

CONDITIONS OF COMMUNITY SUPERVISION IN MONTANA

CRIMINAL JUSTICE OVERSIGHT COUNCIL
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Within Montana’s criminal justice system, *community supervision* is the collective term for the ways in which an offender can be disciplined outside of custody. The term encompasses:

- Probation – For individuals with a deferred or suspended sentence.
- Parole – Available to offenders who receive a prison sentence and are granted release by the parole board.¹
- Conditional Release – For offenders to serve their sentence outside of a correctional facility under the supervision of the Department of Corrections (DOC).

Under these supervision types, there are conditions set and used for sentence compliance monitoring. Conditions of community supervision for offenders on probation or conditional release are assigned by a judge at sentencing², and the Montana Board of Pardons and Parole (BOPP) assigns conditions for those on parole³. The DOC may add additional conditions for those placed on conditional release. As held by the Montana Supreme Court,⁴ conditions of supervision must be related to the crime of conviction or to the offender’s unique background and characteristics.

There are 12 standard conditions typically assigned to individuals on probation, parole, or conditional release.⁵ In addition to these standard conditions, statutory conditions are automatically assigned to offenders who commit certain crimes. Further individualized conditions known as “special conditions” may also be ordered by a judge, BOPP, or DOC for individuals placed under their authority.

STANDARD CONDITIONS

There are 12 standard conditions listed in the Administration Rules of the State of Montana (ARM), under *Conditions on Probation or Parole* ([ARM 20.7.1101](#)) and *Conditions of Supervision* ([ARM 20.25.702](#)):

1 - Obtaining permission before changing residence and making the residence open for visits.

An offender must obtain approval from their supervising officer before taking up or changing their place residence. The residence must be open and available for an officer to conduct a home visit or search. The offender cannot own dangerous animals and cannot use any device that would hinder an officer from visiting or searching their residence.

¹ 46-23-201 MCA leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0020/section_0010/0460-0230-0020-0010.html

² 46-18-201 MCA leg.mt.gov/bills/mca/title_0460/chapter_0180/part_0020/section_0010/0460-0180-0020-0010.html

³ 20.25.501 ARM rules.mt.gov/gateway/RuleNo.asp?RN=20%2E25%2E501

⁴ See e.g., *St. v. Ommundson*, MT 16, 293 M 133 (1999); *St. v. Holt* MT 151, 332 M 426 (2006); *St. v. Armstrong*, MT 334, 335 M 131 (2006); *St. v. Ashby*, 2008 MT 83, 342 M 187, (2008); *St. v. Zimmermann* 355 M 286 (2010).

⁵ 20.7.1101 ARM rules.mt.gov/gateway/RuleNo.asp?RN=20%2E7%2E1101

2 - Obtaining permission before leaving the district.

An offender must obtain permission from their supervising officer leaving their assigned district.

3 - Seeking and maintaining employment or an approved program.

An offender must seek and maintain employment, or a program approved by BOPP or their supervising officer. Unless otherwise directed by the supervising officer, the offender must inform their employer of their community supervision status.

4 - Submitting written monthly reports.

Unless otherwise directed, an offender must submit written monthly reports to their supervising officer on forms provided by the probation and parole bureau. An offender must personally contact their supervising officer or designee when directed by the officer.

5 - Not owning weapons.

An offender is prohibited from using, owning, possessing, transferring, or controlling any firearm, ammunition (including black powder), weapon, or chemical agent.

6 - Obtaining permission before engaging in a business, making significant purchases, or incurring debt.

An offender must obtain permission from their supervising officer before engaging in a business, purchasing real or personal property, purchasing an automobile, or incurring a debt.

All rules and conditions must be stated in writing and must be made a part of any agreement signed by the offender.

20.25.702 ARM and
46-23-1021(3) MCA

7 - Submitting to officer searches.

Upon reasonable suspicion that the offender has violated the conditions of supervision, a probation and parole officer or law enforcement may search the person, vehicle, and residence of an offender, and an offender must submit to such search.

8 - Complying with all relevant laws and reporting any law enforcement contact.

An offender must comply with all municipal, county, state, and federal laws and ordinances and conduct themselves as a good citizen. If an arrest or contact with law enforcement occurs, an offender is required to report the incident to their supervising officer within 72 hours.

9 - Not using or possessing drugs or alcohol.

An offender is prohibited from using or possessing alcoholic beverages and all intoxicants or mind altering chemicals and is required to submit to bodily fluid testing for intoxicants or mind altering chemicals on a random or routine basis and without reasonable suspicion.

10 - Not gambling.

An offender is prohibited from gambling.

11 - Paying all court-ordered fines, fees, and restitution.

An offender must pay all fines, fees, and restitution ordered by the sentencing court. A parolee must pay a supervision fee in accordance with [46-23-1021](#), MCA.

12 - Abiding by additional conditions as ordered by the Court or Parole Board.

BOPP may order additional special conditions. Additionally, a hearing panel considers DOC requests for special conditions. Any special conditions imposed by DOC must be approved by BOPP. Special conditions must not be unrealistic or vague and must be reasonably related to the offender's crime, public safety, or the circumstances and rehabilitation of the offender.

STATUTORY CONDITIONS

In addition to the standard conditions, certain statutory conditions are automatically assigned to offenders based on the crimes they commit.

Mandatory registration of sexual and violent offenders - [MCA 46-23-5](#)

A convicted sexual or violent offender is required to register with the appropriate registering agency either immediately upon conclusion of the sentencing hearing, 10 days prior to release from DOC confinement, or within 3 days of entering the state if they are a transient. Their registration information is provided to the Department of Justice for the Sexual and Violent Offender Registry. They must provide:

- name;
- social security number;
- residence information;
- name and address of their employment;
- name and address of any school where they will be a student;
- driver's license number;
- vehicle description(s) and license number(s);
- e-mail addresses, social media accounts, and monikers used on the internet;
- passports;
- phone numbers; and
- professional licenses.

Registration into the DNA Index – [MCA 44-6-103](#)

A person convicted of a felony offense or registered as a sexual or violent offender, a youth convicted of a sexual or violent offense, or an adult offender convicted in another state and sentenced to death or imprisonment for more than 1 year must provide a DNA sample to the Department of Justice. Included with the submission of the DNA sample is the offender's:

- name and signature;
- social security number;
- date of birth;
- gender;
- race;
- SID, FBI and/or juvenile offender number;
- qualifying offense or offenses; and
- left and right thumb prints.

Refusal or failure to provide a biological sample is grounds for revocation of a suspended or deferred imposition of sentence.

INDIVIDUALIZED CONDITIONS

Additional individualized conditions may be imposed based on an offender's unique background and characteristics. Any conditions of medical parole are considered special conditions, but other individualized conditions assigned can be but are not limited to: counseling and treatment programs; limitations or no entry into bars or casinos; limitations on financial transactions; no contact with felons, co-defendants, and/or gang members; no contact with the victim or child; assignment to educational programming and pro-social skills development; and community services.

REVOCATION

If an offender violates a condition of supervision, a probation or parole officer files a Report of Violation (ROV) containing a description of the offender's alleged violations, the officer's responses, and their recommended disposition. If the offender is on probation, the officer sends the ROV to the sentencing court, and if they are on parole, the ROV is sent to the Parole Board.⁶ If there is a violation while on conditional release, including failure to appear, a prosecutor submits a written motion to the court for revocation and a judge may issue an arrest warrant.⁷

PROBATION OR CONDITIONAL RELEASE VIOLATION

A sentencing judge may issue an order for a hearing on the revocation of an offender who has violated a condition of supervision. The order provides a specified time and place for the hearing and must be served to the offender personally. If needed, the judge may also issue a warrant to arrest the offender and bring the offender before the court.⁸

A hearing is required before conditions of a sentence can be modified unless the offender admits the allegations and waives the right to a hearing or the modification is favorable to the offender and the prosecutor has not objected.

PAROLE VIOLATION

If a parole officer determines that an offender has violated a condition of parole, the officer notifies BOPP, submits the ROV, and describes the exhaustion of appropriate violation responses according to the DOC incentives and interventions grid.^{9,10}

The BOPP holds a hearing on the violation. If violation is found, the BOPP may:

- continue the parole without a change in conditions; or

⁶ 46-23-1025 MCA leg.mt.gov/bills/mca/title_0460/chapter_0230/part_0100/section_0250/0460-0230-0100-0250.html

⁷ 46-9-503 MCA leg.mt.gov/bills/mca/title_0460/chapter_0090/part_0050/section_0030/0460-0090-0050-0030.html

⁸ 46-18-203 MCA leg.mt.gov/bills/mca/title_0460/chapter_0180/part_0020/section_0030/0460-0180-0020-0030.html

⁹ DOC Community Supervision : cor.mt.gov/ProbationandParole/CommunitySupervision

¹⁰ DOC MIIG Grid : leg.mt.gov/content/Committees/Interim/2019-2020/Law-and-Justice/Committee-Topics/Agency-Oversight/Corrections/DOC-miig-grid-june-2019.pdf

- continue the parole with modified or additional terms and conditions.

If BOPP finds that the violation is not a compliance violation, they may:

- continue the parole without a change in conditions;
- continue the parole with modified or additional terms and conditions; or
- revoke the parole or enter an order as the hearing panel sees fit.

RESOURCES

For further information on community supervision in Montana, please find additional resources below:

- [Department of Corrections](#)
 - [Probation and Parole](#)
 - [Interstate Compact](#)
 - [Community Supervision](#)
- [Montana Board of Pardons and Parole](#)
 - [Getting Ready for Parole](#)
 - [Hearing Procedure](#)
- [Improving Outcomes and Safely Reducing Revocations from Community Supervision in Montana](#), Criminal Justice Institute (July 2022)