

8.1. A.15 Suspended Sentence Status Report:

I Policy Index:

Date Signed: 2/15/18
Distribution: Public
Replaces Policy: This policy supersedes the 7/16/15 version.
Affected Units: South Dakota Board of Pardons and Paroles
Effective Date: Upon Signature
Scheduled Revision Date: 2/2019
Revision Number: 3
Office of Primary Responsibility: South Dakota Board of Pardons and Paroles

II Purpose:

The purpose of this policy is to establish objective standards for compliance and non-compliance with a Suspended Sentence Supervision Notice.

III Definitions:

Suspended Sentence Notification

A written notification given to an offender. The written notice shall be served on all inmates with suspended sentences. If practical, the notice should be served on inmates upon their arrival. If an inmate is not served upon his/her arrival, he/she shall be served thereafter at the earliest convenience of the Department.

Suspended Sentence Status Report:

A written report submitted to the Parole Board to be used as evidence of the offender's violation of suspended sentence conditions. Attachments to the report will include but are not limited to: Suspended Sentence Notification, copy of disciplinary record, program refusal information, if applicable and program termination information, if applicable.

IV Procedures:

Suspended Sentence Supervision Notice:

- A. All inmates admitted to the Department of Corrections who have a portion of their prison sentence suspended will be served a Suspended Sentence Notice by staff during the admissions process or as soon thereafter as is practical .
1. The Suspended Sentence Notice will be explained and served on the offender by a Unit Case Manager or Unit Staff. An inmate signature is encouraged but not required. Staff should sign and date the notice when served. The notice should be scanned and recorded into the DOC data system with the original kept in the unit file.
- B. The Suspended Sentence Notice (Attachment #1) shall inform the offender of the following:
1. That she/he must conform to the rules and program requirements of the Department of Corrections, maintain a good disciplinary record, and satisfactorily participate in programs as assigned.
 2. That any violation may result in the inmate's Suspended Sentence being imposed.

3. That the Parole Board may impose all or a portion of the inmate's suspended sentence after a due process hearing.

Suspended Sentence Compliance Standards:

- A. Disciplinary compliance is scored from the date the Suspended Sentence Notice is presented to the offender to the offender's suspended sentence release date. Programming compliance is also applicable during the same time period
 1. Disciplinary non-compliance:
 - a. Disciplinary compliance is scored from the date the Suspended Sentence Notice was served to the offender's suspended sentence release date.
 - b. An offender is determined to be in violation of the disciplinary requirement if the per month average of his or her disciplinary points is at or exceeds 0.75 or if he or she is has been found guilty of any High category infraction.
 - i. Each Moderate category infraction counts as ten (10) points
 - ii. Each Low category infraction counts as six (6) points
 - c. In situations where multiple disciplinary reports or infractions are included for a single incident, only the most serious category infraction will be scored.
 - d. Only disciplinary reports where the sanction included disciplinary segregation will be scored, unless the inmate was housed in restrictive housing at the time the disciplinary infraction was committed. In that case, all Low, Moderate, and High category infractions are scored.
 - e. If an offender is found to be non-compliant with the disciplinary requirement at a suspended sentence violation hearing and the Board does not impose or partially imposes the suspended sentence, future compliance will be scored from the date of that hearing to the suspended sentence release date.
 2. Programming non-compliance:
 - a. Programming compliance is monitored from the date the Suspended Sentence Notice is served to the offender's suspended sentence release date.
 - b. A program refusal or termination from programming is the basis for non-compliance.
 - c. If an offender is found to be non-compliant with the programming requirement at a suspended sentence violation hearing and the Board does not impose or partially imposes the suspended sentence, future compliance will be determined from the date of that hearing to the suspended sentence release date.

Suspended Sentence Compliance Review:

- A. Board staff will monitor offenders for compliance with the conditions of their suspended sentences.
- B. Within six (6) months of an offender's suspended sentence release date, Board staff will review an offender's compliance with the conditions of his/her suspended sentence.
- C. If the offender meets the eligibility criteria for being non-compliant as outlined above or is determined to be non-compliant with any other condition of his/her suspended sentence, including court-ordered conditions, or commits a felony while incarcerated, a Suspended Sentence Status Report will be sent to the Executive Director of the Board of Pardons and Paroles, unit staff, or other appropriate staff for review and input.
- D. The inmate will then be scheduled for a suspended sentence violation hearing before the Board.
- E. An offender's compliance with suspended sentence conditions may also be reviewed under the following circumstances:
 - 1. If an offender is scheduled for a hearing to determine whether he/she is noncompliant with the elements of his/her Individual Program Directive pursuant to DOC Policy 1.4.B.1 *Individual Program Directive*
 - 2. At the request of a member of the Board of Pardons and Paroles or DOC staff.

V Related Directives:
SDCL § 23A-27-19;

VI Revision Log: New

7/2015- No changes

9/2016 – No changes

2/2017- Grammar changes, Page 2 Suspended Sentence Compliance section replaced, Suspended Sentence Notice replaced.

<i>Original copy on file in board office</i>	<i>2/15/18</i>
<i>Mark Smith , Chair</i>	<i>Date</i>

Attachment 1: Suspended Sentence Notice
SUSPENDED SENTENCE NOTICE

NAME:

ID number:

I have been made aware that SDCL §§ 23A-27-18.4 and 23A-27-19 provide that persons whose sentences are suspended are under the supervision of the Board of Pardons and Paroles as provided in the statutes previously referenced. Also, I understand and agree that in the event I violate the conditions of my suspended sentence as imposed by the sentencing judge, the Board of Pardons and Paroles, or SDCL § 23A-27-18.6, even if the violation is prior to my suspended sentence commencing, the Board has the authority to revoke the suspended portion, impose the entire sentence, and I may not be given credit for time spent on parole and/or suspended sentence. I also understand and agree that the Board is charged with the responsibility for enforcing the conditions imposed by the sentencing judge and the Board retains jurisdiction to revoke the suspended portion of the sentence for violation of the terms of parole or the terms of the suspension.

The Board hereby places the following conditions of suspended sentence on you, in addition to any ordered by the sentence court:

You will conform to the rules and program requirements of the Department of Corrections, maintain a good disciplinary record, and satisfactorily participate in programs as assigned.

I have read or have had read to me and fully understand these conditions of suspended sentence. I acknowledge receipt and understanding of the rules I am expected to abide by while in the custody of the Department of Corrections and that I am expected to satisfactorily participate in programs as assigned. I acknowledge that I have been advised that a violation of this agreement can result in my suspended sentence being imposed prior to my release to serve such suspended sentence.

Witness Printed Name

Witness Signature

Date

Inmate Signature

Date