Agency Name: Department of Probation, Parole and Pardon Services

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- 01/26/2011 Received by Lt. Gov & Speaker 05/26/2011

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 provided for in the Regulation

Document No. 4159

**DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES**

CHAPTER 130

Statutory Authority: 1976 Code Sections 24-21-10 et seq.

130-30. Board Training

130-40. Reentry Supervision

130-50. Hearing Officer Qualifications and Preliminary Hearing Procedures

130-60. Administrative Sanctions for Violations

**Synopsis:**

The South Carolina Department of Probation, Parole and Pardon Services (the Department) seeks to promulgate regulations which govern, to the extent authorized by 1976 S. C. Code of Laws, Title 24, Chapter 21 and required by Act 273 of 2010, the minimum number of hours of training required for the members of the Board of Probation, Parole and Pardon Services (the Board) and the specific requirements of the comprehensive training course that newly appointed members must complete; the specific criteria for the annual training the Board members must complete; the terms and conditions of reentry supervision; the qualifications of the Department’s hearing officers and the procedures for the preliminary hearings conducted by those hearing officers; and the establishment and listing of administrative sanctions for the most common types of supervision violations.

A Notice of Drafting was published in the *State Register* on October 22, 2010.

**Instructions:**

Print the regulation in accordance with directions given below to reflect new regulations.

130-30 through 130-60. Print as shown below.

**Text:**

130-30. Board Training.

The following provisions apply with respect to training requirements for members of the Board of Probation, Parole and Pardon Services.

A. Training for Newly Appointed Members

 (1) Within ninety days of a Board member’s appointment by the Governor and confirmation by the Senate, the Board member must complete a comprehensive training course of at least sixteen (16) hours encompassing components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association. This training will include but is not limited to the following topics: (a) the elements of the decision making process through the use of evidence-based practices for determining offender risk, needs and motivations to change, including the actuarial risk/needs assessment tool used by the Department, (b) security classifications as established by the Department of Corrections, (c) programming and disciplinary processes, (d) the Department’s supervision, case planning, and violation process, (e) the dynamics of criminal victimization, and (f) collaboration with corrections related stakeholders, both public and private, to increase offender success and public safety.

B. Annual Training

 (1) Each Board member is required to complete at least eight (8) hours of training annually encompassing components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association. This training will include but is not limited to the following topics: (a) a review and analysis of the effectiveness of the risk/needs assessment tool used by the Department, (b) a review of the Department’s progress toward public safety goals, (c) the use of data in decision making, and (d) information regarding promising and evidence-based practices related to corrections and crime victim dynamics.

130-40. Reentry Supervision.

A. Reentry Supervision Program

 (1) The Department shall operate a supervised reentry program to provide for a period of reentry supervision for eligible inmates beginning one hundred and eighty days before the date they would otherwise have been released. The Department shall establish terms and conditions of supervised reentry. The Department shall provide supervision of inmates placed on supervised reentry and utilize an evidence based assessment to determine the inmate’s risk and needs.

B. Terms and Conditions of Supervised Reentry

 (1) The terms and conditions of supervised reentry must include, but are not limited to: (a) mandatory reporting as instructed, (b) residence requirements and restrictions, (c) employment requirements and restrictions, (d) allowing agents of the Department to visit in the home, place of employment or elsewhere at any time, (e) restrictions on the use of alcohol and controlled substances, (f) submitting to alcohol and drug testing a instructed, (g) restrictions on movement and access to businesses/locations as instructed, (h) restrictions on the possession of firearms and other weapons, (i) restrictions from associations with other persons with a criminal record, (j) refraining from violation of any federal, state or local laws, (k) notifying agent of any arrest, detainment or questioning by law enforcement officials, (l) paying all financial obligations as instructed, and (m) submitting to the advice and instructions of the agent.

C. Alleged Violations

 (1) Alleged violations of the terms or conditions of supervised reentry shall be initiated pursuant to a warrant or citation issued by a probation agent setting forth the violations and shall be presented to the Department’s hearing officer for final disposition. If the hearing officer determines the inmate has violated a term or condition of reentry supervision, the hearing officer may impose other terms or conditions and may continue the inmate on reentry supervision, or the hearing officer may revoke the inmate’s reentry supervision and return the inmate to the Department of Corrections to serve the remainder of his or her sentence. The decision of the hearing officer regarding reentry supervision shall be final and there shall be no appeal of this decision.

130-50. Hearing Officer Qualifications and Preliminary Hearing Procedures.

A. Hearing Officer Qualifications

 (1) The hearing officer will be an employee of the Department with a Master’s Degree and five (5) years of probation, parole, law enforcement or related experience; or a Bachelor’s Degree and seven (7) years of probation, parole, law enforcement, or related experience.

B. Procedures for Preliminary Hearings

 (1) When constitutionally required, the hearing officer will conduct preliminary hearings to determine probable cause on alleged violations committed by individuals under the supervision of the Department and as otherwise required by law. This includes, but is not limited to, violations concerning probation, parole and community supervision. The hearing officer will also conduct preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law. The hearing officer will determine the utilization of administrative sanctions where appropriate; identify problem behaviors and offer remedies whenever possible; and either determine those cases which are to be finally decided within the Department’s jurisdiction, or make recommendations on those cases which must be finally decided by the Board of Probation, Parole and Pardon Services, or by the Court. The hearing officer will ensure that individuals charged with violations of their supervision conditions and scheduled for a preliminary hearing are afforded due process of law. This includes: (a) written notice of the claimed violations, (b) written notice that a hearing will take place and that its purpose is to determine whether there is probable cause to believe the individual has committed a violation, (c) the opportunity to appear and speak in his own behalf, and the opportunity to bring letters, documents or individuals who can give relevant information to the hearing officer, (d) the opportunity to confront and cross-examine any adverse witnesses who appear on behalf of the State (unless the hearing officer finds the witness would be subjected to risk of harm), and (e) a written summary or digest of what occurred at the preliminary hearing including the evidence relied upon and the determination of probable cause.

130-60. Administrative Sanctions for Violations.

A. Establishing Administrative Sanctions

 (1). The Department shall establish an array of administrative sanctions for use by probation agents and hearing officers to respond to the most common types of violations of the terms and conditions of any supervision program operated by the Department. The array of sanctions shall be on an escalating scale to allow the probation agents and hearing officers to identify and assess the severity of a violation, to evaluate the individual risk posed by the offender, and to select the appropriate sanction response. In determining the appropriate sanctions the Department shall consider, but not be limited to: (a) the severity of the current violations, (b) the offender’s previous criminal record, (c) the number and severity of previous supervision violations, (d) the offender’s most recent risk/needs assessment, (e) sanctions that were imposed for previous violations, and (f) the availability of community-based programs and treatment options consistent with evidence-based practices.

B. Delineation of Administrative Sanctions

 (1) Administrative sanctions established by the Department may be: (a) served by a probation agent by way of a Notice of Administrative Sanction, or (b) imposed by a hearing officer by way of an Order of Administrative Sanction. The administrative sanctions are divided into two types: (a) agent/case management options, and (b) supervision/hearing officer sanctions, and may be used to respond to the most common types of supervision violations including, but not limited to: (a) failure to report, (b) failure to pay fines, fees, and restitution, (c) failure to participate in a required program of service, (d) failure to complete community service, and (e) failure to refrain from the use of alcohol or controlled substances.

 (2) Agent/case management options include, but are not limited to, (a) counseling with offender, (b) referring for treatment or other community-based program, (c) reinstating to previously ordered public service employment, (d) restructuring the supervision plan, (e) enhancing drug testing, (f) issuing a verbal reprimand, (g) enhancing supervision contacts, (h) issuing a written reprimand, and (i) placing in inpatient or outpatient treatment.

 (3) Supervisor/hearing officer sanctions include, but are not limited to: (a) imposing any agent/case management option, (b) reinstating previously ordered weekend time, (c) modifying supervision level, (d) restructuring financial payments without changing total obligation, (e) implementing financial exemptions, (f) converting supervision fees to public service employment, (g) recommending civil judgment, (h) recommending extension of supervision (if applicable), (i) imposing new/additional public service employment, (j) imposing home detention, (k) imposing participation in electronic surveillance programs, (l) imposing additional special conditions of supervision, (m) requiring participation in community based programs, (n) recommending partial revocation of sentence (if applicable), and (o) recommending full revocation of sentence.

**Fiscal Impact Statement:**

There will be no increased costs to the State or its political subdivisions.

**Statement of Rationale:**

The proposed regulations are being promulgated to comply with provisions of Act 273 of 2010 to establish standards for Board training, reentry supervision, hearing officer qualifications and preliminary hearing procedures, and administrative sanctions for violations.