

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DEPARTMENT OF CORRECTIONS

(agency name)

Administrative Order No. 82-20

(1) I, Amos E. Reed, director of Department of Corrections

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

Adopt WAC 137-68 Adult Probation and Parole, Interstate Compact
Repeal 275-102

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. WSR 82-23-045
filed with the code reviser on 11-12-82. These rules shall take effect:
[X] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
[at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[X] (a) This rule is promulgated pursuant to RCW 9.95.270 and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

[] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

STATE OF WASHINGTON APPROVED AND ADOPTED FILED

December 21,

19 82

DEC 22 1982

By

Amos E. Reed, Secretary

Title

CODE REVISER'S OFFICE WSR 83-01-139

Chapter 137-68 WAC

ADULT PROBATION AND PAROLE--INTERSTATE COMPACT

NEW SECTION

WAC 137-68-010 DEFINITIONS. (1) "Compact" is the interstate compact for supervision of probationers and parolees as codified in RCW 9.95.270.

(2) "Compact administrator" is the director of the division of community services, department of corrections, who is responsible for the administration of the interstate compact for the supervision of adult probationers and parolees.

(3) "Deputy compact administrator" is a person appointed by the compact administrator and delegated responsibility for the administration of the interstate compact.

(4) "Sending state" is the state in which the individual was granted probation or parole and in which the jurisdiction of the case is retained.

(5) "Receiving state" is the state providing supervision of the parolee or probationer under the interstate compact.

(6) "Probationer" is a person under jurisdiction of a state superior or circuit court who is being supervised under the compact.

(7) "Parolee" is a person under jurisdiction of a paroling authority who is being supervised under the interstate compact.

(8) "Parole officer" is a state probation and parole officer employed by the department of corrections.

(9) "Supervising parole officer" is a parole officer assigned to supervise a probationer or parolee as required by the interstate compact and to act in regard to all matters connected with hearings conducted pursuant to the interstate compact rules.

(10) "Violations specified" are charges and/or allegations made against probationer or parolee by a parole officer in regard to violation of law or failure to comply with the general conditions of probation or parole or special instructions and conditions as set forth by the court of jurisdiction or the paroling authority.

(11) "Preliminary hearing" is a hearing conducted in accordance with RCW 9.95B.010 through 9.95B.900.

(12) "Hearing officer" is a person authorized by the compact administrator in accordance with RCW 9.95B.020 to hear cases involving alleged violations of conditions of parole or probation. Neither the person making the allegations of violation or his or her direct supervisor shall act as hearing officer.

NEW SECTION

WAC 137-68-020 DETAINED OR APRESTED PROBATIONER OR PAROLEE--RIGHT TO PRELIMINARY HEARING. (1) A probationer or parolee being supervised for another state under the interstate compact if detained or arrested within the state of Washington shall have the right as provided in chapter 9.95B RCW, to a preliminary hearing to determine whether there is probable cause to believe a condition or conditions of probation or parole have been violated and whether there is reason to believe the violations alleged are of such nature that a revocation of probation or parole should be considered by the sending state.

(2) The detained or arrested probationer or parolee may waive his or her right to such hearing in writing.

NEW SECTION

WAC 137-68-030 PRELIMINARY HEARING—PREPARATION. (1) When a probationer or parolee being supervised in the state of Washington under the compact is detained by a parole officer, the parole officer shall immediately give verbal and written notice to such probationer or parolee of his or her right to a preliminary hearing and shall further notify the probationer or parolee of all rights guaranteed him or her by the rules in this chapter.

(2) Immediately following the detention of a probationer or parolee, the parole officer shall notify the deputy compact administrator of the detention. Arrangements shall promptly be made for the date, time, and place for a hearing so that the hearing may be held within ten days from the date the probationer or parolee is detained by the parole officer.

(3) As soon as possible following detention of a probationer or parolee, the parole officer shall prepare charges or the violations specified and provide the probationer or parolee with a copy of said charges and also notify him or her of the date, time, and place set for the hearing. Upon serving the probationer or parolee with the violations specified, the parole officer shall determine whether the probationer or parolee wishes to waive his or her right to a hearing.

(4) Prior to the hearing, the parole officer shall send to the appropriate deputy compact administrator the signed hearing waiver (if appropriate), the notice of arrest and violations specified and the violation report.

(5) A detained or arrested probationer or parolee shall have the right to consult with any person whose assistance he or she reasonably desires prior to the hearing.

NEW SECTION

WAC 137-68-040 PRELIMINARY HEARING—CONDUCT. (1) The hearing shall be conducted by a hearing officer as defined in WAC 137-68-010 (12).

(2) The hearing shall be closed to the public.

(3) The proceedings at the hearing shall be recorded.

(4) The hearing officer shall explain the purpose of the hearing, have the specified charges read aloud, and verify that the procedures specified in WAC 137-68-030 have been followed.

(5) A supervising parole officer shall be present at the hearing, submit the written report of the alleged violations in evidence, and testify as to the violations.

(6) Any person may give testimony relevant to the alleged violation or violations, introduce evidence including affidavits, and question other persons subject to the limitations in subsection (7) of this section.

(7) The detained or arrested probationer or parolee shall have the right to confront and examine any person who may have made allegations or given evidence against him or her unless the hearing officer determines that such a confrontation would present a substantial present or subsequent danger of harm to such person. In such instance a written general summary of the evidence, without disclosure of the identity of the witness, shall be provided to the probationer or parolee at the hearing. He or she shall have the opportunity to submit evidence relevant to or controverting any information contained in the summary.

(8) The hearing may be recessed for time sufficient for the hearing officer to consider the evidence and reach a decision on the issue of probable cause.

(9) The hearing officer shall render this decision on the probable cause based solely on the evidence presented at the hearing.

(10) If probable cause is found the hearing officer may receive additional evidence and argument relevant to recommendations.

NEW SECTION

WAC 137-68-050 PRELIMINARY HEARING—DISPOSITION OF DECISION.

(1) The hearing officer shall submit a written summary and digest of the hearing to the deputy compact administrator which may include recommendations and reasons therefore.

(2) The deputy compact administrator shall submit the summary and digest to the sending state which may include his or her recommendations.

(3) If the decision is that there is probable cause to believe that the parolee or probationer has committed a violation or violations of a condition or conditions of parole or probation and it appears that retaking or reincarceration by the sending state is likely to follow, the probationer or parolee may be detained by the deputy compact administrator to allow such time as may be necessary to complete the arrangements for his or her return to the sending state.

(4) Should it be the decision of the sending state to return this probationer or parolee, the deputy compact administrator will assist in arranging for his or her return to the sending state.

(5) The record of the hearing shall be retained for not less than one hundred eighty days.

REPEALER

Chapter 275-102 of the Washington Administrative Code is repealed as follows:

- (1) WAC 275-102-475 DEFINITIONS.
- (2) WAC 275-102-480 DETAINED OR ARRESTED PROBATIONER OR PAROLEE--RIGHT TO PRELIMINARY HEARING.
- (3) WAC 275-102-485 PRELIMINARY HEARING--PREPARATION.
- (4) WAC 275-102-490 PRELIMINARY HEARING--CONDUCT.
- (5) WAC 275-102-495 PRELIMINARY HEARING--DISPOSITION OF DECISION.