

<p align="center">GEORGIA DEPARTMENT OF JUVENILE JUSTICE</p>	<p align="center">Transmittal # 15-07</p>	<p align="center">Policy # 20.41</p>
<p>Applicability: <input type="checkbox"/> All DJJ Staff <input type="checkbox"/> Administration <input checked="" type="checkbox"/> Community Services <input checked="" type="checkbox"/> Secure Facilities (RYDCs)</p>	<p>Related Standards & References: O.C.G.A. § 15-11-32, § 15-11-470, § 15-11-471, § 15-11-605, § 15-11-608 DJJ 20.33</p>	
<p>Chapter 20: COMMUNITY CASE MANAGEMENT</p>	<p>Effective Date: 6/5/15 Scheduled Review Date: 6/5/16</p>	
<p>Subject: PROBATION MANAGEMENT PROGRAM AND SECURE PROBATION SANCTIONS</p>	<p>Replaces: 4/1/12 Community Services Division APPROVED:</p>	
<p>Attachments:</p> <p>A – Secure Probation Sanctions Hearing Officers B – Secure Probation Sanctions Affidavit C – Notice of Secure Probation Sanctions Hearing D – Conducting a Secure Probation Sanctions Hearing E – Admission of Violation/Waiver F – Findings of Secure Probation Sanctions Hearing G – Secure Probation Sanctions Referral Worksheet</p>	<div style="text-align: center;">  <hr/> Avery D. Niles, Commissioner </div>	

I. POLICY:

The Department of Juvenile Justice shall use a court-ordered Probation Management Program to place a probated youth into secure confinement following repeated violations of written Conditions of Supervision and failure to respond to graduated sanctions.

II. DEFINITIONS:

Admission of Violation/Waiver: A written admission that acknowledges the violations contained in the Secure Probation Sanctions Affidavit completed by the Community Case Manager. The Admission of Violation/Waiver must be signed by the youth and his/her parent/guardian or the youth and his/her attorney.

Community Case Manager: For the purposes of this policy, the Juvenile Probation/Parole Specialist I, II, or III (JPPS) who provides direct supervision and coordination of services for a youth pursuant to a juvenile court Order of Probation or a probation officer of any Georgia Independent Juvenile Court. Any member of an established case management team may perform any of the case management tasks.

Findings of Secure Probation Sanction Hearing: The SPS Hearing Officer’s written findings as to whether there is sufficient evidence to justify detention of the youth in the SPS Program for 7, 14, or 30 days.

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Notice of Secure Probation Sanctions Hearing: The written notification to the youth and parent/guardian of the date, time, and location of the Secure Probation Sanctions hearing.

Probation Management Program: A special condition of probation ordered by a juvenile court judge that includes graduated sanctions.

Secure Probation Sanction (SPS): Secure confinement of 7, 14, or 30 day following a hearing with a juvenile court judge or a Hearing Officer as provided as a component of the Probation Management Program.

Secure Probation Sanctions Affidavit: An affidavit requesting Secure Probation Sanctions completed by the probation officer supervising a youth following the youth having at least three violations that specifies:

- The elements of the youth’s probation program;
- The youth’s failures to respond to graduated sanctions in the community; and
- The youth’s number of violations and the nature of each violation.

Secure Probation Sanctions Hearing: An administrative proceeding, in compliance with O.C.G.A. §15-11-605, in which an appointed Hearing Officer determines if a youth, sentenced to probation with a special condition placing the youth in the Probation Management Program, has violated the terms of his/her probation on 3 or more occasions and has failed to remediate his/her behavior in response to graduated sanctions.

Secure Probation Sanctions Hearing Officer: A DJJ employee or a county juvenile probation office employee selected, trained, and appointed by the Department or county juvenile probation office to hear cases alleging violations of probation for administrative sanctioning and send youth to the Secure Probation Sanctions Program.

III. GENERAL PROCEDURES:

A. The Community Case Manager will ensure that the Conditions of Supervision, which include a special condition for the Probation Management Program, are signed prior to the youth’s release from a secure facility or within 3 days if the youth is in the community.

1. The community case manger will read and discuss the Conditions of Supervision with the youth and parent/guardian.
2. The case manager will provide the youth and parent/guardian a copy of the Conditions.

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3. If the youth refuses to sign the Conditions of Supervision, the case manager will document the refusal on the form and at least one DJJ staff member (other than the case manager) will sign the Conditions of Supervision as a witness of the refusal.
- B. Request for a Secure Probation Sanctions Hearing will be based on three or more violations of the signed Conditions of Supervision.
 - C. Secure Probation Sanctions Hearings may result in 7, 14, or 30 days in secure confinement. Secure Probation Sanctions will begin with 7 days in secure confinement before progressing to 14 days, and then 30 days. After progressing through 7, 14, then 30 days in secure confinement, youth will not be eligible for the Secure Probation Sanctions Program for future violations of a condition of the same probation order.
 - D. Secure Probation Sanctions Hearing Officers (Attachment A):
 1. The District Director will submit all requests for training of Secure Probation Sanctions Hearing Officers to the Deputy Commissioner of Community Services, through the chain of command.
 2. Each Secure Probation Sanctions Hearing Officer will receive formal training from the Office of Legal Services in conjunction with the Office of Training. Following the formal training, the Secure Probation Sanctions Hearing Officer will observe a trained Secure Probation Sanctions Hearing Officer conduct 2 hearings.
 3. After certifying completion of the training and observation, the Deputy Commissioner of Community Services will request a formal designation from the Commissioner. The Secure Probation Sanctions Hearing Officer will not conduct hearings until the Commissioner formally designates him or her.
 4. Secure Probation Sanctions Hearing Officers will receive periodic training updates from the Office of Legal Services in conjunction with the Office of Training.
 5. Only staff in a Juvenile Probation/Parole Specialist III, Juvenile Program Manager, or District Director position may serve as a Secure Probation Sanctions Hearing Officer.
 6. Only an impartial third party who is not directly involved with the youth being charged may preside over a Secure Probation Sanctions hearing.

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IV. FILING A SECURE PROBATION SANCTIONS AFFIDAVIT:

- A. For youth on probation with a special condition for the Probation Management Program, graduated sanctions will be used for all violations, in accordance with DJJ Policy 20.33 Graduated Sanctions.
- B. Within three business days of a violation that gives rise to a referral for a Secure Probation Sanctions Hearing, the Community Case Manager will file a Secure Probation Sanctions Affidavit (Attachment B) with the Juvenile Program Manager.
- C. The Juvenile Program Manager must ensure that the Affidavit includes the elements of the youth’s probation program, his/her failure to respond to graduated sanctions, the number of violations, and the facts regarding each violation. If the Community Case Manager fails to document the violations and specify how the youth has failed to complete a Probation Management Program, the youth will not be eligible for a Secure Probation Sanction.
- D. The Affidavit is “filed” when it has been signed and dated by the Community Case Manager and approved by Juvenile Program Manager, with a signature and date.
- E. When the court has ordered judicial consideration prior to referral to the Secure Probation Sanctions Program, the Community Case Manager will refer the violation to the court within three business days.
- F. When the court has included a provision for the Secure Probation Sanctions program in the order, the Juvenile Program Manager or designee will request that the Secure Probation Sanctions Hearing Officer schedule a Secure Probation Sanctions Hearing within three business days.
- G. The Community Case Manager must explain and provide a copy of the Affidavit to the youth and parent/guardian as soon as possible, but no later than 24 hours prior to the Secure Probation Sanctions Hearing. The Community Case Manager will file the original Affidavit in the youth’s case record and will scan it into the JTS court orders module.

V. NOTICE OF SECURE PROBATION SANCTIONS HEARING:

- A. The Community Case Manager will ensure that the youth receives notice of and understands his/her rights during the Secure Probation Sanctions process using the Notice of Secure Probation Sanctions Hearing (Attachment C). The youth’s rights include:
 - 1. The right to an impartial administrative hearing (Secure Probation Sanctions Hearing) on the alleged violations;

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2. At least 24 hours advance notice, in writing, to the youth and parent/guardian (if available) that a hearing is to be held, including the date, place, time, and purpose of the hearing;
 3. A copy of the Secure Probation Sanctions Affidavit at least 24 hours prior to the hearing;
 4. The right to appear at the hearing, to speak on his/her own behalf, to produce oral testimony of relevant witnesses, and to introduce documentary evidence;
 5. The right to representation by an attorney or another representative of his/her choice. (If the youth chooses to be represented by an attorney, it will be at his/her own expense.); and
 6. The conditional right of the youth and his/her attorney, at his/her request, to confront and question persons who have given adverse information on which the charge was based. (The Hearing Officer may deny the request if he/she feels that the witness would be exposed to the possibility of harm if his/her identity were known).
- B. The Community Case Manager will provide the youth and parent/guardian, if available; at least 24 hours notice that a Secure Probation Sanctions hearing is to be held to consider the allegations set forth in the Affidavit.
1. The Notice of Secure Probation Sanctions Hearing (Attachment C) will indicate the time and place of the hearing, its purpose, and the youth's rights.
 2. The case manager will read and explain the Notice of Secure Probation Sanctions Hearing to the youth and parent/guardians (if available).
 3. Both the youth and parent/guardian (if available) will sign and date the original and will be provided a copy of the Notice of Secure Probation Sanctions Hearing.
- C. The youth and the youth's parent/guardian may waive the notice requirement for the Secure Probation Sanctions hearing if the waiver is understood and voluntary.
- D. The Community Case Manager will document every effort made to locate the parent/guardian in the JTS case notes within 72 hours. If the parent/guardian cannot be located, the Hearing will proceed.

VI. SECURE PROBATION SANCTIONS HEARING:

- A. The Secure Probation Sanctions hearing will be conducted within three business days of the filing of the Affidavit. The Hearing Officer will conduct the hearing in an

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orderly manner and in accordance with Attachment D, Conducting a Secure Probation Sanctions Hearing.

- B. The youth will be present for the Secure Probation Sanctions hearing. The court will be notified if the youth does not appear for the hearing.
- C. The Hearing Officer may accept testimony and evidence not otherwise admissible in a court of law if he/she believes it to be reliable.
- D. The Juvenile Program Manager will present the charges and the evidence regarding the alleged violations.
- E. The youth's case manager will serve as a witness for the Department. If a supervisor is actively managing the case, he/she will present the case and serve as witness for the Department.
- F. At a minimum, the case manager will have the following documents available as evidence:
 - 1. Order of Probation that includes a special condition for the Probation Management Program;
 - 2. Probation history;
 - 3. Conditions of Supervision;
 - 4. Graduated sanctions grid;
 - 5. Secure Probation Sanctions Affidavit; and
 - 6. Notice of Secure Probation Sanctions Hearing.
- G. The youth and parent/guardian or attorney may present evidence in defense of the youth.
- H. If, during the course of the hearing, circumstances necessitate a continuation of the hearing, the Hearing Officer may continue the hearing to the next business day.

VII. ADMISSION OF VIOLATION/WAIVER:

- A. The youth may waive his/her right to a Secure Probation Sanctions hearing. If the youth waives the hearing, he/she must admit to all alleged violations.
- B. The youth and his/her parent/guardian or the youth and his/her attorney must sign the Admission of Violation/Waiver (Attachment E).

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- C. The youth will be provided a copy of the Admission of Violation/Waiver form.
- D. If there is any question as to the youth's complete understanding of the implications of such a waiver, the Secure Probation Sanctions Hearing Officer will not accept the waiver.

VIII. FINDINGS OF SECURE PROBATION SANCTIONS HEARING:

- A. The Secure Probation Sanctions Hearing Officer will record the results of the hearing on the Findings of Secure Probation Sanctions Hearing Form (Attachment F) within one business day of the hearing. The Hearing Officer will forward a copy of the Findings to the court, Community Case Manager, and Case Expeditor. If the youth is in detention, the Hearing Officer will also notify the facility Director.
- B. The Hearing Officer will record a summary of the hearing, including the substance of the charges, evidence presented, defense, admission/denial of the charges, and conclusion. When the parent/guardian is not available, the Secure Probation Sanctions Hearing Officer will make a notation of it in the decision.
- C. If it is determined that there is insufficient evidence to support the alleged violation, the youth will continue in the community under no greater restriction than the Probation Management Program preceding the hearing.

IX. APPEAL PROCESS:

- A. The youth will have the right to appeal the findings of the Hearing Officer within 5 days of receipt of the Findings. An appeal will not stop a sanction from being immediately implemented.
- B. The Hearing Officer's decision will be final unless the youth appeals the decision within 5 days of receipt of the Findings from the Secure Probation Sanctions Hearing Officer.
- C. The Hearing Officer will respond to appeals, in writing, within 5 days of receipt.
- D. When the Hearing Officer upholds the decision, the decision of the Hearing Officer will be final. The youth may file a further appeal to the court within 10 days of the final decision. If the court does not act on the appeal within 15 days of the filing of the appeal, the sanction decision will stand.

X. REFERRAL TO SECURE CONFINEMENT:

- A. When a youth is ordered to a Secure Probation Sanction, the Community Case Manager (for dependent courts) or Case Expeditor (for independent courts) will request

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an order for detention from the Court and upload the SPS Referral Packet, consisting of the following documents, into JTS Legal within 1 business day:

1. Secure Probation Sanction Referral Worksheet (Attachment G);
 2. Order of Probation with a special condition for the Probation Management Program;
 3. Probation history;
 4. Conditions of Supervision;
 5. Graduated sanctions grid;
 6. Secure Probation Sanctions Affidavit (Attachment B);
 7. Notice of Secure Probation Sanctions Hearing (Attachment C);
 8. Admission of Violation/Waiver (Attachment E);
 9. Findings of the Secure Probation Sanctions Hearing (Attachment F); and
 10. Secure Probation Sanctions Appeal (if applicable).
- B. The Community Case Manager or Case Expeditor will update the legal information in the Juvenile Tracking System (JTS).
- C. The Office of Classification and Transportation Services will review the documents in JTS and assign the minimum and maximum release dates.
- D. The Case Expeditor will update the reason for detention in JTS.

XI. LOCAL OPERATING PROCEDURES REQUIRED: NO