

2021 -- H 6103

LC002326

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

Introduced By: Representative Jose F. Batista

Date Introduced: March 03, 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 may order the defendant held without bail for a period not~~
13 ~~exceeding ten (10) days, excluding Saturdays, Sundays, and holidays.~~

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

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

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

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

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

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

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would prohibit the court from holding a person without bail for a period not to
- 2 exceed ten (10) days at the ACI for violating the terms of his/her probation.
- 3 This act would take effect upon passage.

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