

2021 -- H 6148

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

Introduced By: Representatives Batista, Williams, Morales, Potter, Henries, and Alzate

Date Introduced: March 17, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-19-9 of the General Laws in Chapter 12-19 entitled "Sentence and  
2 Execution" is hereby amended to read as follows:

3 **12-19-9. Violation of terms of probation -- Notice to attorney general -- Revocation or**  
4 **continuation of suspension.**

5 (a) Whenever any person who has been placed on probation pursuant to § ~~12-9-8~~ 12-19-8  
6 violates the terms and conditions of his or her probation as fixed by the court, the police or the  
7 probation authority shall inform the attorney general of the violation, and the attorney general shall  
8 cause the defendant to appear before the court. The department of corrections division of  
9 rehabilitative services shall promptly render a report relative to the conduct of the defendant, and  
10 the information contained in any report under § 12-13-24.1. The division of rehabilitative services  
11 may recommend that the time served up to that point is a sufficient response to a violation that is  
12 not a new alleged crime. The court shall release the defendant, pending a probation violation  
13 hearing, upon his or her own recognizance, unless reasonable surety is required to ensure the  
14 defendant's appearance in court; provided, that if the violation is for a crime of violence pursuant  
15 to § 11-47-2(5) or domestic violence pursuant to § 12-29-2, then the ~~The~~ court may order the  
16 defendant held without bail for a period not exceeding ten (10) days, excluding Saturdays, Sundays,  
17 and holidays.

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

1 probation, at which hearing the defendant shall have the opportunity to be present and to respond.  
2 Upon a determination by a fair preponderance of the evidence that the defendant has violated the  
3 terms and conditions of his or her probation, the court, in open court and in the presence of the  
4 defendant, may:

5 (1) Remove the suspension and order the defendant committed on the sentence previously  
6 imposed, or on a lesser sentence;

7 (2) Impose a sentence if one has not been previously imposed;

8 (3) Stay all or a portion of the sentence imposed after removal of the suspension;

9 (4) Continue the suspension of a sentence previously imposed; or

10 (5) Convert a sentence of probation without incarceration to a suspended sentence.

11 (c) The court shall sentence for a violation under subsection (b) of this section in  
12 accordance with judicial sentencing benchmarks.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

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1           This act would mandate the court to release a defendant for an alleged violation of  
2 probation, except if the alleged violation is for a crime of violence pursuant to § 11-47-2(5) or  
3 domestic violence pursuant to § 12-29-2.

4           This act would take effect upon passage.

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