

2024 -- S 2776

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Senators Kallman, Acosta, Miller, Gu, Mack, Ujifusa, and Valverde

Date Introduced: March 08, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-19-14 of the General Laws in Chapter 12-19 entitled "Sentence
2 and Execution" is hereby amended to read as follows:

3 **12-19-14. Violation of terms of probation — Notice to court — Revocation or**
4 **continuation of suspension.**

5 (a)(1) Whenever any person who has been placed on probation by virtue of the suspension
6 of execution of his or her sentence pursuant to § 12-19-13 violates the terms and conditions of his
7 or her probation as fixed by the court by being formally charged with committing a new criminal
8 offense, the police or department of corrections division of rehabilitative services shall cause the
9 defendant to appear before the court. The department of corrections division of rehabilitative
10 services shall determine when a technical violation of the terms and conditions of probation as fixed
11 by the court that does not constitute a new criminal offense has occurred and shall cause the
12 defendant to appear before the court. For technical violations, the division of rehabilitative services
13 shall promptly render a written report relative to the conduct of the defendant, including, as
14 applicable, a description of the clear and articulable public safety risk posed by a defendant accused
15 of a technical violation, and, as available, the information contained in any report under § 12-13-
16 24.1. The division of rehabilitative services may recommend that the time served up to that point
17 is a sufficient response to a violation that is not a new, alleged crime. ~~The court may order the~~
18 ~~defendant held without bail for a period not exceeding ten (10) days excluding Saturdays, Sundays,~~
19 ~~and holidays if the new criminal charge(s) constitutes a violent crime as defined in the Rhode Island~~

1 ~~General Laws, a domestic violence crime, or a crime involving driving under the influence or if the~~
2 ~~court determines in its discretion that public safety concerns and/or concerns regarding the~~
3 ~~defendant's likelihood to appear before the court warrant holding the defendant without bail.~~

4 (2) The court shall set reasonable bail and may set other reasonable conditions of release.
5 In determining the bail and conditions, the alleged probation violator shall have the presumption
6 that the bail shall be set at personal recognizance; provided, in the event that the alleged probation
7 violator is accused of committing a crime of violence, as defined in this section, the alleged
8 probation violator may be held without bail if the court determines that, based on the totality of the
9 circumstances, including, but not limited to, the alleged probation violator's age, condition of
10 health, criminal record and the alleged facts of the new offense, there are no conditions or
11 combination of conditions of release that will ensure the appearance of the accused in court or
12 ensure the safety of the community.

13 (3) For purposes of this section, "crime of violence" means murder, manslaughter, first
14 degree arson, kidnapping with intent to extort, first and second-degree robbery, first degree sexual
15 assault, first and second-degree child molestation, assault with intent to commit first degree sexual
16 assault, burglary, and entering a dwelling house with intent to commit murder, robbery, sexual
17 assault or larceny and any domestic crime that has an element of violence.

18 (b) The court shall conduct a hearing within thirty (30) days of arrest, unless waived by the
19 defendant, to determine whether the defendant has violated the terms and conditions of his or her
20 probation, at which hearing the defendant shall have the opportunity to be present and to respond.
21 Upon a determination by a fair preponderance of the evidence that the defendant has violated the
22 terms and conditions of his or her probation, the court, in open court and in the presence of the
23 defendant, may as to the court may seem just and proper:

- 24 (1) Revoke the suspension and order the defendant committed on the sentence previously
25 imposed, or on a lesser sentence;
- 26 (2) Impose a sentence if one has not been previously imposed;
- 27 (3) Stay all or a portion of the sentence imposed after removal of the suspension;
- 28 (4) Continue the suspension of a sentence previously imposed; or
- 29 (5) Convert a sentence of probation without incarceration to a suspended sentence.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would require the court to set reasonable bail for all those individuals who appear
2 before it as probation violators and establish a presumption of personal recognizance unless the
3 new alleged offense is a crime of violence as defined in the act.

4 This act would take effect upon passage.

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