

501 KAR 6:260. Procedures for recommendation of early termination of probation and review of compliance of supervised individuals.

RELATES TO: KRS Chapters 196, 439

STATUTORY AUTHORITY: KRS 196.035, 439.470, 439.552

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 439.470, and 439.552 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions and to establish procedures for recommending early termination of probation. This administrative regulation establishes the procedures for recommendations for early termination of probation for a supervised individual who meets the criteria stated in KRS 439.552 and review of probation compliance of a supervised individual.

Section 1. Definitions. (1) "Case plan" is defined in KRS 446.010(6).

(2) "Officer" or "probation and parole officer" means a person employed by the Department of Corrections Division of Probation and Parole who supervises, counsels, and directs an offender on probation or parole.

(3) "Probationer" means a person who has been sentenced to probation and ordered by a court with jurisdiction over the sentence to be supervised by the Department of Corrections;

(4) "Risk and needs assessment" is defined in KRS 446.010(35).

(5) "Violent offense" is defined in KRS 439.3401(1).

Section 2. Review of Compliance of a Supervised Individual. (1) Timing of compliance review. The compliance review shall be conducted when the probationer has a risk and needs reassessment pursuant to KRS 439.552 and 501 KAR 6:280, incorporating by reference CPP 29.1.

(2) Arrests. The officer supervising a probationer shall determine if the probationer has had any new arrests during the period of supervision. If the probationer has had an arrest, then the probationer shall not:

(a) Be eligible for recommendation of early termination of probation pursuant to KRS 439.552; and

(b) Be reviewed again for recommendation of early termination of probation.

(3) Reduction in risk factors. The officer supervising a probationer shall review the results of the most recent risk and needs assessment to determine whether there has been a reduction in the probationer's risk factors.

(4) Restitution and financial obligations. The officer supervising a probationer shall verify whether the probationer has:

(a) Satisfied all court ordered restitution; and

(b) Paid all other court ordered financial obligations at a minimum in the following manner:

1. Paid at least ninety (90) percent of a lump sum obligation; and

2. Shall not be more than one payment behind in scheduled payment obligations, including court ordered child support obligations, supervision fees, drug testing fees, or other similar payments.

(5) Case plan. The officer supervising a probationer shall review a probationer's case plan to determine if the probationer has met the requirements of the plan during the period of supervision as required in KRS 439.552(1)(a)1.

(6) Time on supervision. The officer supervising a probationer shall review the probationer's time on supervision to determine if the probationer has spent a minimum of eighteen (18) months on supervision.

(7) Supervision compliance. The officer supervising a probationer shall review the probationer's compliance with the terms of supervision to determine if the probationer has a minimum of the last twelve (12) months without violations.

Section 3. Recommendation to Court of Early Termination of Probation. If the probationer meets the requirements of KRS 439.552(1)(a) and (2) and Section 2 of this administrative regulation and an override pursuant to Section 4 of this administrative regulation is not used, then the officer shall submit to the releasing court a report that shall include the following:

- (1) A description of the probationer's progress while under supervision including compliance with the regular conditions of supervision;
- (2) Specific information related to the completion of any special conditions ordered by the releasing court;
- (3) Other relevant information regarding compliance with court ordered conditions of supervision and community stability issues; and
- (4) A request for early termination of probation.

Section 4. Override. (1) If the officer has reason to believe that a probationer poses a significant risk to recidivate if the supervision is terminated early, the officer shall consult with the District Supervisor or designee and a decision may be made to issue an override.

(2) Override factors. Override factors for consideration shall include the following:

- (a) High risk on risk and needs assessment;
- (b) Very high risk on risk and needs assessment;
- (c) Convicted of violent offense;
- (d) Prior violent offense conviction;
- (e) Pending charge against probationer;
- (f) Pending or current emergency protective order (EPO);
- (g) Pending or current domestic violence order (DVO); or
- (h) Other factors of similar magnitude.

(3) If a decision is made to issue an override, then at least one (1) factor in subsection (2) of this section shall be identified in the decision and a recommendation for early termination shall not be made to the court.

(4) An override shall be documented in the offender management system.

Section 5. Subsequent Review of Probationers Not Recommended for or Granted Early Termination of Probation. (1) If the probationer is not eligible for a recommendation for early termination from probation due to the failure to meet one or more requirements, with the exception of arrest, the officer shall review the probationer for a possible recommendation when the probationer has a risk and needs reassessment pursuant to KRS 439.552 and 501 KAR 6:280, incorporating by reference CPP 29.1.

(2) If the probationer is recommended for early termination of probation, but the court does not grant the early termination, the officer shall review the probationer for a possible recommendation when the probationer has a risk and needs reassessment pursuant to KRS 439.552 and 501 KAR 6:280, incorporating by reference CPP 29.1.

Section 6. Case Closure. If the court approves the recommendation for early termination of probation, the department shall discontinue supervision and close its probation case. (38 Ky.R. 1916; 39 Ky.R. 211; eff. 8-31-12; Crt eff. 2-20-2020.)