1.5.G.8 Parole Services-Detainers and Arrest on Violation

I Policy Index:

Date Signed:	***05/21/2014***
Distribution:	***Public***
Replaces Policy:	***N/A***
Supersedes Policy Dated:	***12/19/2013***
Affected Units:	***Adult Units***
Effective Date:	***05/28/2014***
Scheduled Revision Date:	***March 2015***
Revision Number:	***10***
Office of Primary Responsibility:	***Executive Director of Parole***

II Policy:

Parole services staff can arrest and/or detain a parolee as a disciplinary sanction, or to investigate a possible parolee violation of the supervision agreement.

III Definitions:

Parolee:
An offender who has been conditionally released to parole or suspended sentence from a South Dakota Department of Corrections (DOC) facility prior to the expiration of the offender's sentence under the supervision of the DOC (See ARSD § 17:60:01:00(6)). This also includes an offender received from another state under interstate compact supervision (See SDCL chapter 24-16).

Supervision Agreement:
A document setting forth the general and special limitations, restrictions, and conditions that are imposed by the Board of Pardons and Paroles, the Executive Director of the Board of Pardons and Paroles (Executive Director), a parole supervisor and a parole agent (See ARSD § 17:60:02:09).

Parole Service Senior Staff:
Parole Services Senior Staff, for the purposes of this policy, include the supervising agent, regional supervisor, Executive Director of the Board of Pardons and Paroles, Director of Field Services, and Corrections Specialist.

Detainer:
A document issued by Parole Services that authorizes a parolee to be detained in jail or a designated DOC facility for a period of time as a disciplinary sanction or for investigative purposes. The detainer is generated as an IWP document from the Comprehensive Offender Management System (COMS) (See ARSD § 17:61:01:01(4) and 17:61:01:11).

Extended Detainment:
An extension to a detainer, authorized by the Executive Director of Parole Services, which is issued for a variety of reasons, such as investigative purposes, waiting for a placement opening, a disciplinary sanction to a violation of the supervision agreement, etc. (See ARSD § 17:61:01:01 (4) and 17:61:01:11). The detainment extension may be for up to ninety (90) calendar days.

Violation Report:
A report issued by Parole Services which details the supervision agreement conditions allegedly violated by a parolee.

IV Procedures:

1. General Guidelines for Detainers/Detention:

A. Parole Services may detain a parolee under one (1) or more of the following conditions:

1. There is reasonable belief the parolee violated a condition(s) of his/her supervision agreement.

2. There is a reasonable belief the parolee will abscond.

3. To enforce discipline against the parolee (See SDCL § 24-15-19, 24-15A-27 and ARSD 17:61:01:09).

4. The parolee's behavior is such that the purposes of parole are not being served (See SDCL § 24-15-19 and 24-15A-27).

5. The parolee's behavior and attitude constitute a threat or danger to self and/or the community, and it is necessary to provide proper protection for the parolee and to the community.

6. To allow for a review of alternatives to violation by community resources and parole staff.

B. Parole Services is authorized to issue a detainer and place a parolee in jail or in a designated DOC facility for a period not to exceed five (5) working days, including the day of detainment and excluding weekends, holidays and administrative days.

1. The holding facility will be promptly notified of the forthcoming detainment and will be furnished with a copy of the detainer, if required by the holding facility

2. When a parolee in the Community Transition Program (CTP) is detained or held by institutional staff for a major rule infraction or investigative purposes, staff will notify the supervising parole agent no later than the next business day following the detainment. Upon authorization by the supervising agent, the CTP parolee may be detained for up to (5) working days.

   a. Supervising parole agents will promptly receive all related write-ups and other incident reports or information related to the detainment of the parolee from institutional staff.

3. It is the parole agent's responsibility to designate the parolee's release date and time and provide this information to the jail or designated DOC facility.

   a. Upon justification by the parole agent that additional time is needed for investigative purposes, the regional supervisor may extend the detainment for up to an additional five (5) working days, consecutive to the initial detainment. Weekends, holidays and administrative days will not be counted as part of the detainment period.

   b. Any additional detainment, beyond a maximum of five (5) additional working days for investigative purposes approved by the regional supervisor must be approved by the Executive Director.

   c. The Executive Director may authorize up to a ninety (90), calendar day detainment extension for the purpose of allowing the DOC or community resource and/or a treatment providers time to

review the parolee's current situation and to determine if the parolee will return to community supervision or if a violation report is warranted.

d. Detainment extensions issued by the Executive Director may be for up to ninety (90) calendar days.

4. The supervising parole agent will submit a violation report or authorize the release of the parolee back to community supervision within the time frames outlined above.

a. If a parole agent determines a parolee should be released back to community supervision, the parole agent will notify the holding agency of the release and provide any information or documentation required to facilitate the release; which may include providing the agency with a "Detainer Release Form", if requested.

C. Reporting to the Director of Field Services:

1. The supervising parole agent must report all detainments to the Director of Field Services by telephone within three (3) hours of the detainment (See Parole Services OM 7.1.A.4 *Reporting Information to the Director*).

2. At a minimum, the following information will be provided to the Director of Field Services:

a. The parolee's name and identification number.

b. The reason for the detainment.

c. The expected release day and time, or if a violation report and warrant is forth coming.

2. Violation Reports:

A. When a parolee is believed to have violated the conditions of his/her supervision agreement and an alternative sanction is not deemed appropriate, the supervising parole agent will save the violation report in COMS and notify the appropriate regional supervisor for approval before sending it to the Executive Director or designee(s) (See DOC policy 1.5.G.6 *Response to Violations*).

B. A warrant of arrest will be issued to Parole Services Senior Staff only when requested and only when in compliance with statutes, administrative rules, DOC policy and operational memorandums, and following any review processes established by the Executive Director.

3. Warrant of Arrest:

A. Only the Executive Director or designee(s) has the authority to issue, deny or cancel a warrant of arrest.

1. The Executive Director may set up a review process to make recommendations to assist the decision to authorize a warrant or continue to supervise the offender with added conditions to the supervision agreement.

2. If the Executive Director or designee(s) denies a warrant, the parolee may complete the detainer (if on detainment) and remain on supervision under a containment plan as warranted by the situation.

2. If the Executive Director or designee(s) review the violation report and concurs, a warrant of arrest will be issued (See ARSD 17:60:03:01 and 17:60:11:01).

a. Designated staff will be notified by e-mail or memo through COMS that the warrant of arrest was issued.

b. After a warrant of arrest is issued, Parole Services Senior Staff will ensure the parolee is afforded his/her due process rights, as outlined in statute, administrative rules and DOC policy (See DOC policy 1.5.G.9 *Preliminary Hearings*).

B. The warrant of arrest can be issued as a detainer when a parolee is in the custody of another jurisdiction (See ARSD 17:60:03:02 and 17:60:11:02).

1. Parole Services is authorized to place a copy of a warrant of arrest as a detainer when a parolee is in the custody of another jurisdiction on pending charges or a conviction.

2. A copy of the warrant of arrest must be filed with the appropriate holding authority.

3. After a warrant of arrest is issued, Parole Services Senior staff will ensure the parolee is afforded his/her due process rights as outlined in statute, administrative rules and DOC policy (See DOC policy 1.5.G.9 *Preliminary Hearings*).

V Related Directives:

SDCL §§ 24-15-19, 24-15A-27 and 24-16
ARSD 17:60:01:00(6), 17:60:02:09, 17:60:03:01, 17:60:03:02, 17:60:11:01, 17:60:11:02, 17:61:01:01(4), 17:61:01:09, 17:61:01:11

DOC policy 1.5.G.6 – *Response to Violations*
DOC policy 1.5.G.9 – *Preliminary Hearings*
Parole Services OM 7.1.A.4 – *Reporting Information to the Director*

VI Revision Log:

October 2006: **Converted** parole OM into a DOC policy.
August 2007: No changes made.
August 2008: **Revised** formatting of policy in accordance with DOC policy 1.1.A.2. **Added** "of Parole" when stating Office of Primary Responsibility in ss (I). **Replaced** "parolee" with "compact" in definition of Parolee. **Added** SDCL 24-16 and DOC policy when referencing policies in ss (V). **Revised** minor wording throughout policy.
March 2009: **Replaced** Parole Services and Parole Board with Adult Units within Policy Index. **Added** reference to notification of the forthcoming detainment in ss (B1), **added** ss (B2 and B2a), **replaced** "area supervisor" with "Regional Supervisor" in ss (3b), **added** reference to ss (4a), **added** reference to Parole Services OM 7.1.A.4 in ss (C1) all within General Guidelines for Detainers/Detention. **Added** "regional" as it relates to supervisor in ss (B) and **deleted** "copy" as it relates to warrant of arrest in ss (C) of Violation Reports. **Added** "remain" as it relates to denying a warrant in ss (A of warrant of arrest).
April 2010: **Revised** formatting of Section 1. **Added** definition of Detainment Extension. **Replaced** 72 hours with 5 working days, including day of detainment and excluding holidays, etc. in ss (B), **replaced** 72 hours with 5 working days within ss (B2), **replaced** 48 hours with 5 working days, excluding holidays, etc. in ss (B3a), **replaced** 48 hours to 5 working days within ss (B3b), **added** new ss (B3c and B3d) and **replaced** Executive Director with Director of Field Services within ss (C, C1 and C2) all within General Guidelines for Detainers/Detention. **Revised** title of DOC policy 1.5.G.6. **Added** Parole Services OM 7.1.A.4 to Section V. **Added** Attachment 2.
September 2010: **Added** detainment dates to bottom of Attachment 2.
January 2011: **Added** "Extension" under the Regional Supervisor's signature line on Attachment 2.
April 2012: **Reviewed with no changes.**

March 2013: **Deleted** "from the Revocations Database" and **Replaced** with "as an IWP document from COMS" in definition of "Detainer". **Deleted** "The original detainer and supporting documents will be placed in the parolee's file" in Section1 B. **Added** "or information" to Section 1 B. 2. **Added** "and provide any information or documentation to facilitate the release, which may include providing" in Section 2 B. 4. a. **Deleted** "the Revocations Database" and **Replaced** with "COMS (through memo functionality or") in Section 2 B. **Deleted** "Parole Services" and **Replaced** with "Applicable staff" and **Added** "or memo through COMS" in Section 3 A. 2. a.
April 2014: **Deleted** definition of "Parole Services" and **Added** definition of "Parole Services Senior Staff". **Added** "a variety of reasons, such as" and **Added** "waiting for a placement opening, a disciplinary sanction to a violation of the supervision agreement, etc." and **Deleted** "sixty" and **Replaced** with "ninety" in Definition of "Extended Detainment". **Added** "if required by the holding facility" in Section 1 B. 1. **Deleted** "the investigation of a possible violation" and **Replaced** with "investigative purposes" in Section 1 B. 3. a. **Deleted** "sixty" and **Replaced** with "ninety" in Section 1 B. 3. c. and d. **Added** "the supervising parole agent will save the violation report in COMS and notify the appropriate regional supervisor for approval before sending it to" in Section 2 A. **Deleted** B. **Added** "and following any review processes established by the Executive Director" in Section 2 C. **Added** "or cancel" in Section 3 A. **Added** new 1. to Section 3 A. **Deleted** "will remain on or be released back to community supervision" and **Replaced** with "may complete the detainer (if on detainment) and remain on supervision under a containment plan as warranted by the situation" in Section 3 A. 2.

Denny Kaemingk (original signature on file)	*05/21/2014*
Denny Kaemingk, Secretary of Corrections	Date

Attachment 1: Related SDCL and ARSD

24-15-19: Powers of Department of Corrections when purposes of parole not being subserved. If the purposes or objects of parole are not being served, the Department of Corrections and its parole agents may use any necessary means to establish discipline, arrest, or take custody and control of the parolee pending the issuance of a warrant of arrest by the executive director.

24-15A-27: Show cause parole revocation order. The executive director of the board may issue an order to show cause why parole should not be revoked if the director or the board is satisfied that:
(1) A parolee is violating or has violated the regulations or restrictions that are placed upon the parolee by the board, the department, or the sentencing court;
(2) A parolee has failed to report to the parolee's assigned parole agent;
(3) A parolee has failed to answer inquiries made by a parole agent; or
(4) The purposes or objects of parole are not being served.

ARSD 17:60:01:00: Definitions. Words used in this article mean:
(6) "Parolee," an individual who has been conditionally released to parole or suspended sentence from a South Dakota Department of Corrections facility prior to the expiration of the individual's sentence under the supervision of the Department of Corrections

ARSD 17:60:02:09: Supervision agreement. Before being released on parole or suspended sentence, the inmate shall execute a supervision agreement setting forth the general and special limitations, restrictions, and conditions that are imposed by the board, the executive director, a parole supervisor, and a parole agent. Any violation of institution rules after being paroled but before actual release may be considered a violation of parole.

17:60:03:01: Issuance of warrant. Upon receipt of a report by a parole agent or other supervising authority that reasonable grounds exist to believe that a parolee has violated a condition, special limitation, or rule of supervision, the executive director shall issue or refuse a warrant of arrest.

17:60:03:02: Arrest warrant as detainer. If the parolee is in custody on another charge, the arrest warrant may be lodged as a detainer at the institution where the parolee is being held if the executive director determines it is in the best interest of society and the inmate.

17:60:11:01: Issuance of arrest warrant. Upon receipt of a report by a parole agent or other supervising authority that reasonable grounds exist to believe that a parolee has violated a condition, special limitation, or rule of supervision, the executive director shall issue or refuse to issue a warrant of arrest.

17:60:11:02: Arrest warrant as detainer. If the parolee is in custody on another charge, the arrest warrant may be lodged as a detainer at the institution where the parolee is being held if the executive director of the board determines that it is in the best interest of society and the inmate.

17:61:01:01: Definitions. Words used in this article mean:
(4) "Detainer," a document issued by Parole Services for the arrest and detention of a person under supervision;

17:61:01:09: Violation of rules. Violation of this article shall result in one or more of the following actions:
(1) Disciplinary action;
(2) Return to a department institution; or
(3) Criminal prosecution.

17:61:01:11: Detainer. The agent of parole services shall issue a detainer to prevent escape and enforce discipline.

Attachment 2: Parolee Detainment Extension

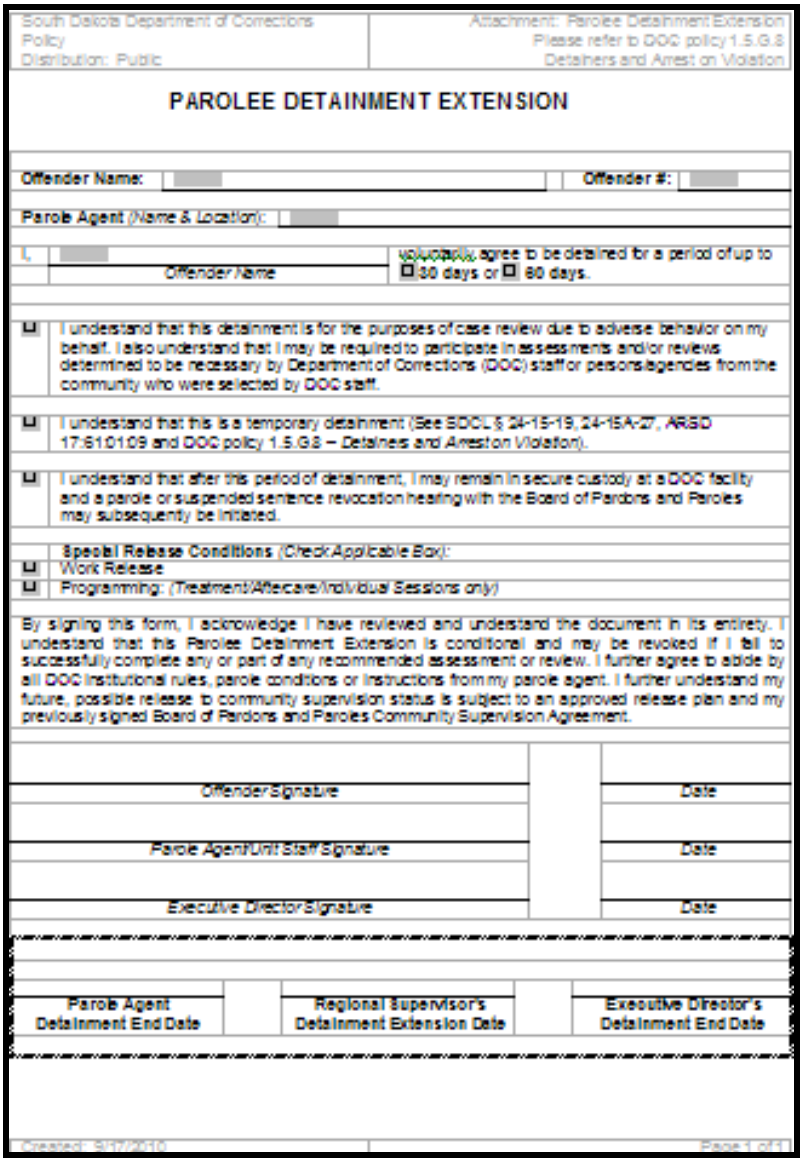
The ***Parole Detainment Extension*** form is located on the state's WAN.

A copy may be printed using ***Microsoft Word*** as follows:

1. Click here to access the ***Parolee Detainment Extension*** form by:
   a. Placing mouse on the word "here" above
   b. Press and hold the "Ctrl" key on the keyboard
   c. Click the left button of mouse.

2. Or Select ***File/New*** from the Menu Bar/Select the ***DOC*** tab/Select ***Parolee Detainment Extension.***

The gray areas indicate the information that is to be entered.



South Dakota Department of Corrections
Policy
Distribution: Public

Attachment: Parolee Detainment Extension
Please refer to DOC policy 1.5.G.8
Detainers and Arrest on Violation

PAROLEE DETAINMENT EXTENSION

Offender Name: **Offender #:**

Parole Agent *(Name & Location)*:

I, *Offender Name* agree to be detained for a period of up to ☐ 30 days or ☐ 60 days.

☐ I understand that this detainment is for the purposes of case review due to adverse behavior on my behalf. I also understand that I may be required to participate in assessments and/or reviews determined to be necessary by Department of Corrections (DOC) staff or persons/agencies from the community who were selected by DOC staff.

☐ I understand that this is a temporary detainment (See SDCL § 24-15-19, 24-15A-27, ARSD 17:61:01:09 and DOC policy 1.5.G.8 – *Detainers and Arrest on Violation*).

☐ I understand that after this period of detainment, I may remain in secure custody at a DOC facility and a parole or suspended sentence revocation hearing with the Board of Pardons and Paroles may subsequently be initiated.

Special Release Conditions *(Check Applicable Box)*:
☐ Work Release
☐ Programming: *(Treatment/Aftercare/Individual Sessions only)*

By signing this form, I acknowledge I have reviewed and understand the document in its entirety. I understand that this Parolee Detainment Extension is conditional and may be revoked if I fail to successfully complete any or part of any recommended assessment or review. I further agree to abide by all DOC institutional rules, parole conditions or instructions from my parole agent. I further understand my future, possible release to community supervision status is subject to an approved release plan and my previously signed Board of Pardons and Paroles Community Supervision Agreement.

Offender Signature *Date*

Parole Agent/Unit Staff Signature *Date*

Executive Director Signature *Date*

Parole Agent Detainment End Date **Regional Supervisor's Detainment Extension Date** **Executive Director's Detainment End Date**

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