

POLICY AND PROCEDURE FOR ISSUANCE OF ARREST WARRANTS FOR PROBATION VIOLATIONS IN CERTAIN SITUATIONS

Effective August 1, 2009, arrest warrants, instead of summonses, will be issued for probation violators in certain situations. Pursuant to I.C. 35-38-2-3(b)(2) the Circuit Court and Superior Court Judges have authorized the issuance of arrest warrants in the following situations:

1. When a probationer has missed three (3) consecutive probation appointments;
2. When the probation department has probable cause to believe that a probationer has moved away from the jurisdiction;
3. When a probationer has been summonsed in to a probation violation hearing and the probationer fails to appear;
4. When a probationer who is on probation for a felony commits a new criminal act (misdemeanor or felony);
5. When a probationer who is on probation for a misdemeanor commits a new felony criminal act;
6. When a probationer who is on probation for a felony uses drugs, possesses drugs, or fails a drug test;
7. When a probationer who is a sexual perpetrator is found to live within 1000 feet of school property;
8. When a probationer on probation for domestic battery uses or possesses drugs or alcohol, violates a protective order or commits a new battery;
9. When a probationer on probation for OVWI or OWI commits a new OVWI or OWI, uses or possesses drugs or alcohol, fails a drug or alcohol test, or drives while suspended;
10. When a probationer on probation for any level of battery commits a new battery or disorderly conduct; and
11. Whenever the Court determines that a probationer commits any act that would create a risk of the probationer fleeing the jurisdiction or would create a risk of causing harm to others.

Warrants will be issued, subject to approval of the Court, upon the filing by the Probation Department/Prosecutors Office of a Petition for Revocation and a Request for Arrest Warrant. Upon arrest of the probationer on such a warrant the following procedure will apply, to-wit:

1. The probationer will be held, without bond, until his appearance in the appropriate Court at the next regular time for new cases (Monday or Thursday at 1:00 p.m.);
2. At the hearing the Court will find on the record that there was probable cause to have arrested the probationer by warrant;
3. Probationer will be advised of the probation violation petition and given an opportunity to admit, deny or ask for an attorney;
4. If probationer admits, the Court can either dispose of the matter immediately or set the disposition for another date;
5. If probationer denies or asks for an attorney, the Court will set a fact finding hearing or new initial hearing, and the probationer will remain in jail without bond pending disposition of the case;
6. Probationers can be legally held without bail pending the disposition of the case, however, said probationer is entitled to credit time for all time spent awaiting disposition.

The Courts will also issue a general order pursuant to I.C. 35-38-8-6 which requires a person currently on probation who is arrested for a new offense to be held without bail for a period of seven (7) days on that new offense. This will allow the probation department to have seven (7) days to determine if a probation violation petition should be filed and if an arrest warrant will be sought. To properly implement this new general order of the Courts, the Probation Department will need to provide the Jail with a continually updated list of individuals who are on probation in Wells County. Then the jailers will need to consult that list for every arrested person to make sure said persons are eligible for bond during the first seven (7) days.