

Memorandum

Alaska Court System

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TO: All Judges and Magistrates
Clerks of Court
Carrie Belden, Director Div. Probation Parole
Rick Svobodny, Deputy AG, Criminal Div.
Quinlan Steiner, Public Defender

DATE: January 15, 2013

FROM: Susan Miller and
Charlene Dolphin

SUBJ: Amended Uniform PJ
Order on Felony PTRPs

The [Uniform PJ Order on Felony Petitions to Revoke Probation](#) has been amended, and [lists of authorized PTRP filing locations](#) have been adopted. The changes in the order are described below.

1. **Where To File PTRPs When Sentencing Court Retains Jurisdiction.**
Section A.1 on page 2 has been amended to read:

Petitions. All petitions to revoke probation must be filed in the sentencing court, regardless of where the violation occurred.

For purposes of this order, the sentencing court is the court identified in the case number. If that court's case files are maintained in another court location after sentencing, the petition must be filed where the files are kept. The administrative director maintains a list of the courts where case files are kept after sentencing.

The purpose of this change is to clarify that, when jurisdiction has not transferred, felony PTRPs must be filed in the court location **where the case file is kept after sentencing**. This is different in each district, and not necessarily the location shown in the case number. List A in the [list of authorized PTRP filing locations](#) shows the courts where felony case files are kept after sentencing.

Note: An earlier version of List A was distributed in March 2011.

Example:

Kotzebue case number. Defendant lives in Pt. Hope at time of sentencing. DOC assigns probation supervision to the Barrow probation office because the Barrow PO supervises Pt. Hope defendants. Defendant commits new crime in Pt. Hope while still living in Pt. Hope.

The amended PJ order clarifies that the PTRP on the Kotzebue case must be filed in **KOTZEBUE** because (1) **the sentencing court retains jurisdiction because the defendant has not moved**, and (2) the case file is maintained in Kotzebue.

2. **Where to File PTRPs After Supervision Transfers.**

Paragraph B.1 on page 3 of the order has been revised to state:

Transfer of Jurisdiction when Probationer Moves. If the Department of Corrections transfers supervision of the probationer to another probation office because the probationer has moved, jurisdiction over the probationer transfers to the superior court or felony PTRP filing location nearest to where the defendant now resides, unless the sentencing judge retains jurisdiction as provided in paragraph 2 below. The administrative director maintains a list of the felony PTRP filing locations designated by each presiding judge.

The same substantive changes have been made in the first paragraph of Section C on page 5.

The original PJ order transferred jurisdiction to “the superior court in the location of the new probation office.” This caused problems in several parts of the state when probationers would move but their new probation office was not located in the superior court nearest to their new residence. The purpose of the change is to have the PTRP proceedings closest to where the defendant resides. List B in the [list of authorized PTRP filing locations](#) shows the felony PTRP filing locations when supervision transfers.

Examples:

Kenai case. Defendant moves to Valdez. DOC transfers probation supervision to PALMER because the Palmer PO supervises Valdez defendants. Defendant commits new crime in Valdez.

Under the original PJ order, the PTRP on the Kenai case was filed in Palmer.

Under the amended PJ order, the PTRP on the Kenai case will be filed in **VALDEZ** because it is the PTRP filing location on [List B](#) nearest to where the defendant now resides.

Juneau case. Defendant moves to Craig. DOC transfers probation supervision to KETCHIKAN because the Ketchikan PO supervises Craig defendants. Defendant commits new crime in Craig.

Under the original PJ order, the PTRP on the Juneau case was filed in Ketchikan where the probation officer is located.

Under the amended PJ order, the PTRP on the Juneau case will be filed in **CRAIG** because it is the PTRP filing location nearest to where the defendant now resides.

3. **Typo.** Section B.3 has been amended to delete the last sentence in the first paragraph, which referred to a section of the order that no longer exists (Section D on service of petitions and motions). That section was combined into Section C before the original order was finalized, but we missed this reference to it.

4. **Requirement That Probation Office Be Notified of All Motions & Petitions Relating to Probation.**

DOC is not always notified when a motion or other matter relating to probation is filed by the DA, defendant and even when the court issues notices. The following two new paragraphs have been added to the order to address this problem:

a. New paragraph in B.3:

3. If the prosecutor or probationer files a motion or petition relating to probation, the party filing the motion or petition must send a copy to the supervising probation office.

b. New paragraph D.4:

4. **Notice to Probation Office.** The clerk must send a copy of all orders and notices relating to probation to the supervising probation office.

5. **Motions for Early Termination of Probation.**

Section B.5 of the order has been amended to state:

5. New Judge's Authority. Under AS 33.05.060, the assigned judge at the new supervising court shall have the same power with respect to the probationer that the sentencing judge possessed, except that the period of probation may only be ~~extended~~changed pursuant to a disposition agreement or with the sentencing judge's consent. If the sentencing judge is no longer available, the supervising court judge has the power to ~~extend~~change the period of probation to the extent permitted by law.

The purpose of this change is to bring the order into compliance with AS 33.05.060 (cited in footnote 1 in the order) which states, "... the period of probation may not be changed without the consent of the sentencing court..."

The original order only mentioned extensions of the probation period by the new supervising judge. It did not address whether the new supervising judge can shorten or terminate probation at the defendant's request.

6. **Clarification of the Term "New Criminal Conduct."**

Section B .7. b on page 4 of the order has been revised to state:

b. Violation Occurred Outside New Supervising Court's Area.

If the petition is based on conduct that occurred **outside** the new supervising court's area:

- (1) **Technical Violation.** If the violation is not a new criminal charge, adjudication and disposition should be held in the new supervising court, unless otherwise ordered by that court.
- (2) **New Charge.** If the petition alleges new criminal conduct charged in a new **criminal** case, adjudication should generally be held in the "violation court" (the superior court nearest to where the violation allegedly occurred). Disposition should be handled by the new supervising court unless the defendant is entering into an agreement at the violation court which disposes of the PTRP.

Also, the chart on page 8 of the order has been revised to change the term "New Criminal Conduct" to "New Criminal Case."

The purpose of these changes is to make it clear that the policy in paragraph (2) on the location of the adjudication hearing applies when a new case has been filed against the probationer, not when a PTRP alleges new criminal conduct that is not charged in a new case.

7. **Form CR-559.** Section C on page 5 of the order has been amended to require DOC to file a CR-559 "DOC Supervision Transfer" form with the sentencing court (and with the previous supervising court if there has been more than one supervision transfer).

Note: This is already current practice, agreed upon by the courts and DOC.

8. **Motion Filed by Probationer.** The following new section C.4 has been added on page 6 of the order:

4. If, after a supervision transfer, the probationer files a motion before the Department of Corrections or a prosecutor files either a motion or a petition, the department will file the documents listed above upon request by the court.

Section C of the original order listed the documents the DA or PO must file with the first motion or petition when supervision has transferred. The order assumed the first motion or petition would be filed by the state. It did not address the possibility that the probationer might file the first motion. DOC has agreed to provide the documents listed in Section C upon request by the court when a probationer files a motion.

cc: Christine Johnson
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