

§1098. Proceedings for revocation of post-conviction bail

1. In general. The attorney for the State, or the court on its own motion, may move for the revocation of a defendant's post-conviction bail based upon probable cause to believe that the defendant has failed to appear as required, has violated a condition of post-conviction bail or has been charged with a crime allegedly committed while released on post-conviction bail. The motion must set forth the essential facts underlying the alleged violation. If the defendant has not already been arrested pursuant to subsection 2, the clerk of the court shall issue, upon the request of the attorney for the State or by the direction of the court, a warrant for the defendant's arrest or, in lieu of a warrant if so directed, a summons ordering the defendant to appear for a court hearing on the alleged violation. The summons must include the signature of the attorney for the State or the court, the time and place of the alleged violation and the time, place and date the person is to appear in court. If the defendant can not be located with due diligence, a hearing on the motion for revocation must be heard in the defendant's absence.

[PL 1995, c. 356, §19 (NEW).]

2. Arrest. Prior to the filing of a motion to revoke a defendant's post-conviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State, may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, violated a condition of post-conviction bail or been charged with a crime allegedly committed while released on post-conviction bail. A defendant under arrest pursuant to this section must be brought before a judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing post-conviction bail order should be modified or the defendant should be committed without bail pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

[PL 2011, c. 341, §5 (AMD).]

SECTION HISTORY

PL 1995, c. 356, §19 (NEW). PL 2011, c. 341, §5 (AMD).

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