

PART II. BOARD OF PROBATION AND PAROLE

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Authority

The provisions of this Part II issued under section 23 of the act of August 6, 1941 (P. L. 861, No. 323) (61 P. S. § 331.23), unless otherwise noted.

Source

The provisions of this Part II adopted August 13, 1971, effective August 14, 1971, 1 Pa.B. 1653, unless otherwise noted.

Cross References

This part cited in 55 Pa. Code § 5100.33 (relating to patient's access to records and control over release of records).

CHAPTER 61. GENERAL PROVISIONS

| Sec. | |
|-------|-----------------------------|
| 61.1. | Definitions. |
| 61.2. | Confidentiality of records. |

§ 61.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Backtime—The unserved part of a prison sentence which a convict would have been compelled to serve if the convict had not been paroled.

Detainer sentence—A sentence to which a convict is subject following release from a sentence which the convict is currently serving.

Detention hearing—A probable cause hearing held to determine whether a parolee should be detained or returned pending disposition of a new criminal charge.

Examiner—A Board member or a representative of the Board who conducts interviews or hearings on behalf of the Board.

Interested party—A parolee or a parolee's counsel.

Official verification—Actual receipt by a parolee’s supervising parole agent of a direct written communication from a court in which a parolee was convicted of a new criminal charge attesting that the parolee was so convicted.

Panel—Two members of the Board, or a Board member and an examiner.

Parole supervision staff—Parole agents, their supervisors, deputy district directors and district directors.

Preliminary hearing—A hearing held to determine whether there is probable cause to believe that a parolee has committed a technical violation of parole.

Return or detain—Synonymous actions which indicate that a parolee should either be returned to, or continued in, custody pending disposition of outstanding criminal charges.

Revocation decision—A decision to recommit a parolee to prison after a revocation or violation hearing.

Revocation hearing—A hearing held to determine whether a parolee should be recommitted as a convicted violator.

Violation hearing—A hearing held to determine whether a parolee should be recommitted as a technical violator.

Authority

The provisions of this § 61.1 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186); and the act of August 6, 1941 (P. L. 861, No. 323) (61 P. S. §§ 331.1—331.34).

Source

The provisions of this § 61.1 amended January 15, 1988, effective January 16, 1988, 18 Pa.B. 250. Immediately preceding text appears at serial page (104821).

Notes of Decisions

Due Process

Revocation panel comprised of two panelists does not violate parolee’s due process right. *Epps v. Board of Probation and Parole*, 565 A.2d 214 (Pa. Cmwlth. 1989).

Petitioner who was charged as a technical violator and not as a convicted violator was not entitled to a revocation hearing and his due process rights were not violated. *Obringer v. Board of Probation and Parole*, 547 A.2d 449 (Pa. Cmwlth. 1988); appeal denied 557 A.2d 782 (Pa. Super. 1989).

Revocation Hearing

For the purpose of determining whether defendant’s revocation hearing was timely, criminal arrest and disposition report could not be considered when determining the date on which the Board of Probation and Parole received official verification of defendant’s guilty plea where the report was never entered into the record at the hearing. *Johnson v. Board of Probation and Parole*, 890 A.2d 45, 49 (Pa. Cmwlth. 2006).

Board of Probation and Parole requirement to conduct parole revocation hearing within 120-days begins to run from the date the Board received official verification of parolee’s conviction, not on the date Board had knowledge of the conviction. *Vanderpool v. Board of Probation and Parole*, 874 A.2d 1280, 1283 (Pa. Cmwlth. 2005).

§ 61.2. Confidentiality of records.

Records, reports and other written things and information, evaluations, opinions and voice recordings in the Board's custody or possession touching on matters concerning a probationer or parolee are private, confidential and privileged; except that a brief statement of the reasons for actions by the Board granting or refusing a parole will at all reasonable times be open to public inspection in the offices of the Board.

Authority

The provisions of this § 61.2 issued under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 61.2 adopted February 5, 1982, effective February 6, 1982, 12 Pa.B. 523.

Notes of Decisions*Conviction Records*

Where it is alleged that the Board was aware of the conviction and the availability of the conviction records, but did not retrieve them, a remand was required to determine whether a 143 day period between a parolee's conviction and the receipt of the conviction records by the Board rendered a parole revocation hearing untimely. *Fitzhugh v. Board of Probation and Parole*, 623 A.2d 376 (Pa. Cmwlth. 1993).

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