

Appendix 7G

Training Memo—Probation Violation Law

When faced with a violation of probation, the supervising probation officer can choose among a number of formal responses. If the violation does not involve an allegation of a subsequent criminal act which has been alleged in a formal complaint, citation or petition, the probation officer may elect to proceed with probation violation sanctions under Minn. Stat. §244.196 *et seq.* Probation violation sanctions under this provision are limited to non-custodial sanctions and require the agreement of the probationer and the Court.

The probation officer also has the authority to issue an order to detain a probationer when it appears necessary to enforce discipline or prevent a person on conditional release from escaping or absconding from supervision. This authority is set forth in Minn. Stat. §401.025 for Community Corrections Act counties and Minn.Stat. §244.195 for all other counties. In both cases, the definition of conditional release includes probation and work release. Minn.Stat. §401.01, Subd.2 (d) and Minn.Stat. §244.195, Subd. 1(c). In Community Corrections Act counties, the chief executive officer or designee has the authority to issue the order. In all other counties, the authority rests with the court services director or designee. Caution must be exercised by probation agencies in Community Corrections Act counties supervising people on parole, supervised release, probation from a non-community corrections county or work release from a commissioner of corrections program. Under those circumstances the local community corrections agency is required to comply with the policies prescribed by the commissioner of corrections. Persons detained pursuant to one of these statutes may be detained for up to 72 hours, excluding Saturdays, Sundays and holidays, pending a hearing before the court or commissioner.

The probation officer also has the authority to bring the violation before the sentencing judge for a probation violation proceeding. If the probation officer elects to bring the violation before the court, the procedures to be followed are generally set forth in Rule 27.04 of the Rules of Criminal Procedure.