

Have you breached your parole?

What to do if you have
breached your parole,
reintegration home detention
or intensive correction order.



This brochure outlines what happens if you have breached the conditions of your parole, reintegration home detention or intensive correction order (ICO). In this brochure we refer to these as orders.

What will happen if I breach my parole, reintegration home detention or ICO?

Not all breaches of orders result in the order being revoked. Depending on the nature of your order, a supervising officer may:

- record a breach but take no action,
- give an informal or formal warning,
- give a reasonable direction to deal with the breach,
- impose a curfew, or
- submit a breach report to the State Parole Authority.

If a breach report is sent to the State Parole Authority by your supervising officer, the State Parole Authority may:

- record the breach but take no action,
- send a warning letter,
- direct you to attend a hearing and explain your conduct,
- impose additional conditions on your order, or
- revoke the order and issue a warrant for your arrest.

If the order is revoked, it means the order is cancelled.

What happens if my order is revoked?

If the State Parole Authority revokes the order it will issue a warrant for your arrest and you will be returned to gaol. This is called a revocation warrant. You cannot get bail if your order is revoked and you will not go to court (unless you are charged with a new offence).

Once you are returned to custody, if you were subject to a parole order or ICO, the State Parole Authority will set a date for a review hearing. They will ask you to complete some forms. You must say if:

- you would like to attend your hearing (by AVL),
- you intend to make submissions, and
- if you would like to be represented by a lawyer at your review hearing.

It is important that you complete and return these forms as soon as possible. The hearing is usually four to six weeks after you have been returned to custody.

Legal aid is available for your hearing through Prisoners Legal Service (PLS) at Legal Aid NSW. You do not need to complete an application for legal aid. If you nominate PLS on the forms you received from the State Parole Authority, they will send PLS your court papers automatically and then PLS will arrange a conference with you.

What happens at the review hearing?

The purpose of the hearing is to review your breach and the revocation of your parole or intensive correction order.

If the State Parole Authority decides that the order was not breached and should not have been revoked, it will rescind the revocation. This means that the order is restored and you will be released from custody.

If the State Parole Authority finds that you did breach your order, they can do a number of things depending on the type of order and the findings at the review:

- **Parole order**

If there were mitigating circumstances for the breach of parole, the State Parole Authority can rescind the revocation of the parole order. This means you are returned to the community on your parole order and the order is treated as if it had never been revoked.

If the revocation is confirmed, you will have to serve 12 months before you are eligible again for release on parole. If the balance remaining is less than 12 months, you will serve it in custody. However, in some cases the State Parole Authority can consider a further parole application within the 12 month period under the manifest injustice provisions.

- **Intensive correction order**

If there are mitigating circumstances for the breach of the ICO, the State Parole Authority can rescind the revocation of the order. This means you are returned to the community on your ICO and the order is treated as if it had never been revoked.

You can ask for the order to be reinstated after you have served one month in full-time custody. When you ask for your order to be reinstated, you must say what you have done or what you are doing, to make sure you do not fail to comply with your obligations under the order again.

If there is a work condition on your order, the State Parole Authority will not be able to reinstate the order until it has obtained a report from Community Corrections confirming your eligibility for work and that work is still available to you.

How does revocation affect the balance of my sentence?

You will find out the balance of your sentence when you are returned to custody on the revocation warrant. It is important to know that 'street time' does not count towards the time you have served on your sentence. For example, if you are arrested six months after a breach, that six months is referred to as street time and does not count towards your sentence. This is something that can be discussed at a review hearing. The State Parole Authority will sometimes vary the order revocation date which will give you more credit for the time you were in the community.

An order can be revoked even if it has finished. For example, if you are charged with an offence that occurred during a parole period that has already expired, and the State Parole Authority is notified of this, they can still choose to revoke your parole order.

What can I do to make sure my order isn't revoked?

Keep in contact with your supervising officer. If you miss an appointment, have a positive urinalysis, are charged with an offence, or you think you have breached the order in some other way, contact your supervising officer and discuss it. This may mean you get a warning letter rather than your order being revoked and a warrant being issued for your arrest. If you have concerns about re-connecting with a supervisor you can contact Prisoners Legal Service for advice or assistance.

Where are review hearings held?

Review hearings are held in Court 1A of the Western Trial Courts, Parramatta Justice Precinct, 160 Marsden Street (cnr George St) Parramatta. Prisoners appear by audiovisual link (AVL).

Where can I find more information?

Prisoners Legal Service

Prisoners Legal Service (PLS) is a service of Legal Aid NSW and has lawyers who regularly visit prisons or see prisoners by video link across NSW. PLS can give you general advice about your case, appeals and other legal problems.

Contact Prisoners Legal Service on **02 9066 6046** during business hours.

Prisoners can contact the Prisoner Legal Service by:

- submitting a request at the prison to have your name added to the Legal Aid NSW waitlist, or
- contacting Legal Aid NSW as a free call by pressing **#2** on the prison Common Auto Dial List (CADL) phone system and ask for Prisoners Legal Service.

This publication is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change. For more information contact LawAccess NSW on **1300 888 529**.



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Do you need help to contact us?



If you need an interpreter, call the Translating and Interpreting Service (TIS National) on **131 450** (9am–5pm) and ask for LawAccess NSW.

Do you find it hard to hear or speak?



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