



SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES		POLICY NUMBER 1.5.G.6	PAGE NUMBER 1 OF 13
		DISTRIBUTION:	Public
		SUBJECT:	Parole Services - Response to Violations
RELATED STANDARDS:	None	EFFECTIVE DATE:	March 01, 2023
		SUPERSESSSION:	10/03/2019
DESCRIPTION: Parole	REVIEW MONTH: February	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) that Parole agents will respond to every known violation detected in order to hold offenders accountable for their actions. Nothing in this policy or its application creates the basis for establishing a constitutionally protected liberty, property, or due process interest for any offender, other than those already established through SDCL.

## II. PURPOSE

The purpose of this policy is to provide appropriate and consistent responses to violations of the community supervision agreement based on the offender's assessed risk as established by the community risk assessment/re-assessment.

## III. DEFINITIONS

### Containment Plan:

Required response by the Supervising Parole Agent when an offender is charged with a felony that does not carry the presumption of probation and the court has determined the offender is eligible for bond. The containment plan will include any bond conditions as set by the court and additional supervision conditions as approved by the Regional Supervisor and Director of Field Services.

### Felony Offense(s) with the Presumption of Probation - Class 5 and 6:

Felony that carries the presumption that the court shall sentence the offender to a term of probation unless aggravating circumstances exist. Exceptions to the presumption of probation for those convicted under specific statutes are outlined in SDCL § 22-6-11.

### Policy Driven Response (PDR):

The form served on an offender following a detected violation of supervision conditions not resulting in a violation or informal response, which outlines the violation(s) committed by the offender, the sanction(s) imposed, and the time frame for completion of the imposed sanction.

### Sanction:

A corrective measure imposed upon an offender in response to a violation. A sanction directs an offender toward future compliance. Sanctions may include treatment opportunities or requirements in response to an offender's use or abuse of drugs or alcohol.

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### **Violation:**

The failure of an offender to comply with any of the conditions listed on his/her supervision agreement, or the failure of an offender to comply with any special condition(s) imposed by the Board of Pardons and Paroles or parole services staff.

## **IV PROCEDURES**

### **1. Violation Severity Scale:**

- A. The Response to Violation (RTV) Parole Violation Severity Scale will be used to determine the applicable severity category of a violation committed by an offender (See Section 6).
  1. Each Agreement Condition from the Parole Violation Severity Scale corresponds to a requirement in the Parole Standard Supervision Agreement (See section 6).
  2. The Risk Level at the top of the scale corresponds to an offender's supervision level.
    - a. Ind = Indirect Supervision.
    - b. Min = Minimum Supervision.
    - c. Med = Medium Supervision.
    - d. Max = Maximum Supervision.
    - e. Int = Intensive Supervision.
  3. The Response Range will fall into one of the following categories, which corresponds with the RTV Parole Violation Sanction Scale (See Section 7):
    - a. SR = Supervisor Review Required
    - b. I = Informal
    - c. L = Low
    - d. M = Medium
    - e. H = High
    - f. VS = Violation Staffing
    - g. V = Violation
  
- B. If a violation by an offender is not included on the RTV Parole Violation Sanction Scale, or the violation calls for "SR" response, the parole agent will staff the case with his/her regional supervisor to determine if a formal response is necessary, and if applicable, the appropriate sanction. The agent will record the approved and applied sanction in Comprehensive Offender Management System (COMS).
  
- C. If a violation by an offender calls for a "VS" response, the case will be staffed to determine if the supervising parole agent should pursue a revocation or continue supervision with a sanction(s) or restrictions imposed by the agent.
  1. The Regional Supervisor and Supervising Parole Agent will review cases in which a lower level and/or nonviolent felony has been committed. These cases will normally continue with supervision unless there are aggravating circumstances. If the offender receives a new prison sentence, the offender will normally be returned to prison without a revocation.
  2. The Associate Director of Field Operations and Regional Supervisor will review cases in which the pending felony is a class 4 or higher and/or those felonies listed in Section 9.
  
- D. For the purposes of this policy, "committing a new felony offense" (all Classes listed) or "committing a new Misdemeanor offense" (all Classes listed) from the RTV Parole Violation Severity Scale means the parolee was arrested by a jurisdiction other than the Board of Pardons or the agent has enough probable cause to believe a new offense was committed.
  1. Reasons for probable cause include, but are not limited to: admission by the offender, a positive portable breath test (PBT), a positive urinalysis test (UA), charges filed by a prosecutor, etc.
  2. Offenders undergoing court processes, when charged with lower level and/or non-violent felony offense(s) or misdemeanor offenses, will normally be allowed to release back on community supervision after any bond or bond conditions have been met. The offender is subject to additional

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supervision conditions as deemed appropriate by the supervising parole agent when released back to the community.

- a. The supervising agent will assist with monitoring bond conditions ordered by the Court and will report back to the Court any violations of the Judge’s ordered bond conditions for the Court’s consideration.
  - b. Additional supervision conditions may include restrictions, directives, and/or conditions aimed at addressing, monitoring, and/or controlling behavior specific to the case, with the goal to increase surveillance and accountability of the offender involved.
  - c. The Regional Supervisor can staff the case with the Associate Director of Field Operations to determine if a revocation is more appropriate than additional supervision conditions.
3. Offenders charged with a new felony offense(s) where, at a minimum, at least one (1) of the charges is a class 4 felony or higher and/or a felony listed in Section 9, will only be allowed to release back to supervision when any bond and/or bond conditions are met, and an approved containment plan is put in place. Containment plans must be approved by the Regional Supervisor and Associate Director of Field Operations. The containment plan will normally remain in place until the court process is finalized.
- a. The agent may initiate the revocation process before the court process has concluded with approval by the Regional Supervisor and Associate Director of Field Operations.
4. A containment plan approved by the Regional Supervisor and Associate Director of Field Operations will include the following, if not already ordered by the Court as a bond condition: drug/alcohol testing (SCRAM, 24/7, RBD, Continuous Drug Testing) if the offense is drug/alcohol related and Day Reporting (contact in the office, 24/7, reporting to a Law Enforcement or Community Resource agency, or use of GPS technology).
- a. Additional supervision conditions may include restrictions, directives, and/or conditions aimed at addressing, monitoring, and/or controlling behavior specific to the case, with the goal to increase surveillance and accountability of the offender involved.
  - b. Containment Plans may include placement at a contract Community Transition Program (CTP) or placement in a halfway house/treatment facility, which will be based on known risk and/or needs assessment information, to include but not limited to the LSI-R/WRNA, Community Risk Assessment, chemical dependency, mental health, sex offender information, as well as past/current supervision behavior.
  - c. The supervising agent will assist with monitoring bond conditions ordered by the court and will report back to the court any violations of the judge’s ordered bond conditions for the court’s consideration.
  - d. The supervising parole agent will activate the Community Alert of “Containment Plan” and note all conditions imposed on the offender in the comments section of the alert screen in COMS.
- E. For the purposes of this policy, “Conviction on a New Felony Offense” (all Classes listed) or “Conviction on a New Misdemeanor Offense” (all Classes listed) from the RTV Parole Violation Severity Scale (See Section 6) means an offender has been convicted of an offense by a court.
1. If an offender is convicted of any felony by the court, but is not sentenced to a term in prison, the offender will normally be allowed to remain on or be released back to community supervision with additional supervision conditions applied, if/when applicable.
  2. If an offender is convicted of a lower level and/or non-violent felony but is sentenced to a term in prison by the court, normally the offender will return to prison without revocation of the offender’s current supervision being pursued.

## 2. Violation Sanction Scale:

- A. The table in the RTV Parole Violation Sanction Scale (See Section 7) will be used to determine the appropriate sanction(s) to impose within each severity level after an offender has committed a violation.

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- B. The RTV Parole Violation Sanction Descriptions (See Section 8) provide detailed information regarding each specific sanction.

### 3. Parole Agent Response to Violations:

- A. If the supervising parole agent determines the offender has committed a violation, the parole agent will refer to the RTV Parole Violation Severity Scale (See Section 6) and determine the appropriate severity category.
- B. Once a parole agent determines the appropriate severity category, the parole agent will select a sanction(s) from the corresponding response range of the RTV Parole Violation Sanction Scale to impose on the offender. Consideration will be given to the following:
1. The risk the offender poses to the community.
  2. The severity of the offender's violation.
  3. The offender's assessed community risk level.
  4. The offender's programming/treatment needs.
  5. The offender's performance while on supervised release.
  6. Previous violations by the offender while under supervised release.
  7. The offender's attitude.
  8. The relationship of the violation to the offender's crime of conviction.
  9. The availability of other intervention means and their anticipated effect on the offender.
- C. The Parole Agent will utilize Cognitive Behavioral Therapy techniques to address the offender's thought processes that led to the violation and any antisocial behaviors.
- D. The parole agent may consult with his/her Regional Supervisor or Associate Director of Field Operations prior to imposing a sanction.
1. The parole agent will have the regional supervisor's approval prior to imposing any sanction(s) not listed in the RTV Parole Violation Sanction Scale and prior to imposing a sanction that is outside (higher or lower) the response range determined by RTV Parole Violation Sanction Scale (See Section 7).
  2. The parole agent will consult with the regional supervisor as soon as possible when the RTV Parole Violation Severity Scale indicates an "SR" response range to determine if formal sanctioning is necessary, the risk level (I, L, M, H, or V) and the sanction from the RTV Parole Violation Sanction Scale. If it is determined a formal sanction is necessary, the parole agent will record the sanction in COMS and the Regional Supervisor will complete the approval in COMS.
  3. When the RTV Parole Violation Sanction Scale calls for a "VS" response, the supervising agent will inform the regional supervisor, who will staff the case with the Associate Director of Field Operations. This staffing will determine if a formal sanction in the form of a containment plan is necessary or if revocation should be pursued.
- E. Jail/detention is a sanction that is listed in the "High" response range of the RTV Parole Violation Sanction Scale.
1. A parole agent can jail/detain an offender, even if such action would fall outside the designated response range, for a violation or suspected violation, without the prior approval of a regional supervisor in the event the parole agent determines this is necessary:
    - a. To prevent an offender from absconding.
    - b. When the parole agent determines the behavior and/or attitude of the offender may constitute a threat or danger to the offender and/or the community, and the agent believes detainment is necessary to provide protection for the offender and/or to the community.
    - c. When more information is needed by the parole agent to determine specifically what violations of the supervision agreement may have been committed by the offender.
      - 1) This is often the case with after-hours offender contact with law enforcement.

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- 2) Once the necessary information is gathered by the parole agent, an appropriate sanction or violation may be administered.
  2. Offenders who test positive for a controlled substance will have a period of jail or detention.
    - a. House arrest and/or a period of electronic monitoring would meet the requirement of the mandatory detainment in this situation.
    - b. Any exceptions to this will have the Regional Supervisor's approval.
- F. Offenders who receive a Policy Driven Response (PDR) will not be eligible for Earned Discharge Credits that month in accordance with SDCL 24-15A-50.
- G. Generally, the least burdensome sanction(s) to the violation will be applied.

#### 4. Policy Driven Response:

- A. After the parole agent has selected a sanction, (unless revocation is being sought, or an informal response is indicated and selected), the parole agent will complete a *Policy Driven Response* (See Attachment 2).
1. The *Policy Driven Response* form will specify the following:
    - a. The violation(s) committed by the offender.
    - b. The sanction(s) imposed upon the offender.
    - c. The time frame for completion of the imposed sanction.
    - d. Informs the offender that failure to abide by the sanction and/or failure to complete the imposed sanction may result in revocation proceedings being initiated.
    - e. Informs the offender that failure to abide by the *Parole Standard Supervision Agreement* (See Attachment 1) and/or complete the imposed sanction may result in the original violation being used in revocation proceedings.
- Should the offender deny the behavior or not agree with the sanction, the offender may be brought before the Board of Pardons and Paroles to determine if a violation of the supervision agreement occurred.
- B. Once a violation has been resolved, either informally or by the successful completion of the sanction imposed, the violation will normally not be cited as the primary reason for revocation at a later date. However, the violation may be utilized as a contributing factor in forming a decision for revocation, or to recommend revocation at a later date.
- C. The parole agent will document all violations committed by the offender and any/all corresponding responses/sanctions.
1. Response at all levels requiring completion of a PDR will be documented in the "Violations and Sanctions" and "Parole Violation Response" screens in COMS, along with the PDR forms.
  2. Responses at the "informal" level will be documented as case notes in COMS.

#### 5. Revocation Recommended by the Parole Agent:

- A. If parole revocation is recommended by the parole agent, the revocation process will be initiated pursuant to Parole Board policy.
1. Before reaching the decision to recommend revocation, appropriate steps will be made by the parole agent in an attempt to bring about the proper behavior from the offender to successfully complete supervision.
  2. Sanctions short of recommending revocation will be considered to the extent public safety would not likely be jeopardized.
  3. Parole agents recommending violation "V" as a response range when such a response is outside the responses listed in the response range on the RTV Parole Violation Severity Scale, must obtain the approval of the regional supervisor prior to initiating the violation process, often referred to as an "override to violation."

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- B. If the regional supervisor does not concur with the recommendation for violation, the regional supervisor will determine the appropriate intervention, with input from the parole agent, Associate Director of Field Operations, and/or Director of Parole.

## 6. RTV Parole Violation Severity Scale

If the violation is not included in this table, the case should be staffed by the area supervisor to determine the appropriate Severity Level.

AGREEMENT CONDITION	PAROLEE BEHAVIOR	Risk Level/Response Range				
		Ind	Min	Med	Max	Int
1 - All laws	Committing/Conviction of any Felony	VS	VS	VS	VS	VS
1 - All laws	Committing or conviction on a New Misdemeanor Offense (Class # 1 misd.)	SR	M	M	H	H
1 - All laws	Committing or conviction on a New Misdemeanor Offense (Class #2 misd.)	I	I	I	I	I
2 - Drugs	Admission of Use or Testing Positive for Drugs – All Except Marijuana	H	H	H	H	H
2 - Drugs	Admission of Use or Testing Positive for Drugs – Marijuana	I	I	I	L	M
2 - Drugs	Failure to Submit to Urine/Drug Analysis	H	H	H	H	H
2 - Drugs	Abusing Prescription/over the counter medication	I	L	M	H	H
3 - Weapons	Possession of a Firearm	SR	H	H	H	H
3 - Weapons	Possessing Weapons/Contraband Other Than Firearm	SR	M	M	H	H
4 - Search and Seizure	Failure to Submit to a Search	SR	H	H	H	H
5 - Keep agent informed	Violating Travel Restrictions	I	I	I	L	M
5 - Keep agent informed	Absconding	V	V	V	V	V
5 - Keep agent informed	Failure to Report Activities, including employment and residence status, failure to report whereabouts, and/or Failure to turn in Monthly Reports	SR	I	I	L	M
5 – Keep Agent Informed	Avoiding Agent Phone Calls/Visits at Home/Work/Etc.	I	L	L	M	H
6 - Comply/cooperate/truthfully	Making False Statements/Lying by Omission	I	I	I	I	I
6 - Comply/cooperate/truthfully	Failure to Comply with Imposed Sanctions	I	L	M	H	H
6 - Comply/cooperate/truthfully	Failure to Follow Orders/Directions	I	L	L	M	M
7 - Opportunities/employment/support	Being Financially Irresponsible	I	I	I	I	I
9a - Consume, purchase, possess alcohol	Failure to Submit to a PBT	SR	H	H	H	H
9a - Consume, purchase, possess alcohol	Positive PBT -- < (Less than) .08 % BAC /Possession or Purchase of Alcohol	I	I	I	I	I
9a - Consume, purchase, possess alcohol	Positive PBT -- > (Greater Than) .08% BAC	I	I	L	M	H
9b - Entering an Establishment	Entering an Establishment	I	I	I	I	I

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AGREEMENT CONDITION	PAROLEE BEHAVIOR	Risk Level/Response Range				
		Ind	Min	Med	Max	Int
10 - Participate/complete programs	Failing to Participate in Treatment Programs and/or Parole Ordered or Assigned Programs	I	L	M	H	H
10- Participate/complete programs	Removal from Sex Offender Treatment Programs	SR	SR	SR	SR	SR
10- Participate/complete programs	Removal from a Parole Board Ordered Placement	V	V	V	V	V
11- Violent behavior/stalking/threats	Act of violence committed (including, but not limited to, stalking, threats)	SR	H	H	H	H

## 7. RTV Parole Violation Sanction Scale

<b>Informal Response:</b> Agent addresses violation/behavior and provides direction and response and records this via case notes in COMS; no PDR is completed; OR an override is requested and approved by the supervisor in which the response is recorded as an PDR				
<b>Supervisor Review Response:</b> Agent and Supervisor review case to determine if: 1) Formal sanctioning is necessary and applicable. 2) The appropriate response range of sanctions to apply.				
<b>Violation Staffing Response:</b> Supervisor and Director of Field Services review the case to determine if the offender should continue supervision with a sanction or response imposed by the supervising agent or if the supervising agent should initiate the revocation process.				
<b>LOW RESPONSE</b>	<b>MEDIUM RESPONSE</b>	<b>HIGH RESPONSE</b>	<b>HIGH RESPONSE REQUIRING SUPERVISOR'S APPROVAL</b>	<b>VIOLATION</b>
-Verbal Reprimand -Apology Letter -Book Reports -Daily Log/Report Writing -Written Reprimand by Agent -Curfew – 30 days or less -Increase AA/NA/GA meetings -Travel Restrictions – 30 days or less -Loss of Driving Privileges -Loss of Computer/Gaming Devices -Increased Contact with Agent	-Intensive AA/NA/GA attendance (weekly) -Additional Drug Testing -Anger Management Classes -Community Services Work -Adjustment in Contacts -Counseling from a Community Agency -Travel Restrictions – Over 30 days -Verbal/Written Reprimand by Regional Supervisor -Curfew – over 30 days -House Arrest – 30 days or less -Electronic Monitoring – 30 days or less	-Drug/Alcohol Treatment -Cognitive Based Therapy -Jail/Detention** -Day Reporting -Travel Restrictions – specific limitations -Continuous Drug Testing -Administrative hearing with Director of Parole -Case Transfer -House Arrest over 30 days -Electronic Monitoring – over 30 days -24/7 /PBTs/ SCRAM/Remote Breath – over 30 days -Domestic Violence Programming	-Community Contract CTP Placement -Halfway House Placement - Electronic Monitoring – as part of a Containment Plan	-Violation -Violation with Reinstatement and Loss of Street Time

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	-Drug/Alcohol Assessment/Aftercare -24/7 / PBTs/ Remote Breath - 30 days or less	<b>**mandatory in drug tests that are positive for a felony level substance</b>		
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## 8. RTV Parole Violation Sanction Descriptions

### RESPONSE RANGE - LOW

#### Verbal Reprimand:

Counseling or a reprimand is the most common response to a minor violation of parole. It involves confronting the parolee with the apparent violation, listening to his or her side of the story, and delivering a stern admonition or warning.

#### Apology Letter:

An apology letter is most appropriate for a minor violation of parole where the parolee has been inconsiderate of another person through being late for appointments, forgetting appointments, or other inconsiderate actions where proper social etiquette would warrant an apology.

#### Book Reports:

Requires a parolee to read a book and write a report on the contents of the book which has two (2) consequences. The parolee will be spending time at home rather than on the streets and he/she may learn something from the book.

#### Daily Log/Letter Writing:

The requirement to keep a daily log or to write a daily/weekly/monthly letter is a continual reminder to the parolee that the parole agent will be monitoring their behavior and provides ongoing reinforcement of appropriate behavior.

#### Written Reprimand by Agent:

A written reprimand is used when a verbal reprimand has not been effective. A written reprimand has the additional benefit of putting in writing exactly what the problem is and exactly what needs to be done to change the behavior that is causing a violation of the conditions of the parole agreement.

#### Curfew – 30 days or less:

This may be an effective sanction for individuals that need to be at their place of residence versus being on the streets, out late and not able to get up in the mornings for work, or other reporting requirements. Restriction of the time spent in the community protects the community from the parolee and keeps the parolee from a negative peer group on the streets.

#### Increase Meetings for AA/NA/GA:

Increasing the number of scheduled meetings for chemical dependency/addictive behavior programming has the dual effect of keeping parolees very busy and forcing them to associate with a group of citizens who are controlling their chemical dependency. This sanction should be used for parolees who have had a minor relapse or who have had a more major relapse but have had a long period of sobriety prior to their relapse.

#### Travel Restrictions – 30 days or less:

This may be an effective sanction for parolees who frequently travel to meet family and friends in the state or who often travel to larger cities for entertainment or shopping.

#### Loss of Driving Privileges:

This may be an effective sanction for parolees who are spending time joy riding and getting minor traffic tickets.

#### Loss of Computer/Gaming Devices:



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This may be an effective sanction for those individuals that tend to spend too much time playing computer games, or on the Internet when they should be working, looking for work, or engaged in programming.

**Case Staffing:**

This may be an effective sanction for those individuals that have good community support structures but are struggling. A case staffing with family members (mom, dad, spouse), members of the clergy, counselors, the agent, agent supervisor, or others that may be offering support or structure in the community to assist the parolee with understanding and changing their behaviors.

**Increased Contact with Agent:**

For the parolee who commits minor violations such as not keeping appointments or finding full-time employment, an effective strategy is to increase his or her reporting requirements to multiple times per week.

**RESPONSE RANGE – MEDIUM**

**Intensive AA/NA/GA Attendance (Weekly):**

Extensive attendance of chemical dependency/addictive behavior programming has the dual effect of keeping parolees very busy and forcing them to associate with a group of citizens who are controlling their chemical dependency addiction. This sanction should be used for parolees who have had a minor relapse or who have had a more major relapse but have had a long period of sobriety prior to their relapse.

**Additional Drug Testing:**

An increase in drug testing is designed to keep a parolee on notice that they cannot use chemicals without being caught and violated. Additional drug testing can be done by means of UAs or a Chemical Drug Patch. This sanction is most often used when a parolee has an extensive background in using chemicals or after a parolee has had a positive UA.

**Anger Management Classes:**

The sanction is to be used when parolees are using anger to control others or are allowing anger to control their behavior and do not understand how their anger could affect the violation of the conditions of their parole.

**Community Service Work (CSW):**

Community service work is an appropriate sanction to use as punishment or a means of holding a parolee accountable for an administrative violation of the conditions of parole. CSW can serve as a meaningful sanction for dealing with a broad range of violations such as not reporting as scheduled, failure to maintain employment, failure to follow through on treatment, failure to follow through on education or failure to follow through on attendance for other programs.

**Adjustment in Contacts:**

For the parolee who has demonstrated multiple minor violations such as not keeping appointments or finding full-time employment, an effective strategy is to increase his or her reporting requirements to multiple times per week.

**Counseling from a Community Agency:**

Counseling should be used as a sanction when a parolee has mental health issues that are causing him/her problems that may eventually affect violation of a condition of parole or when a condition of parole has been violated but the parolee's mental health is exacerbating their problems.

**Travel Restrictions – over 30 days:**

This may be an effective sanction for parolees who have demonstrated the inability to control travel to meet family and friends in the state or who often travel to larger cities for entertainment or shopping.

**Verbal/Written Reprimand from Regional Supervisor:**

A verbal/written reprimand from the Regional Supervisor is used when a verbal/written reprimand by the agent has not been effective. Note: A written reprimand has the additional benefit of putting in writing exactly what the problem is and exactly what need to be done to change the behavior that is causing a violation of the conditions of the parole agreement.

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Curfew – longer than 30 days:

This may be an effective sanction for individuals that need to be at their place of residence versus being on the streets, out late and not able to get up in the mornings for work or other reporting requirements. Restriction of the time spent in the community protects the community from the parolee and keeps the parolee from a negative peer group on the streets.

House Arrest – 30 days or less:

An assignment to house arrest limits the parolee’s contact with the community and the peer group which may be causing adjustment problems.

Electronic Monitoring – 30 days or less:

A parolee who needs to be monitored closely because of a failure to comply with conditions should be considered for electronic monitoring. Electronic monitoring reduces the parolee’s risk to the community and likelihood of committing new violations. A period of thirty (30) days or less should be specified. Electronic Monitoring can include a GPS unit that is placed on the ankle, or an application downloaded to a smart phone with GPS and check-in capabilities.

Drug/Alcohol Assessment/Aftercare:

A parolee with a history of substance abuse problems and recent drug use should be referred to a designated program for screening only after the agent has made aftercare referrals, increased testing, and used other intermediate sanctions without success. Curfews, frequent contacts, mandatory aftercare, and regular substance abuse testing are all part of the aftercare protocol.

24/7 / Daily PBTs / Remote Breath / 30 Days or Less:

This sanction is most often used when a parolee has a history of alcohol abuse problems and recent alcohol use. It is designed to keep a parolee on notice that they cannot use alcohol without being caught and violated. Remote Breath, which is a portable breath alcohol device with automated facial recognition that provides point-in-time results, reporting, and GPS mapping with each test, may be used when deemed appropriate and applicable.

## RESPONSE RANGE - HIGH

Drug/Alcohol Treatment:

A parolee with a history of substance abuse problems and recent drug/alcohol use should be referred to a designated program only after the agent has made treatment referrals, increased urine testing, and used other intermediate sanctions without success. Curfews, frequent contacts, mandatory treatment, and regular substance abuse testing are all part of the treatment protocol.

Cognitive Based Therapy:

This sanction is to be used when parolees are using criminal thinking to excuse their behavior and do not understand how their thinking is affecting their violation of the conditions of their parole.

Jail/Detention:

The imposition of jail/detention time should be used in cases where parolees have willfully and consistently failed to abide by the conditions and regulation of parole and other less severe sanctions have been unsuccessful or would significantly detract from the seriousness of the situation. Jail time should also be used when a parolee is a threat to himself or public safety due to drug or alcohol intoxication. Detention can also be utilized to formulate a new case plan for an offender – seek and determine placement options, treatment options, and sanctions. Jail/Detention will not exceed five (5) days.

**Note:** A Parole Agent can detain an offender, even if such action would fall outside the designated Response Range for such action, without the prior approval of a supervisor, in the event the agent believes it is necessary to: prevent absconding; or when the behavior and attitude of the parolee constitutes a threat or danger to the parolee and/or the community, and it is necessary to provide proper protection for the parolee and/or to the community; or, more information is necessary to determine specifically what violations of supervision conditions may have taken place, the current supervision level of the parolee, etc., as is often the case with after-hours contacts with law enforcement regarding a parolee or situation. Once the necessary information is gathered, an appropriate sanction, or violation, if

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warranted, can and should be administered as soon as possible. The detention, in these cases, may or may not be considered part of the sanction, depending on the outcome of the investigation.

**Note:** Jail/Detention is mandatory in cases where an offender submits a urine analysis (UA) that tests positive for a controlled substance, or refuses/fails to produce a UA. The length of the detention will not exceed five (5) days.

Exceptions to the mandatory jail/detainment can include: 1) offenders that are currently a resident in a halfway house or treatment facility if jailing the offender will result in the offender losing his/her reserved bed/treatment spot; 2) offenders that have medical issues that cannot be accommodated in a jailing facility or the offender's medication regime will be interrupted due to detainment; 3) Jails are not able to accommodate the detainment (i.e. – no space available); or 4) Law Enforcement requests the offender to remain in the community due to an on-going investigation. All exceptions, including scenarios not outlined here, must be approved by the supervisor.

**Day Reporting:**

Requiring a parolee to participate in an electronic monitoring program or report to his agent or other designated program, person or facility daily allows the agent to check on the parolee's sobriety, drug usage, and/or employment status. Parolees under this sanction should be deterred from further violation of the condition of their parole agreement by the increased risk of discovery of behavior that violates his/her parole agreement and should, over time, develop a very close relationship with his/her parole agent.

**Travel Restrictions – Specific Limitation:**

This may be an effective sanction for parolees who have demonstrated the inability to control their traveling activities. They have demonstrated through continued travel either in state or out-of-state, meeting family and friends, or traveling to larger cities for entertainment, recreation, or shopping.

**Continuous Drug Testing:**

Continuous drug testing may be an effective sanction for the parolee that has demonstrated problems with alcohol or drugs. It puts the parolee on notice that they cannot use chemicals without being caught and violated. This sanction is most often used when a parolee has an extensive background in using chemicals or after a parolee has had a positive UA. This can be twice weekly testing by the supervising parole agent, 24/7 testing, or drug patch.

**Administrative Hearing with Director of Parole (Verbal/Written Reprimand):**

A scheduled personal appearance of the parolee, the supervising agent, and the director. This verbal/written reprimand has the additional benefit of putting the parolee on notice that their behavior is very close to a violation. An administrative hearing leaves no doubt that a further violation of the conditions of the parole will result in a violation of his/her parole.

**Case Transfer:**

This may be an effective sanction for parolees who cannot adjust to a specific community, have victims in the community, cannot find or maintain work, cannot avoid negative contact with companions, gangs, or who need programming that is not available within the community they are residing.

**House Arrest – over 30 days:**

An assignment to house arrest limits the parolee's contact with the community and the peer groups, which may be causing adjustment problems. This sanction would be used where the parolee has clearly demonstrated that less restrictive measures are not preventing the parolee from violating the conditions of the community supervision agreement.

**Electronic Monitoring – over 30 days:**

A parolee who needs to be monitored closely because of a failure to comply with conditions should be considered for electronic monitoring. Electronic monitoring reduces the parolee's risk to the community and likelihood of committing new violations.

**24/7 / Daily PBT's / SCRAM / Remote Breath / over 30 Days:**

This sanction is most often used when a parolee has a history of alcohol abuse problems and recent alcohol use. It is designed to keep a parolee on notice that they cannot use alcohol without being caught and violated. SCRAM (24 hour

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a day electronic monitoring for alcohol use), where and when available, will be implemented in areas where the 24/7 Program is not available or in situations where the agent believes constant monitoring for alcohol use is necessary. Remote Breath, which is a portable breath alcohol device with automated facial recognition that provides point-in-time results, reporting, and GPS mapping with each test, may be used when deemed appropriate and applicable.

#### Domestic Violence Programming

Domestic violence programming will be used as a sanction when an offender had been charged or suspected of perpetrating domestic violence. Domestic violence programming will help the offender address the issues of power and control.

### RESPONSE RANGE – HIGH REQUIRING SUPERVISOR’S APPROVAL

#### Placement at a contract Community Transition Program:

An assignment to a contract CTP program allows a parolee to be placed at a contract facility for a period of time in response to a continued pattern of non-compliance and to make appropriate plans to deal with the behavior(s) when he/she is able to return to a private residence. This sanction is most often used when a parolee is in need of a more structured environment with increased supervision and drug/alcohol monitoring.

#### Halfway House Placement:

An assignment to a halfway house allows a parolee to be removed from the community for a period of time to deal with the relapsing behavior and make appropriate plans to deal with the behavior when he/she returns to a private residence. This sanction is most often used when a parolee has an extensive background in using chemicals or after a parolee has had multiple positive UAs.

#### Electronic Monitoring – as part of Containment Plan:

A parolee who is pending a felony and placed on a containment plan as approved by the Regional Supervisor. Electronic Monitoring reduces the parolee’s risk to the community and likelihood of committing new violations.

### RESPONSE RANGE - VIOLATION

#### Violation with reinstatement and loss of street time:

This sanction involves completing the violation process before the parole board with a recommendation from the agent and a decision of the board to take some or all the parolee’s street time and then reinstate parole.

#### Violation:

A recommendation to violate parole is the final and most serious sanction available.

## 9. Class 5 & 6 Felony Convictions NOT Eligible for Presumptive Probation (SDCL § 22-6-11)

<u>SDCL §</u>	<u>Crime Description</u>	<u>Felony</u>
<a href="#">22-11A-2.1</a>	Second Degree Escape (prisoner)	Class 5 felony
<a href="#">22-14-15</a>	Possession of firearm with prior violent crime conviction or certain drug-related conviction	Class 6 felony
<a href="#">22-18-1</a>	Simple Assault	Class 6 felony
<a href="#">22-18-1.05</a>	Simple or aggravated assault against law enforcement officer	Class 6/5 felony
<a href="#">22-18-26</a>	Assault by offender (sliming)	Class 6 felony
<a href="#">22-18-29</a>	Assault by adult prisoner in county or municipal jail--Intentionally causing contact with bodily fluids or human waste	Class 6 felony
<a href="#">22-19A-1</a>	Stalking 1 <sup>st</sup>	Class 6 felony
<a href="#">22-19A-2</a>	Violation of Restraining order, injunction, protection order or no contact order	Class 6 felony
<a href="#">22-19A-3</a>	Stalking	Class 5 felony
<a href="#">22-19A-7</a>	Stalking a child less than 12 years of age	Class 6 felony
<a href="#">22-19A-16</a>	Violation of protection order	Class 6 felony
<a href="#">22-22A-2</a>	Incest-Prohibited Sexual Contact	Class 5 felony

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<a href="#">22-22A-4</a>	Removal of minor from state for adoption without parents' consent	Class 6 felony
<a href="#">22-24A-3</a>	Possessing, manufacturing, or distributing child pornography	Class 4/3 felony
<a href="#">22-22-24.3</a>	Sexual exploitation of a child	Class 6/5 felony
<a href="#">22-23-2(2)</a>	Promoting prostitution of a minor	Class 5 felony
<a href="#">22-24-1.2</a>	Indecent exposure	Class 6 felony
<a href="#">22-24B-2</a>	Fail to register as a sex offender	Class 6 felony
<a href="#">22-24B-12</a>	Sex offender failure to update address	Class 6 felony
<a href="#">22-24B-12.1</a>	Failure to register sex offender-2 <sup>nd</sup> offense	Class 5 felony
<a href="#">22-24B-23</a>	Violation of community safety zones	Class 6/5 felony
<a href="#">22-30A-46</a>	Commission of a direct criminal conflict of interest	
<a href="#">22-42-7</a>	Felony distribution of marijuana	Varies (5/6 only)
<a href="#">24-2-14(1)</a>	Possession of alcohol or marijuana by an offender	Class 6 felony
<a href="#">32-34-5</a>	Hit and run resulting in death or injury	Class 6 felony
<a href="#">23A-27-12</a>	No person previously convicted of a violent crime may be placed on probation for a subsequent conviction involving a violent crime (Rule 32 (e))	None

## V. RESPONSIBILITY

The Director of Parole Services is responsible for the annual review and revision of this policy.

## VI. AUTHORITY

SDCL §§ 22-6-11, 24-15-14, 24-15A-50

## VII. HISTORY

February 2023  
December 2021  
July 2019  
June 2018  
March 2017  
April 2015  
January 2014  
November 2013  
April 2012  
April 2010

## ATTACHMENTS (Published in PolicyTech unless otherwise noted) (\*Indicates document opens externally)

1. Parole Standard Supervision Agreement (Generated in COMS)
2. Parole Services Policy Driven Response (Generated in COMS)
3. DOC Policy Implementation / Adjustments (*Not published in PolicyTech*)



## PAROLE/SUSPENDED SENTENCE STANDARD SUPERVISION AGREEMENT

NAME:

DOC ID:

BOOKING ID:

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. I understand that when I move to my suspended sentence time the conditions of my supervision will be the same as they were for parole supervision.

In Consideration of Parole and/or Suspended Sentence Supervision being granted me, I agree to the following:

SA1: I will obey all Municipal, County, State, Tribal, and Federal Laws.

SA2: I will not purchase, possess, or use marijuana, hallucinatory drugs, narcotics, controlled substances, and mood-altering drugs/chemicals/intoxicants or drug paraphernalia. I will not purchase, possess, or use unauthorized prescription medications and/or abuse prescribed or over-the-counter medications.

SA3: I will not own, purchase, or have under my control, possess, transport, or use weapons (includes stun guns, tasers, mace, pepper spray, knives) or explosives considered dangerous by my parole agent, or any type of firearm. (Title 7, P.1.90-618, Gun control Act of 1968) (SDCL § 22-14-15).

SA4: I will submit my person, property, place of residence, vehicle, and personal effects to search and seizure at any time, with or without a search warrant, whenever reasonable suspicion is determined by a parole agent or law enforcement. I agree to such a search and seizure at any place within or outside of the boundaries of the State of South Dakota, and at any place within or on an Indian Tribe or Indian Reservation.

SA5: I will not leave my assigned Agent's area or the State of South Dakota without permission, keeping my parole agent informed of my whereabouts and activities and submit such reports as required. My Parole Agent can visit me in my home, my employment site, or elsewhere.

SA6: I will comply and cooperate with all instructions in matters affecting my supervision. I will promptly and truthfully answer inquiries directed to me by a Parole Agent.

SA7: I will secure suitable employment of beneficial occupation and support myself and dependents as directed and be financially responsible.

SA8: I understand that a violation of any institutional rule before my actual release from the institution may be considered a violation of my supervision agreement.

SA9A: I will not purchase, possess, or consume any beverage containing alcohol.

SA9B: I will not enter establishments where a primary business is the sale of intoxicants.

SA10: I will participate, cooperate, and complete any programs as directed.

SA11: I will not engage in any assaultive, abusive, or violent behavior, including stalking, or threats of violence.

I have read or have had read to me, fully understand, and agree to abide by the conditions of supervision. I understand and agree that any parole agent has the authority to place me in custody any time and begin revocation proceedings if I am alleged to be in violation of any conditions of this agreement, and that my supervision may be revoked. I may be returned to an institution (lose any or all good time and/or any or all of the time spent on supervision). I do also hereby voluntarily waive extradition to the State of South Dakota from any state or foreign nation, if I am charged with a violation. I further voluntarily waive extradition to the State of South Dakota from any Indian Tribe or Indian Reservation.

X \_\_\_\_\_  
Offender Signature

X \_\_\_\_\_  
Witness

Date \_\_\_\_\_

**STATE OF SOUTH DAKOTA  
BOARD OF PARDONS AND PAROLES  
POLICY DRIVEN RESPONSE**

**Name:**

**Booking ID:**

You are hereby notified of the following alleged violations of the terms and conditions of your supervision agreement.

**CONDITION(S) VIOLATED:**

**INCIDENT DESCRIPTION:**

Pursuant to DOC Policy 1.5.G.6 - *Parole Services Response to Violations*, the following is the specific behavior(s) identified along with the corresponding sanction(s) recommended by parole services for this violation:

**BEHAVIOR(S) AND SANCTION(S) IMPOSED:**

The Parole Services Department is recommending that this sanction be administered within the Parole Services office by agreement between Parole Services and the above-mentioned offender. No further action will normally be taken if the recommended action is completed by the specified date. If the above named offender states that he/she has not committed the violation or if the above named offender does not accept this sanction/or does not complete the recommended action, this matter may be referred to the Board of Pardons and Paroles for review in the form of a violation report, and the offender may be detained until the review process has been completed.

The information contained in this Policy Driven Response form will become part of any subsequent Violation Report submitted to the Board of Pardons and Paroles and may be used as a Condition Violated or to enhance the Board's Sanction.

The recommended actions will be completed by (fill)

Issuing Agent: \_\_\_\_\_ Date: \_\_\_\_\_