

Chapter 388-740 WAC

JUVENILE PAROLE REVOCATION

(Formerly chapter 275-30 WAC)

WAC

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WAC 388-740-0010 Definitions. "Department" means the department of social and health services.

"Active parole" means all time served by a JRA youth under JRA parole supervision except that time during which the offender is:

- (1) Under a JRA warrant;
- (2) Held in detention within or outside the state of Washington pending a parole revocation hearing, pending charges or pending a civil commitment hearing under chapter 71.09 RCW;
- (3) Serving a term of confinement for a parole revocation;
- (4) Placed on seventy-two hour hold status pursuant to RCW 13.40.050;
- (5) Placed on unauthorized leave status;
- (6) Committed involuntarily for mental health or chemical dependency treatment; or
- (7) On temporary assignment status to a county juvenile detention center, a county jail, or to a department of corrections facility.

If no other time is concurrently tolled against active parole per (1) through (7) above, one additional day is tolled against active parole when the offender is subject to:

- A parole revocation initiated by the JRA.
- A seventy-two hour hold in a JRA facility pending a parole revocation hearing.

"Confinement" means electronic monitoring of a juvenile or physical custody of a juvenile:

- By the department of social and health services in a facility operated by or pursuant to a contract with the juvenile rehabilitation administration;
- In a county detention facility as defined in RCW 13.40.020 or in a county jail;
- In a facility operated by the department of corrections under provisions of RCW 13.40.280 or 13.40.285; or
- In another state under terms of chapter 13.24 RCW and of the interstate compact to which the state of Washington is a party.

"Detention" means, for purposes of this rule, temporary confinement of a juvenile pending charges, court disposition or administrative hearing.

"Juvenile parole officer" means a state employee, or person under contract to the state, whose responsibilities include supervising juvenile parolees.

"Juvenile parolee" means a person under age twenty-one released from a juvenile rehabilitation administration res-

idential facility and placed under the supervision of a juvenile parole officer.

"Modification of parole conditions" means a change in the "order of parole conditions" provided by the juvenile parole officer with full knowledge of the change by the juvenile parolee.

"Parole" means a period of supervision following release from a juvenile rehabilitation administration residential facility, during which time certain parole conditions are to be followed.

"Parole conditions" mean interventions or expectations that include, but are not limited to, those listed in RCW 13.40.210, intended to facilitate the juvenile parolee's reintegration into the community and/or to reduce the likelihood of reoffending.

"Secretary" means secretary of the department of social and health services or his/her designee.

"Violation" means behavior by a juvenile parolee contrary to written parole conditions which may result in sanctions that include, but are not limited to, modification of parole conditions and/or confinement.

"Target victim population" means persons who, by age, sex, race, ethnicity, body conformation or coloration or other personal characteristics are consistent with those of a JRA youth's known victim(s).

[Statutory Authority: RCW 13.40.210 (4)(b). WSR 08-21-038, § 388-740-0010, filed 10/8/08, effective 11/8/08. Statutory Authority: RCW 13.40.020, 13.24.010. WSR 00-17-046, amended and recodified as § 388-740-0010, filed 8/7/00, effective 8/27/00. Statutory Authority: RCW 72.01.090, 72.05-130 and 13.40.210. WSR 99-03-077, § 275-30-010, filed 1/19/99, effective 2/19/99. Statutory Authority: RCW 13.40.210. WSR 88-20-083 (Order 2709), § 275-30-010, filed 10/5/88.]

WAC 388-740-0030 Parole arrest warrant. (1) A juvenile parole officer:

(a) Must issue a parole arrest warrant when the juvenile parole officer has reason to believe a juvenile parolee possessed a firearm or used a deadly weapon during the parole period; or

(b) May issue a parole arrest warrant when the juvenile parole officer has reason to believe a juvenile parolee has violated a condition of parole, other than possession of a firearm or use of a deadly weapon.

(2) The parole arrest warrant, on department forms, must include a statement of the nature of the violation(s) and the date it occurred.

(3) A juvenile parolee held in detention for an alleged violation of parole conditions is entitled to an informal hearing to determine whether there is probable cause to believe a parole violation occurred and whether continued detention pending a parole revocation hearing is necessary. The hearing must be:

(a) Held within twenty-four hours (excluding Saturdays, Sundays, and holidays) of being placed in detention for an alleged violation of parole conditions; and

(b) Conducted by a parole supervisor or designee not directly involved in the case. The parole supervisor or designee must:

(i) Interview both the juvenile parolee and a juvenile parole staff with knowledge of the alleged violation(s). If such a parole staff is unavailable, documentation of the allegation(s) may be reviewed in place of the staff interview; and

(ii) Issue a decision, immediately following the hearing, with reasons for either releasing the juvenile parolee or authorizing continued detention. The decision must be documented on department forms. In no event shall a juvenile parolee be held in detention for an alleged violation of parole conditions longer than seventy-two hours (excluding Saturdays, Sundays, and holidays) without a parole revocation petition being filed pursuant to WAC 275-30-040.

[Statutory Authority: RCW 13.40.020, 13.24.010. WSR 00-17-046, recodified as § 388-740-0030, filed 8/7/00, effective 8/27/00. Statutory Authority: RCW 72.01.090, 72.05.130 and 13.40.210. WSR 99-03-077, § 275-30-030, filed 1/19/99, effective 2/19/99. Statutory Authority: RCW 13.40.210. WSR 88-20-083 (Order 2709), § 275-30-030, filed 10/5/88.]

WAC 388-740-0040 Parole revocation petition. (1) The juvenile parole officer:

(a) Must initiate a parole revocation petition if the juvenile parole officer has reason to believe the juvenile parolee possessed a firearm or used a deadly weapon during the parole period; or

(b) May initiate a parole revocation petition if the juvenile parole officer has reason to believe the juvenile parolee has violated a condition of parole, other than possession of a firearm or use of a deadly weapon. Criteria in WAC 388-740-0070 (2), (3), (4) and (5) are assessed by the juvenile parole officer to determine the type of revocation and duration of confinement for which to petition.

(2) The petition, on department forms, must include:

(a) A statement of the nature of the violation and the date it occurred;

(b) The relief requested by the juvenile parole officer as a result of the violation;

(c) Notice of the juvenile parolee's right to be represented by an attorney, either one of his/her own choosing or one appointed at public expense;

(d) A parole revocation hearing waiver agreement;

(e) The dated signature of the regional administrator or designee; and

(f) If the parole revocation hearing is not waived, notice of the time, date, and location of the parole revocation hearing and notice that failure to appear may result in default.

(3) An initial copy of the petition that includes the information described in subsection (2)(a) through (e) must:

(a) Be provided to the juvenile parolee or the juvenile parolee's attorney; and

(b) Be provided to the juvenile parolee's parent/guardian, if reasonably possible, and in accordance with laws and rules governing the release of confidential information. The juvenile parole officer must document the date and time he/she provided the initial copy of the petition to the juvenile parolee or the juvenile parolee's attorney.

(4) A juvenile parolee, only through an attorney, may waive the right to a parole revocation hearing and agree to the parole revocation and agreed upon relief. The decision to waive must be documented with dated signatures on the original petition.

(5) If the juvenile parolee through his/her attorney does not waive the right to a hearing, the parole revocation petition must be filed with the local office of the state office of administrative hearings within seventy-two hours (excluding Saturdays, Sundays, and holidays) of:

(a) The juvenile parolee being placed in detention for an alleged violation of parole conditions; or

(b) The juvenile parolee or his/her attorney being provided with a copy of the petition under subsection (3) of this section if the juvenile parolee is not detained.

(6) The filed petition must include notice that failure to appear may result in default, and the time, date, and location of the parole revocation hearing, as determined by the state office of administrative hearings. A copy of the filed petition must:

(a) Be served either personally or by certified mail, return receipt requested, on the juvenile parolee or the juvenile parolee's attorney; and

(b) Be provided to the juvenile parolee's parent/guardian, if reasonably possible, and in accordance with laws and rules governing the release of confidential information.

[Statutory Authority: RCW 13.40.210 (4)(b). WSR 08-21-038, § 388-740-0040, filed 10/8/08, effective 11/8/08. Statutory Authority: RCW 13.40.020, 13.24.010. WSR 00-17-046, recodified as § 388-740-0040, filed 8/7/00, effective 8/27/00. Statutory Authority: RCW 72.01.090, 72.05.130 and 13.40.210. WSR 99-03-077, § 275-30-040, filed 1/19/99, effective 2/19/99. Statutory Authority: RCW 13.40.210. WSR 88-20-083 (Order 2709), § 275-30-040, filed 10/5/88.]

WAC 388-740-0060 Parole revocation hearing. (1)

After the petition is filed a parole revocation hearing must be held to determine whether the alleged parole violation occurred unless the juvenile parolee waives his/her right to a parole revocation hearing. If the juvenile parolee is held in detention as described under WAC 275-30-030, the administrative law judge must hold the hearing within seventy-two hours (excluding Saturdays, Sundays, and holidays) of the petition being served. Otherwise the administrative law judge must hold a hearing no sooner than seven days after the petition is served, but no later than fourteen days after the petition is served.

(2) At the parole revocation hearing, the juvenile may waive the right to be represented by an attorney. A juvenile waiving the right to an attorney may either contest or agree to the parole revocation.

(3) The administrative law judge must:

(a) Conduct a parole revocation hearing in accordance with chapter 10-08 WAC except as otherwise indicated in these rules;

(b) Grant the parole revocation petition if the administrative law judge finds, by a preponderance of the evidence, the violation occurred and the violation warrants revocation;

(c) Order the relief requested in the petition, if the parole revocation petition is granted;

(d) Issue an oral decision immediately following the parole revocation hearing;

(e) Issue a written decision within forty-eight hours of the hearing; and

(f) Provide a copy of the decision to the juvenile parole officer, the juvenile parolee and his/her attorney, the juvenile parolee's parent/guardian, and the department. The administrative law judge's decision shall constitute a final administrative decision.

[Statutory Authority: RCW 13.40.020, 13.24.010. WSR 00-17-046, recodified as § 388-740-0060, filed 8/7/00, effective 8/27/00. Statutory Authority: RCW 72.01.090, 72.05.130 and 13.40.210. WSR 99-03-077, § 275-30-060, filed 1/19/99, effective 2/19/99. Statutory Authority: RCW 13.40.210. WSR 90-22-072 (Order 3091), § 275-30-060, filed 11/6/90, effective 12/7/90; WSR 88-20-083 (Order 2709), § 275-30-060, filed 10/5/88.]

WAC 388-740-0070 Confinement. (1) Mandatory confinement.

A JRA youth must be confined for a minimum of thirty days for possession of a firearm or use of a deadly weapon while on parole, per RCW 13.40.210 (4)(c).

(2) Confinement for up to thirty days.

A JRA youth may be confined for a period not to exceed thirty days for violating one or more conditions of parole, per RCW 13.40.210 (4)(a)(i) through (iv).

(3) Confinement for remainder of sentence.

As provided for in RCW 13.40.210 (4)(a)(v) and (vi), certain JRA youth who are placed on parole before completing their maximum sentence may be returned to confinement for the remainder of their sentence if they violate conditions of parole.

(a) Sex Offenders: A JRA youth may be returned to confinement for the remainder of the sentence range if the offense for which the youth was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined under RCW 9.94A.030.

(i) The remainder of sentence is calculated as the maximum aggregated term of qualifying sex offenses, minus the number of days served on the aggregated sentence for the qualifying sex offense or offenses.

(ii) Previous days in confinement for a parole violation are not deducted in this calculation.

(iii) Aggregated terms are served such that any term or terms for qualifying sex offenses are considered the last served.

(b) Graduates of basic training camp: A JRA youth who has successfully completed the juvenile offender basic training camp program under RCW 13.40.320 may be returned to confinement for the remainder of their sentence range.

(i) The remainder of sentence is calculated as the maximum aggregated term or four hundred fifty-five days, whichever is shorter, minus the number of days served on their aggregated sentence and on active parole.

(ii) Previous days in confinement for a parole violation are not deducted in this calculation.

(4) Juvenile sex offender confinement for up to twenty-four weeks.

(a) As provided for in RCW 13.40.210 (4)(b), a JRA youth may be returned to confinement for up to twenty-four weeks if:

(i) The JRA youth was sentenced for a sex offense as defined in RCW 9A.44.130;

(ii) The JRA youth is known to have violated the terms of parole; and

(iii) In the determination of the secretary, other graduated sanctions or interventions have not been effective in controlling the youth's parole violations; or

(iv) The behavior is so egregious it warrants the use of the higher level intervention and the violation:

(A) Is a known pattern of behavior consistent with a previous sex offense that puts the JRA youth at high risk for reoffending sexually;

(B) Consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or

(C) Requires a review under chapter 71.09 RCW, due to a recent overt act.

(b) The total number of days of confinement under subsection (4) shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying sex offense or offenses pursuant to RCW 13.40.0357.

(c) The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation under subsection (4).

(5) Criteria for juvenile sex offender confinement.

A parole revocation petition to confine a juvenile sex offender for the remainder of sentence under subsection (3) or for up to twenty-four weeks under subsection (4) will be based on, but not limited to, the following behavioral and sentence considerations:

(a) Behavioral criteria:

(i) Behavior that appears to constitute a new sex offense or a statement by the JRA youth reporting a new sex offense;

(ii) Statements by the JRA youth that he/she is at imminent risk to re-offend sexually unless confined;

(iii) Accessing, making or possessing child pornography;

(iv) Accessing, making or possessing pornography that depicts excessive physical violence, death or threats of death, torture or infliction of pain, use of a weapon, humiliation or bondage;

(v) Possession of materials which, in total, constitute a "rape kit";

(vi) Unsupervised contact with previous victim(s) or target victim populations, except for approved peer age contact (attending school, etc.);

(vii) Use, possession or providing of drugs and/or alcohol associated with the JRA youth's illegal sexualized behaviors.

(b) Available remainder of sentence range.

If the JRA youth has not served the maximum sentence imposed for the underlying offense or offenses, and confinement under WAC 388-740-0070 (3) or (4) are both available, the petition for relief will take into account whether the remainder of sentence is sufficient to accomplish the purposes of the revocation. If so, the petition will be for confinement for the remainder of the sentence range; if not, the petition will be for up to twenty-four weeks of confinement.

(6) If the JRA youth's parole is revoked, the department must give the youth credit against any period of confinement

for days served in detention pending the parole revocation hearing.

(7) Serving confinement.

(a) The JRA youth must serve his or her confinement in a facility or detention facility as described in WAC 388-740-0010.

(b) Confinement may be continuous, or for a portion of each day, or for certain days each week with the balance of time under supervision.

(8) If a juvenile's parole is revoked two or more times during one parole period, the secretary must approve any period of confinement exceeding a combined total of thirty days.

(9) Unless conditions of parole are otherwise amended, the order of parole conditions in effect at the time the parole was revoked shall be deemed reinstated immediately following any period of confinement.

[Statutory Authority: RCW 13.40.210 (4)(b). WSR 08-21-038, § 388-740-0070, filed 10/8/08, effective 11/8/08. Statutory Authority: RCW 13.40.020, 13.24.010. WSR 00-17-046, recodified as § 388-740-0070, filed 8/7/00, effective 8/27/00. Statutory Authority: RCW 72.01.090, 72.05.130 and 13.40.210. WSR 99-03-077, § 275-30-070, filed 1/19/99, effective 2/19/99. Statutory Authority: RCW 13.40.210. WSR 90-22-072 (Order 3091), § 275-30-070, filed 11/6/90, effective 12/7/90; WSR 88-20-083 (Order 2709), § 275-30-070, filed 10/5/88.]