

2023 -- H 5571

LC000799

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Representatives Batista, Potter, Alzate, Felix, and Craven

Date Introduced: February 15, 2023

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**  
4 **or continuation of suspension.**

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

16 (b) The court shall conduct a hearing within thirty (30) days of arrest unless waived by the  
17 defendant to determine whether the defendant has violated the terms and conditions of his or her  
18 probation, at which hearing the defendant shall have the opportunity to be present and to respond.  
19 Upon a determination by a fair preponderance of the evidence that the defendant has violated the

1 terms and conditions of his or her probation, the court, in open court and in the presence of the  
2 defendant, may:

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

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

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

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

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

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

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1           This act would require the court to release probation violators on their own recognizance  
2 unless it determines that some reasonable surety is required to ensure the defendant's appearance  
3 in court.

4           This act would take effect upon passage.

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