# WEST VIRGINIA CODE: §62-12-19

**§62-12-19. Violation of parole.**

(a) If at any time during the period of parole there is reasonable cause to believe that the parolee has violated any of the conditions of his or her release on parole, the parole officer may arrest him or her with or without an order or warrant, or the Commissioner of Corrections may issue a written order or warrant for his or her arrest. The written order or warrant is sufficient for his or her arrest by any officer charged with the duty of executing an ordinary criminal process. The commissioner's written order or warrant delivered to the sheriff against the parolee shall be a command to keep custody of the parolee for the jurisdiction of the Division of Corrections. During the period of custody, the parolee may be admitted to bail by the court before which the parolee was sentenced. If the parolee is not released on a bond, the costs of confining the paroled prisoner shall be paid out of the funds appropriated for the Division of Corrections.

(1) If reasonable cause is found to exist that a parolee has violated a term or terms of his or her release on parole that does not constitute:

(A) Absconding supervision;

(B) New criminal conduct other than a minor traffic violation or simple possession of a controlled substance; or

(C) Violation of a special condition of parole designed either to protect the public or a victim; the parole officer may, after consultation with and written approval by the director of parole services, for the first violation, require the parolee to serve a period of confinement up to sixty days or, for the second violation, a period of confinement up to one hundred twenty days: Provided, That the Division of Corrections shall notify the Parole Board when a parolee is serving such a term of confinement and the Parole Board may deny further confinement. A parolee serving a term of confinement in the first or second instance may be confined in jail or any other facility designated by the commissioner, but shall be committed to the custody of the Commissioner of Corrections, and the costs of confining the parolee shall be paid out of funds appropriated for the Division of Corrections: Provided, however, That upon written request, the parolee shall be afforded the right to a hearing within forty-five days before the Parole Board regarding whether he or she violated the conditions of his or her release on parole.

(2) When a parolee is in custody for a violation of the conditions of his or her parole, he or she shall be given a prompt and summary hearing before a Parole Board panel upon his or her written request, at which the parolee and his or her counsel shall be given an opportunity to attend.

(A) If at the hearing it is determined that reasonable cause exists to believe that the parolee

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has:

(i) Absconded supervision;

(ii) Committed new criminal conduct other than a minor traffic violation or simple possession of a controlled substance; or

(iii) Violated a special condition of parole design to protect either the public or a victim; the panel may revoke his or her parole and may require him or her to serve in a state correctional institution the remainder or any portion of his or her maximum sentence for which, at the time of his or her release, he or she was subject to imprisonment.

(B) If the Parole Board panel finds that reasonable cause exists to believe that the parolee has violated a condition of release or supervision other than the conditions of parole set forth in subparagraph (A), subdivision (2) of this subsection, the panel shall require the parolee to serve, for the first violation, a period of confinement up to sixty days or, for the second violation, a period of confinement up to one hundred twenty days unless the Parole Board makes specific written findings of fact that a departure from the specific limitations of this paragraph is warranted: Provided, That if the violation of the conditions of parole or rules for his or her supervision is not a felony as set out in section eighteen of this article, the panel may, if in its judgment the best interests of justice do not require a period of confinement, reinstate him or her on parole. The Division of Corrections shall effect release from custody upon approval of a home plan.

(b) Notwithstanding any provision of this code to the contrary, when reasonable cause has been found to believe that a parolee has violated the conditions of his or her parole but the violation does not constitute felonious conduct, the commissioner may, with the written consent of the parolee, allow the parolee to remain on parole with additional conditions or restrictions. The additional conditions or restrictions may include, but are not limited to, participation in any program described in subsection (d), section five, article eleven-c of this chapter. If the parolee complies with the conditions of parole the commissioner may not revoke his or her parole for the conduct which constituted the violation. If the parolee fails to comply with the conditions or restrictions and all other conditions of release, that failure is an additional violation of parole and the commissioner may proceed against the parolee under the provisions of this section for the original violation as well as any subsequent violations.

(c) When a parolee has violated the conditions of his or her release on parole by confession to, or being convicted of, any of the crimes set forth in section eighteen of this article, he or she shall be returned to the custody of the Division of Corrections to serve the remainder of his or her maximum sentence, during which remaining part of his or her sentence he or she is ineligible for further parole.

(d) Whenever a person's parole has been revoked, the commissioner shall, upon receipt of the panel's written order of revocation, convey and transport the paroled prisoner to a state

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correctional institution. A parolee whose parole has been revoked shall remain in custody until delivery to a corrections officer sent and duly authorized by the commissioner for the removal of the parolee to a state correctional institution. The cost of confining the parolee shall be paid out of the funds appropriated for the Division of Corrections.

(e) When a parolee is convicted of, or confesses to, any one of the crimes enumerated in section eighteen of this article, it is the duty of the Parole Board to cause him or her to be returned to this state for a summary hearing as provided by this article. Whenever a parolee has absconded supervision, the commissioner shall issue a warrant for his or her apprehension and return to this state for the hearing provided in this article: Provided, That the panel considering revocation may, if it determines the best interests of justice do not require revocation, cause the parolee to be reinstated to parole.

(f) A warrant filed by the commissioner shall stay the running of his or her sentence until the parolee is returned to the custody of the Division of Corrections and is physically in West Virginia.

(g) Whenever a parolee who has absconded supervision or has been transferred out of this state for supervision pursuant to section one, article six, chapter twenty-eight of this code is returned to West Virginia due to a violation of parole and costs are incurred by the Division of Corrections, the commissioner may assess reasonable costs from the parolee's inmate funds or the parolee as reimbursement to the Division of Corrections for the costs of returning him or her to West Virginia.

(h) Conviction of a felony for conduct occurring during the period of parole is proof of violation of the conditions of parole and the hearing procedures required by the provisions of this section are inapplicable.

(i) The Commissioner of Corrections may issue subpoenas for persons and records necessary to prove a violation of the terms and conditions of a parolee's parole either at a preliminary hearing or at a final hearing before a Parole Board panel. The subpoenas shall be served in the same manner provided in the Supreme Court of Appeals of West Virginia Rules of Criminal Procedure. The subpoenas may be enforced by the commissioner through application or petition of the commissioner to the circuit court for contempt or other relief.

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