

## **LB 8- Graduated Responses**

*“An accountability-based series of sanctions, incentives and services designed to facilitate the juvenile’s continued progress in changing behavior, ongoing compliance, and successful completion of probation.” Sec. 3*

*Office of Probation Administration to develop a statewide standardized graduated response matrix and training on the same with input from multiple stakeholders. –Sec. 3*

### **Sec. 1-**

- Amends 43-253 to ensure that youth who are detained or subject to an alternative to detention, which infringes on the youth’s liberty interest based upon an alleged probation violation or violation of an order of conditional release have a detention hearing within 24 hours.

### **Sec. 2-**

- Amends 43-286(4) to read that probation may pursue sanctions for actual violations, not in situations where they believe the youth “is about to commit a probation violation.”
- Amends 43-286(5)(a) to provides that if a youth on probation has a new status or delinquency petition filed, the county attorney may file to revoke his or her probation
- Amends 43-286(5)(b)(iv) to clarify that a youth can only be detained based upon an alleged probation violation if the statutory detention factors of 43-251.01 and 43-260.01 have been met.

### **Sec. 3- Amendments to 43-286.01**

*Sanctions- does not include restrictions of liberty that would otherwise require a detention hearing.*

If a youth is on probation and the probation officer has reasonable cause to believe that a probation violation has occurred **and** reasonable cause to believe the youth will attempt to leave the jurisdiction or put the lives or property of others in danger, the probation officer may take the youth into custody.

- The probation officer must immediately notify the county attorney and defense attorney and submit a report describing the risk of harm to lives or property or of fleeing the jurisdiction and of any probation violation. If there is no defense attorney probation must notify the court and counsel shall be appointed.
- The youth shall have a detention hearing within 24 hours.
- The county attorney can order release of the youth or may file a motion to revoke probation

If a youth is on probation and the probation officer has reasonable cause to believe a probation violation has occurred, **but** no cause to believe the youth will flee the

jurisdiction or put the lives or property of others in danger, the probation officer shall pursue graduated responses to the probation violation.

- The youth may decline to participate in the graduated response and the parent must approve of participation. If the family does not wish to participate the probation officer may file a report requesting that probation be revoked.
- If the youth fails to comply with the graduated response and the officer determines that a motion to revoke should be pursued, the probation officer shall submit a written report to the county attorney and the youth's attorney.
  - a. The report shall include a statement why graduated responses were not utilized or were ineffective.
  - b. If there is no attorney of record for the youth, probation shall notify the court and counsel shall be appointed.
  - c. County attorney can only file a motion to revoke if it is being requested by probation.
- Once the sanction is successfully completed the alleged probation violation is deemed resolved and cannot be alleged as a violation in future proceedings.

#### *Incentives-*

When the youth is engaging in positive behaviors, the probation officer shall use incentives to provide positive reinforcement and encouragement of said behavior

- The probation office is to keep records of all incentives and provide such records to the county attorney or juvenile's attorney upon request.
- During the term of probation, upon application of the probation officer or motion of the youth, the court may reduce or eliminate any of the conditions imposed on the youth.
- Upon completion of the term of probation or earlier discharge, the youth is relieve of any obligations imposed by the order of the court and his or her record shall be sealed pursuant to 43-2,108.04.