for each county of the state entitled to receive state aid under the provisions of this section. Upon the receipt of such certificate, the commissioner of finance shall draw a warrant in favor of the county treasurer for the amount shown by each certificate to be due to the county specified. The commissioner of finance shall transmit such warrant to the county treasurer together with a copy of the certificate prepared by the commissioner of corrections.

[For text of subd 8, see M.S.2002]

History: 2003 c 112 art 2 s 31

244.196 DEFINITIONS.

Subdivision 1. **Definitions.** As used in sections 244.196 to 244.199, the following terms have the meanings given them.

Subd. 2. **Probation.** "Probation" has the meaning given in section 609.02, subdivision 15.

Subd. 3. **Probation violation sanction.** "Probation violation sanction" includes, but is not limited to, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, community work service, remote electronic alcohol monitoring, random drug testing, and participation in an educational or restorative justice program. A probation violation sanction does not include any type of custodial sanction, including, but not limited to, detention and incarceration.

Subd. 4. **Sanctions conference.** "Sanctions conference" means a voluntary conference at which the county probation officer, offender, and, if appropriate, other interested parties meet to discuss the probation violation sanction for the offender's technical violation of probation.

Subd. 5. **Sanctions conference form.** "Sanctions conference form" means a form developed by the chief executive officer of a local corrections agency with the approval of the district court that explains the sanctions conference and the offender's option to elect to participate in the sanctions conference or to proceed to a judicial hearing.

Subd. 6. **Technical violation.** "Technical violation" means any violation of a court order of probation, except an allegation of a subsequent criminal act that is alleged in a formal complaint, citation, or petition.

History: *1Sp2003 c 2 art 6 s 1*

244.197 INITIATION OF SANCTIONS CONFERENCE.

Subdivision 1. **Authority.** Unless the district court directs otherwise, a probation agency may use a sanctions conference to address an offender's technical violation of probation.

Subd. 2. **Notice of violation.** When a probation agency has reason to believe that an offender has committed a technical violation of probation, the agency shall notify the offender in writing of the specific nature of the technical violation and the scheduling of a sanctions conference, including the date, time, and location of the sanctions conference. The notice shall also state that if the offender fails to appear at the sanctions conference, the probation agency may apprehend and detain the offender under section 244.195 and ask the court to commence revocation proceedings under section 609.14 and rule 27.04 of the Rules of Criminal Procedure. To the extent feasible, the sanctions conference must take place within seven days of mailing of the notice to the offender.

Subd. 3. **Sanctions conference.** At the sanctions conference, the county probation officer shall provide the offender with a copy of a sanctions conference form explaining the sanctions conference and the offender's options for proceeding. The offender must stipulate, in writing, that the offender has received a copy of the sanctions conference form and that the offender understands the information contained in the form and the options available to the offender. The offender also must declare, in writing, the offender's decision to either participate in the sanctions conference or proceed with a judicial hearing.

History: *1Sp2003 c 2 art 6 s 2*

244.198 PARTICIPATION IN SANCTIONS CONFERENCE.

Subdivision 1. **Election to participate.** If the offender elects to participate in the sanctions conference, the county probation officer shall inform the offender, orally and in writing, of the probation violation sanction that the county probation officer is recommending for the technical violation of probation. The county probation officer shall inform the offender that the probation violation sanction becomes effective upon confirmation by a judge of the district court.

Subd. 2. **Report to district court.** If the offender elects to participate in the sanctions conference, the county probation officer conducting the sanctions conference shall provide a report to the district court containing:

- (1) the specific nature of the technical violation of probation;
- (2) the notice provided to the offender of the technical violation of probation and the scheduling of the sanctions conference;
- (3) a copy of the offender's signed stipulation indicating that the offender received a copy of the sanctions conference form and understood it;
- (4) a copy of the offender's written declaration to participate in the sanctions conference; and
- (5) the recommended probation violation sanction.

The recommended probation violation sanction becomes effective when confirmed by a judge. The order of the court shall be proof of such confirmation.

Subd. 3. **Response to district court action.** (a) Upon the county probation officer's receipt of a confirmed order by the judge, the county probation officer shall notify the offender and the prosecuting authority in writing that the probation violation sanction has been approved by the court.

(b) If the court does not confirm the recommendation of the county probation officer, the probation violation sanction shall not go into effect. The county probation officer shall notify the offender that the court has not confirmed the sanction.

(c) If the court does not confirm the recommendation, the county probation officer may ask the court to commence revocation proceedings under section 609.14.

Subd. 4. **Appeal.** An offender may appeal the judge's confirmation of the probation violation sanction as provided in rule 28.05 of the Rules of Criminal Procedure.

History: *1Sp2003 c 2 art 6 s 3*

244.199 ELECTION NOT TO PARTICIPATE.

If the offender elects not to participate in the sanctions conference, the county probation officer may ask the court to initiate revocation proceedings or refer the matter to the appropriate prosecuting authority for action under section 609.14. The county probation officer also may take action to apprehend and detain the offender under section 244.195.

History: *1Sp2003 c 2 art 6 s 4*

244.1995 SANCTIONS CONFERENCE PROCEDURES.

The chief executive officer of a local corrections agency, with approval of the district court, shall develop procedures for the sanctions conference identified in sections 244.196 to 244.199, and develop a sanctions conference form that includes notice to the offender:

(1) of the specific court-ordered condition of release that the offender has allegedly violated, the probation officer's authority to ask the court to revoke the offender's probation for the technical violation, and the offender's right to elect to participate in a sanctions conference to address the technical violation in lieu of the probation officer asking the court to revoke the offender's probation;

(2) that participation in the sanctions conference is in lieu of a court hearing under section 609.14, and that, if the offender elects to participate in the sanctions conference, the offender must admit, or agree not to contest, the alleged technical violation and must waive the right to contest the violation at a judicial hearing, present evidence, call witnesses, cross-examine the state's witnesses, and be represented by counsel;

(3) that, if the offender chooses, the offender has a right to a hearing before the court under section 609.14, for a determination of whether the offender committed the alleged violation, including the right to be present at the hearing, to cross-examine witnesses, to have witnesses subpoenaed for the offender, to have an attorney present

or to have an attorney appointed if the offender cannot afford one, and to require the state to prove the allegations against the offender;

(4) that if, after a hearing, the court finds the violations have been proven, the court may continue the sentence, subject to the same, modified, or additional conditions, or order a sanction that may include incarceration, additional fines, revocation of the stay of sentence, imposition of sentence, or other sanctions;

(5) that the decision to participate in the sanctions conference will not result in the probation officer recommending revocation of the offender's stay of sentence, unless the offender fails to successfully complete the probation violation sanction;

(6) that various types of probation violation sanctions may be imposed and that the probation violation sanctions imposed on the offender will depend on the nature of the technical violation, the offender's criminal history, and the offender's level of supervision;

(7) that the probation violation sanctions supplement any existing conditions of release; and

(8) that participation in the sanctions conference requires completion of all probation violation sanctions imposed by the probation agency, and that failure to successfully complete the imposed probation violation sanctions could result in additional sanctions or the commencement of revocation proceedings under section 609.14.

History: *1Sp2003 c 2 art 6 s 6*