

**Chapter 07 - Supervision and Monitoring**  
**Section 13 - Infractions, Interventions, and Sanctions**  
**Authority: MD Code Annotated, Correctional Services Article, §6-121**

**A. Introduction.**

(1) The use of rewards and sanctions in an agent's or monitor's effort to change a supervised individual's behavior is as old as community supervision itself. Moreover, the conditional nature of community supervision necessarily involves potential reward and sanction for the supervised individual. To date, however, the latter has been largely a matter for a releasing or sentencing authority to determine at a violation or revocation hearing. Additionally, the power of an agent or monitor to request or not to request a violation or revocation hearing has been largely discretionary, with the result that supervised individuals who commit the same or similar technical infraction can face quite different consequences. With the enactment of new law, effective October 1, 2017, certain of these discretionary aspects of community supervision are altered or nullified. This section describes these changes and sets forth agency policy, consistent with the applicable statute.

**Note:** See *Operations Manual* 07.01(P) for the available rewards mentioned in the preceding paragraph.

(2) Language matters. The history of the criminal justice system is rife with stigmatizing terms that attach to individuals who are incarcerated or who are being supervised in the community. In this section, the term *supervised individual* refers to a human being who is on State parole, probation, or mandatory release. Additionally, beginning with subsection C below, common terms, too often used interchangeably by agency employees, are defined. Providing these terms and their meanings is not an exercise in semantics but is, instead, essential for capturing the public policy expressed by the General Assembly and Chief Executive through the series of statutes collectively known as the Justice Reinvestment Act.

(3) The statutory scheme within Correctional Services Article, §6-121, provides for a progressive, graduated response by the Division to technical infractions committed by supervised individuals. Although most infractions will not require notice to the sentencing court or the Parole Commission, notice is required when an infraction is sufficiently serious to warrant that a sanction be imposed.

**B. Scope.** This section does not apply to an alleged violation of probation, parole, or mandatory supervision condition based upon:

- (1) A new criminal charge, other than a minor traffic offense for which a jail term either may not be imposed or is customarily not imposed;
- (2) A violation of a no-contact or stay-away order; or
- (3) Absconding from supervision.

**Note:** In this section, *absconding* means willfully evading supervision, a conclusion that is usually supported by the individual's agent or monitor being unable to locate the individual and the individual's extended failure to contact the supervising agent or monitor.

### C. Violations and Infractions Distinguished.

(1) **Infractions and violations.** Supervised individuals frequently fall short of full compliance with their supervision conditions. Infractions are part and parcel to supervision, just as relapse is common among individuals recovering from drug or alcohol addiction. When an infraction occurs, the supervising agent's or monitor's response and the timing of that response are critical to correcting the behavior that constituted the infraction and to best ensuring that the behavior is not repeated.

(2) **Interventions.** Infractions shall result in a response, or intervention, ranging from a corrective measure taken by an agent or monitor to imposition of a sanction. The Intervention-Sanction Matrix identifies the most commonly occurring infractions and violations and groups them by severity. The groupings are, from least to most severe: minor infractions, intermediate infractions, and technical violations. An agent's or monitor's use of the matrix is not optional and except to the extent that more than one response to an infraction or violation is provided within the matrix, is not discretionary. To access the matrix, Go: SafetyNet => Agencies => DPP => JRA => Graduated Sanctions

(3) **Minor infractions, intermediate infractions, technical violations.** Whether a particular infraction or violation falls into one or another infraction or technical grouping or category depends upon the particular nature of the infraction, the supervised individual's risk level, and whether the infraction is a first or subsequent occurrence. An agent or monitor may deviate from a response provided in the matrix for good cause and with the prior approval of the agent's or monitor's supervisor.

**Note:** *Good cause* means that the agent or monitor can articulate the reason for deviating from a matrix-indicated response and that the reason articulated supports a sound supervision strategy, consistent with the agent's or monitor's training and experience, and the agency's public safety mission. Of the factors that influence an agent's or monitor's decision as to what intervention to use in response to noncompliant behavior, none carries more weight than the risk a supervised individual may pose to public safety.

### D. Sanctions and Sanction Procedures.

(1) **Sanctions are corrective.** Like lesser responses to infractions and violations, sanctions are corrective. It is neither the mission nor the desire of the agency to punish supervised individuals. Sanctions are employed to correct behavior and in furtherance of the agency's mission to protect and to enhance public safety. Nevertheless, a supervised individual, unless informed otherwise, may view the imposition of a sanction as punitive. This view, in turn, may prompt resentment and anger in the individual to be sanctioned, leading to additional difficulties for the individual. For this reason, an agent or monitor shall inform each individual the agent or monitor supervises or monitors that if a sanction is warranted, it will be imposed in an effort to:

- (a) Correct the individual's behavior;

(b) Encourage the individual's compliance with the terms and conditions of supervision or release; and

(c) Assist the individual toward successful completion of the supervision term.

(2) **Notice of sanction.** Prior to imposing a sanction, an agent or monitor shall complete and provide to the supervised individual written notice that:

(a) Specifies the infraction alleged and the date it occurred or was learned by the agent or monitor;

(b) Identifies the particular condition or rule from the individual's supervision or release order to which the infraction or infractions relate;

(c) Informs the supervised or monitored individual that the individual may contest the facts relied upon by the agent or monitor in establishing the basis for the sanction; and

(d) Provides notice of the supervised or monitored individual's due process rights to contest the imposition of a sanction.

(3) **Signature and date required.** In issuing the notice described in paragraph (2) of this subsection, an agent or monitor shall have the affected individual sign and date the notice. If the individual refuses to sign the notice, the agent or monitor shall note on the signature line, "Refuses to sign," and make a case note entry to that effect.

(4) **Routing of contested sanction hearing request.** A completed contested sanction hearing request form shall be forwarded:

(a) By an agent or monitor to the agent's or monitor's supervisor not later than two workdays after the supervised individual requests a hearing; and

(b) By the receiving supervisor to a hearing officer not later than the workday following the supervisor's receipt of the form.

(5) **Contested sanctions hearing.** In a contested sanctions hearing held pursuant to paragraph 2(d) of this section, a hearing officer shall:

(a) Elicit the facts that support the imposition of a sanction relevant to the sanction to be imposed;

(b) Hear the supervised individual's version of the matter;

(c) Allow witnesses, if any, for the supervised individual to be heard, provided their statements are relevant to the contested issues; and

(d) Render a decision that is clear, succinct, and final.

**Note:** If a form is available that captures the information essential to the hearing conducted, the hearing officer shall use only that form for memorializing the hearing and publishing a decision to the agent or monitor and supervised individual.

**(6) Time limitations.** A contested sanction hearing shall be convened not later than ten workdays after a request for a hearing is received by a hearing officer and a decision rendered not later than the workday following the hearing.

**(7) Notice of sanction to court or Parole Commission.** Not later than 10 workdays following the imposition of a sanction for a technical violation, the supervising agent or monitor shall notify the sentencing court, Parole Commission, or both, as applicable, of the grounds for the sanction and the sanction imposed.

**Note:** Correctional Services Article, §6-121 provides, in part, as follows:

If the available graduated sanctions have been exhausted, the Division shall refer the individual to the court or the Commission for additional sanctions, including formal revocation of probation, parole, or mandatory supervision....

**(8) Use of Intervention Matrix.** The Intervention Matrix is neither an optional supervision tool nor an all-inclusive one. Except as set forth in Note 2 below, its use is mandatory to best ensure that, agency-wide, interventions in response to similar infractions committed by supervised individuals are uniform and consistent. The matrix is designed to address the most frequently occurring technical infractions but cannot encompass every circumstance that will warrant an intervention. When an intervention is warranted but the matrix does not provide a pinpoint or adequate response, an agent or monitor shall consult with the agent's or monitor supervisor to discuss an appropriate intervention.

**Note 1:** In discussing an appropriate intervention or sanction, an agent, monitor and supervisor shall be guided by the spirit and public policy of the sanctions statute, in particular, and the Justice Reinvestment Act, in general. Additionally, and as set forth elsewhere in this section, an agent, monitor and supervisor shall consider the individual's risk level and the potential risk to public safety in selecting an intervention or sanction in response to an infraction.

**Note 2:** Individuals being supervised for sex offenses are subject to specialized interventions and sanctions which are not included in the Intervention-Sanction Matrix. Consequently, an agent assigned to supervise such individuals is excepted from using the Intervention-Sanction Matrix. Similarly, Problem-Solving courts use a separate intervention and sanctions model an agent who supervises an individual answerable to a Problem-Solving court is excepted from using the Intervention-Sanction Matrix for that individual.

**(9) Reckoning period for determining level of intervention or sanction.** There is a reckoning period of 60 calendar days for an imposed sanction. In determining which intervention or sanction is to be imposed, an agent or monitor may not consider a prior intervention or sanction that was imposed more than 60 calendar days prior to the instant infraction.

**Example:** A probationer fails to report on October 1 and the agent or monitor imposes a corrective measure. On December 15, the probationer again fails to report as instructed. Because more than 60 days elapsed between infractions, the agent or monitor may not increase the severity of response for the second occurrence for the sole reason that the probationer previously failed to report.