



## **PROBABLE CAUSE HEARING GUIDE**

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## MINIMUM DUE PROCESS REQUIREMENTS

Due Process protections are necessary at the Probable Cause Hearing

The following safeguards meet the minimum requirements as outlined by the Court:

- A. Written notice of alleged violations
- B. Disclosure of non-privileged or non- confidential evidence regarding the alleged violation(s)
- C. The opportunity to be heard in person and present witnesses and documentary evidence relevant to the alleged violation(s)
- D. The opportunity to confront and cross-examine adverse witnesses, unless the Hearing Official determines that a risk of harm to the witness exists
- E. Case heard by a neutral and detached Hearing Official

## OPENING COMMENTS / PROBABLE CAUSE HEARING SCRIPT

This hearing is now in session. This is a Probable Cause Hearing in the [Sending State] case of [Offender=s Name]. The state ID number is [if applicable]. This hearing is being conducted at [Office/Jail location of the hearing], located in [City], [State]. The date is [MM/DD/YYYY] and the time is \_\_\_\_\_ am/pm. Also present at this hearing is/are \_\_\_\_\_.

I have been presented a copy of [ie, Violation Report, Warrant, other related document(s)] issued on [MM/DD/YYYY] and served [MM/DD/YYYY]. The rights form, violation report, the notice of hearing has been signed by [Offender=s Name] on [MM/DD/YYYY]. (If the 48 hour Notice of Hearing was not observed, address it at this point) and place all evidence or supporting documentation into the record as submitted in support of the alleged violation(s).

[Offender=s Name], my name is [Hearing Official=s Name]. I will be the Hearing Official hearing the violation(s) in your case. I have been assigned by the [Receiving State Supervision Authority] to provide you with a fair and impartial hearing. The purpose of this hearing is to determine whether or not you have violated the conditions of your supervision agreement. Now, the way that I am going to do that is [Agent/Officer=s Name] is going to present the alleged violations(s) and supporting evidence along with the background information of your case. Then, if desired, I will be happy to hear from you. However, you do have the right to remain silent, and if you choose to exercise that right it will not be held against you. The Agent/Officer has the burden of proof in this matter, but the burden is only by the preponderance of the evidence. If I find that you are in violation, I could recommend you be continued on supervision with possible modifications of your supervision agreement, or I could recommend you be returned to your Sending State for revocation.

Do you have any questions about your rights or the purpose of this hearing?

\*\*If the offender has no questions, the Hearing can proceed generally with the Agent/Officer presenting the case history & alleged violation(s) first.

**Probable Cause  
Hearing Summary**

OFFENDER  
NAME:

SENDING  
STATE ID#:

RECEIVING  
STATE ID#:

LOCATION OF HEARING:

DATE of HEARING:

TIME of HEARING:

RECORD ID#

PERSONS IN ATTENDANCE

NAME

[EXAMPLE] Heyward A. Hinton

/

RELATIONSHIP

Chief Hearing Officer

HEARING OFFICIALS FINDINGS: [SAMPLE SCRIPT]

*I find that [Offender Name] has violated conditions [Supervision Condition Number(s)], and special conditions [if applicable] as set forth in the affidavit dated [Date of Sentence]; such conditions having been contained in the order of probation/release accepted by the defendant in writing on [Date def. signed Supervision Condition(s)]. I find that [Offender Name] has violated the conditions as agreed by [his/her] signature on the Offender=s Application for Interstate Compact Transfer dated [Date defendant signed ICAOS form]. I base these findings on [Offender Name] own admission and the testimony submitted by Agent [Supervising Officer/Agent].*

HEARING OFFICIALS CONCLUSION(S):

[Hearing Officials own words]

HEARING OFFICIALS RECOMMENDATION(S):

[Sanctions Hearing Official authorized to impose/recommend by the State relative to the violations]

INTERSTATE COMPACT

Probable Cause Hearing Waiver

Offender's Name Sending State Parole ( ) Probation ( )

Offender's Sending State ID # Receiving State ID#

It is alleged that you have violated the terms and conditions of your supervision within the State of (receiving state) in the following manner:

IDENTIFY ALLEGED VIOLATION(S)

- 1. You are entitled to a probable cause hearing on the alleged violation(s) listed above: The purpose of the hearing is to determine:
a. Whether there is probable cause to believe that you have violated any condition(s) of your supervision; and
b. If such probable cause does exist, whether or not the violation(s) is/are serious enough to warrant a recommendation that you will be returned to your sending state for a final revocation hearing.
2. If you admit to the alleged violations and waive your right to a probable cause hearing, you also waive extradition and information related to your admission will be forwarded to the sending state for disposition. You will not receive a probable cause hearing in (sending state).
3. You have the right to consult with an attorney. If you cannot afford an attorney you may use the services of the State Public Defender.

ADMISSION & WAIVER:

I ADMIT TO THE VIOLATION(S) AS STATED ABOVE AND WAIVE ALL OF MY PROCEDURAL RIGHTS, INCLUDING THE RIGHT TO A PROBABLE CAUSE HEARING AND APPEAL.

I UNDERSTAND THAT BY ADMITTING TO THE VIOLATION(S) AND WAIVING MY RIGHT TO A HEARING,

I WILL BE WAIVING EXTRADITION AND AGREE TO RETURN TO THE SENDING STATE.

I WAS ADVISED OF MY RIGHT TO COUNSEL AND THE OPPORTUNITY TO DISCUSS THIS MATTER.

- I DO WISH TO DISCUSS THIS WITH LEGAL COUNSEL.
I DO NOT WISH TO DISCUSS THIS WITH LEGAL COUNSEL.

Offender's Signature Date Corrections Agent's Signature Date