

SUPERVISION\DCC\SUPERVISION PROCESS\REVOCATION

Revocation

Investigation/Decision

Pre-Preliminary Hearing

Waived Hearings

Preliminary Hearings

Post-Preliminary Hearing

Final Revocation Hearing

Appeals

Revocation and Reinstatement Orders

Special Revocation Procedures

Legal Rules, Aids & Guidelines

INVESTIGATION/DECISION

.01 AUTHORITY

Wisconsin Administrative Code Sections HA 2

Wisconsin Administrative Code DOC 331

Wisconsin Statutes 302.11

.02 GENERAL STATEMENT

A client's supervision may be revoked if the client violates a rule or condition of supervision, all appropriate interventions have been attempted, and the EBRV determined response supports revocation.

When supervision is revoked, the client is either:

- returned to court for sentencing, or
- transported to a correctional facility to begin serving the sentence indicated by the Court.

Protection of the public is the primary consideration in any revocation decision.

.03 TIME FRAMES

SUPERVISION\DCC\SUPERVISION PROCESS\REVOCATION

Once a decision to revoke has been made, the Notice of Violation and Hearing Rights ([DOC-414](#)) shall be served within 2 working days.

Provide the Revocation Notification to Victim ([DOC-2938](#)) along with a Revocation Proceeding Fact Sheet for Victims to the victims of cases recommended for revocation. Only provide these documents under the following circumstances:

- Revocation hearings are not waived, and
- An ATR is not likely at the time of issuance of the [DOC-414](#), and
- The victim indicated on a Victim's Request for Notification ([DOC-2623](#)) that notification is desired, or
- The victim is registered with NOTIS and no [DOC-2623](#) is on file.

In the event a preliminary hearing is necessary, contact the victims of cases recommended for revocation via phone call (if possible) to inform the victims of their rights. A checklist of items to cover during the call may be found on MyDOC. Obtain signed authorizations for disclosure of health or other information from the client (if the client consents) in the event the victim may desire to attend proceedings.

The revocation packet must be submitted to the Supervisor within 10 working days. The supervisor in turn must process the packet within 5 working days and submit to the Regional Office. The Chief or Assistant Chief will process the packet waiver within 5 working days of receipt.

If required, a Preliminary Hearing shall be held within 15 working days of the date of detention. If needed, the agent may request an extension of up to five working days from the Regional Chief or Assistant Chief.

The Notice of Preliminary Hearing ([DOC-415](#)) must be served not less than one, or more than 5 working days from the date of the Preliminary Hearing.

The Final Revocation Hearing Request ([DOC-429](#)) must be completed by the agent within one working day after a finding of probable cause at a Preliminary Revocation Hearing. If

SUPERVISION\DCC\SUPERVISION PROCESS\REVOCATION

the client waives the Preliminary Revocation Hearing, or if no Preliminary Revocation Hearing is required, the (DOC-429) must be completed within 1 working day of the custody decision.

The DOC-429 will be electronically routed to the Division of Hearings and Appeals (DHA), the agent, supervisor, and status keeper mailbox. The agent will receive a copy of the DOC-429 composite document by email to print and place in the file. If the attorney is unknown at the time of submission, the agent should forward the email copy of the DOC-429 to the defense attorney when one is appointed. If the DOC-429 is amended at any time prior to the start of the hearing, the agent must provide the amended copy to the attorney and client.

Within 5 days after submission of the DOC-429, the Revocation Notification to Victim (DOC-2938A), Confidential Crime Victim Information (DOC-2939) and applicable releases shall be provided to the Division of Hearings and Appeals and defense counsel.

For clients being held in county jails, the Final Hearing must begin within 50 calendar days of the date of detention unless the hearing has been postponed for cause. Under special circumstances, at the request of the agent or defense counsel, the Division of Hearings and Appeals may allow an additional ten (10) calendar days. Failure to begin a hearing within these time requirements may result in the Sheriff releasing the client with notice.

If an alternative to revocation has not been found and the client has not signed an Alternative to Revocation Agreement (DOC-250), the packet must be submitted to the Supervisor within 10 working days of the service of the Notice of Violation, Recommended Action and Statement of Hearing Rights (DOC-414). The Supervisor in turn must process the packet within 5 working days and submit to the Regional Office. The Regional Office shall process the packet within 5 working days of receipt.

A copy of the revocation packet should be submitted to the Division of Hearings and Appeals and the client's defense counsel at least 10 calendar days before the date of the Final Hearing. In order to release confidential information during the revocation process, valid DOC authorizations for the release of information are required. Prior to submitting packets

SUPERVISION\DCC\SUPERVISION PROCESS\REVOCATION

to the defense counsel, Division of Hearings & Appeals, and the sentencing court (if applicable) the victim's personal identifiers including telephone number, email, street address, post-office box, zip code and email address shall be redacted.

For sentence withheld cases only, the Revocation Order and Warrant, Revocation Summary (DOC-1950), signed waiver (or copy of the Administrative Law Judge's findings and recommendation), and a Sentencing After Revocation memorandum shall be submitted to the sentencing court within 10 calendar days of the effective date of revocation (the date the Revocation Order and Warrant is signed).

.04 INVESTIGATION

The agent investigates the facts underlying an alleged violation and meets with the client to discuss the allegation within a reasonable period of time after becoming aware of the violation. After the investigation has been completed and it has been determined that a violation has occurred, the agent will utilize an evidence-based response to violation(s) and review the following items with his/her supervisor:

- The facts underlying the alleged violation including conflicting versions regarding the nature and circumstances of the alleged violation;
- The agent's investigatory efforts and conclusions;
- A brief summary of agent's discussion with the client;
- Summary of victim statement;
- The agent's recommendation and justification regarding disposition;
- A statement as to the custody status of the client;
- Any pending criminal charges, guilty pleas, confession, or conviction for the conduct underlying the alleged violation; and
- Reference to the client's prior adjustment, including but not limited to, prior record, violations, alleged violations, and absconding.

.05 PLOTKIN ANALYSIS (ABA STANDARDS)

Once the investigation is complete and the recommended response from the EBRV is revocation, s at least one of the following must be met:

- Confinement is necessary to protect the public from further criminal activity by the client;
- The client is in need of correctional treatment, which can most effectively be provided if he/she is confined;

SUPERVISION\DCC\SUPERVISION PROCESS\REVOCATION

- It would unduly depreciate the seriousness of the violation if supervision were not revoked.

.06 ALTERNATIVES TO REVOCATION

An alternative to revocation (ATR) is a specific intervention and/or treatment response to a violation, and is utilized when revocation has been determined to be the appropriate response through the EBRV decision-making process, but identified programming needs have not been adequately addressed.

In all cases where the department initiates revocation of a client's probation, parole or extended supervision, the department must consider whether an appropriate alternative is available. An Alternative to Revocation (ATR) can be considered when an intervention appears to be sufficient to produce behavioral change in response to a rule violation, but should not be utilized just to accomplish an intervention or treatment response without being at a point where revocation is applicable.

All of the following intermediate steps must be considered in every case before an alternative to revocation is decided:

- A review of the rules of supervision followed by changes in them where necessary, including return to court;
- A formal or informal counseling session with the client to re-emphasize the necessity of compliance with the rules or conditions;
- An informal or formal warning to the client that any further violations may result in a recommendation for revocation.

Options for an ATR include but are not limited to enhanced electronic monitoring with programming, alcohol use monitoring with programming, rule amendments with programming, skill-based guided interventions, outpatient community programs, residential community programs, transitional housing services with programming, treatment court participation, and institutional based programs. An agent may continue to seek and consider ATR options at any time prior to issuance of a Revocation Order and Warrant.

An agent must serve the client with the [DOC-414](#) and sign the Alternative to Revocation Agreement ([DOC- 250](#)) to initiate an ATR. If the program accepts the client or there is a

SUPERVISION\DCC\SUPERVISION PROCESS\REVOCATION

confirmed start date and the client has signed the Alternative to Revocation Agreement (DOC-250) within 10 calendar days of receiving the DOC-414, a revocation packet is not required. The agent should obtain signed DOC-1163A Authorization for Use and Disclosure of Protected Health Information forms authorizing disclosure of information with the Administrative Law Judge and Public Defender in the event the client does not comply with the ATR, unless appropriate disclosures were previously collected. Length of time for the ATR should be specifically noted on the DOC-250 and ATR's should not be expected to continue indefinitely with no end date identified. For ATR's which include local treatment court participation, the timeframe identified does not require a specific date but instead may include "completion of treatment court."

If the client will remain in custody pending placement in an ATR, a Revocation Hearing Request (DOC-429), specifically requesting a status conference should be filed within one (1) business day of the custody decision. Once the client begins the ATR any pending revocation hearing or status conference should be cancelled. The revocation process is terminated at this point. The ATR plan should be documented in the COMPAS notes with a clear description of the criminogenic and/or programming need addressed.

If a DOC-44A recommending revocation has already been processed, a second DOC-44A stating "Withdraw Revocation Request" must be submitted. If time has been stopped, check "Start Time." The effective date of the Start Time is the date the client signed the ATR agreement. Time may not be tolled beyond the ATR start. If the client does not sign the DOC-250, proceed with revocation as outlined above.

All ATRs must begin within 60 days of the service of the Notice of Violation (DOC-414) to the client. If the ATR will begin after 60 days, the agent may request approval from the Regional Chief to continue to hold the client in custody. The agent's request must confirm that the client is willing to participate in the ATR, the expected start date of the ATR and a plan to maintain contact (see .07) with the client during the period of custody pending placement in the ATR.

If an ATR is not available prior to discharge from supervision, and the client is on probation, the agent may request a probation extension from the Court.