



JUSTICE BEHIND BARS



Breach of Parole Information Kit

There are 3 ways your parole order may be affected law:

1. **Amended or suspended by your parole office** (maximum of 28 days)
2. **Amended, suspended or cancelled by a Parole Board**
3. **Cancelled automatically**

1. Parole Office

The Chief Executive or delegate has the power to amend or suspend a parole order for up to **28 days**. Usually, this action is taken by your parole officer and/or their supervisor.

For contravention of court ordered parole, the parole office may take some informal actions. These may include, written or verbal warning by supervising officer or increased surveillance (random testing).

Amend

Your parole office may amend your parole order if you have not complied with the order or are deemed to pose a risk of harm to yourself. Amending a parole order is done by adding, removing or changing conditions.

Suspend

Your parole office may suspend your parole order and return you to custody if it is reasonably believed you:

- have not complied with the order, or,
- pose a risk of harm to another or yourself, or,
- pose an unacceptable risk of committing a further offence, or,
- are preparing to leave the state of Queensland.

In considering whether to suspend a parole order, your parole office must consider the safety of the community. In doing so, they may take into consideration:

- whether you have a “reasonable excuse”;
- your original offence;
- your identified criminogenic risk factors (e.g. regarding illicit drug use, whether there is a link between the use of a particular drug and the offending behaviour);
- your response to community supervision (e.g. including reintegration factors such as employment and family responsibilities);
- your general conduct;
- your psychological state; and
- intelligence received on you from police or other sources.

Your parole office will then notify the Parole Board who may take further action, including suspending your parole for longer or cancelling it altogether.

If this happens, you will / may stay in prison for longer than 28 days.

2. Parole Boards

A Parole Board may amend, suspend or cancel your parole order if the Board reasonably believes you:

- have not complied with the order, or,
- pose a risk of harm to another or yourself, or,
- pose an unacceptable risk of committing a further offence, or,
- are preparing to leave the state of Queensland.

If your parole office has suspended your parole for 28 days and they have notified the Parole Board, during the 28 day suspension period the Parole Board will make a decision regarding the suspension of your parole order. They may decide to

- lift the suspension and return you to the community;
- suspend the order indefinitely to obtain the results of a court outcome;
- issue a warrant if you remain at large; or
- cancel the order which would **require you to apply for release to Board ordered parole**

A Parole Board may also amend, suspend or cancel a parole order, other than a court ordered parole order, if the board receives information that, had it been received before the parole order was made, would have resulted in the parole board that made the order making a different parole order or not granting a parole order in the first place.

Finally, a Parole Board may amend or suspend a parole order if you are charged with committing a further offence.

Amend

A Parole Board has the power to amend, add or remove any conditions it originally included in your parole order.

If it is reasonably practicable to do so before the amendment, you should be given a show cause letter (also called an information notice), detailing the proposed amendments and the reasons for them. You should be given a reasonable opportunity to respond to the proposed amendment within 21 days of receiving the notice.

Suspend or Cancel

A Parole Board may suspend your parole order for a particular period of time or indefinitely. If a parole board suspends or cancels your parole order and you are not already back in prison on a suspension from your parole officer you will be arrested and returned to custody.

If a parole board suspends or cancels your parole order, they **must** give you a show cause letter (information notice) upon your return to prison. The show cause letter will say if your parole has been cancelled or suspended, the reasons for this decision and how long any suspension is for.

The show cause letter should say that you have 14 days to make written submissions for the parole board to consider. If you require more time to respond to the show cause letter, you should write to the parole board within the 14 day period requesting for additional time and citing the reason for the request. After this time, the parole board must **write to you**, saying whether they have changed their decision, and if so, how.

If a parole board cancels your **court ordered parole** order, **you will not be granted an automatic parole date**. You will have to make a written application for parole at your new parole eligibility date.

Time Served (also known as ‘street time’)

If your parole order is cancelled by a parole board, you can only count the period before the breach as time served on your sentence. If your breach is due to being charged with further offences and you are returned to custody, the time in custody only counts towards serving your sentence to which the breach relates. The court will not consider it as time already served for your new offences. If you are not returned to custody after being charged and you are subsequently convicted of the charged offence you can only count the time before the offence was committed. Even if you have been reporting on bail with no incidents the date you committed the offence is the date of your breach of parole and only the time before the breach is counted as time served on your existing sentence.

3. Automatic Cancellation

Your parole will be automatically cancelled and you will be returned to custody if you are sentenced to another period of imprisonment, during the term of the parole order.

Exceptions to this are where the new period of imprisonment is:

- in default of paying a fine or restitution, or,
- required to be served under an intensive correction order, or
- wholly suspended, or
- you are released from court.

Bail and Breach of Parole

Being granted bail does not mean automatic release from custody if your parole order has already been suspended or cancelled. A parole office or parole board can suspend your parole order after you have been granted bail if they reasonably believe the new charges raise any of the grounds for suspension or cancellation mentioned above in 1 and 2. In practice being charged with further offences has been sufficient for the Parole Board to suspend your parole indefinitely while waiting for the court to make a final decision.

Do I Get a Show Cause Letter?

YES If returned to custody by order of a parole board

YES If returned to custody by order of a parole officer and the parole officer's suspension expires (usually after 28 days)

NO If returned to custody by order of a parole office and released at or before 28 days.

SO, if you are in for more than 28 days you should have a show cause letter (information notice) sent to you.

What Can I Do?

Before a decision is made:

(1) You can write submissions to the Parole board. You do not need to wait for a show cause letter, but **it's a good idea to wait if you are unsure of the reason for the breach.**

In your letter to the board you should briefly address the following topics:

- What went wrong on parole?
- Why it won't happen again
- If you are charged with offences, do you have bail?
- Personal circumstances
- Financial circumstances
- Employment
- Place of residence
- Family relationships

Remember, you have to send submissions within **21 days** of receiving the information notice.

For more information on what to tell the parole board, request our 'parole application handbook'.

After a decision is made:

(2) If you still do not agree with the decision to **amend, suspend or cancel** your parole you may be able to Judicially Review the decision.

Judicial Review means a review of the legality of a government's decision by the courts. The first stage in Judicial Review is to apply for a statement of reasons. To request a statement of reasons you should write this letter to the parole board that made the decision:

Dear [INSERT HERE WHICH PAROLE BOARD]

I refer to the decision of [INSERT HERE DATE OF DECISION], to [INSERT HERE AMEND/SUSPEND/CANCEL MY PAROLE]. So that I may be fully informed in relation to the decision, I respectfully request, pursuant to Section 32(1) of the Judicial Review Act 1991, that you provide me with a Statement of Reasons. Thank you for your co-operation. I look forward to hearing from you within the 28 day time limitation prescribed by the Act.

You have **28 days** from when you received the decision to send this request.

PLS can give you a legal opinion on your prospects of success. Send us your statement of reasons as soon as you receive them as strict time limits apply. Contact us for more information or for a Judicial Review information kit.

Examples

Example 1:

Sam was released on parole. The Parole Board amended his parole order requiring him to complete a program. The Parole Board did not send a show cause letter (information notice) until after making this amendment. Sam did not want to go to the program and his parole was suspended for failing to attend.

Sam should have been given an information notice before the amendment was made to give Sam a reasonable opportunity to be heard on the *proposed* amendment. Sam Judicially Reviewed the decisions and the Supreme Court said that the Parole Board's decision to amend and then suspend the parole order was invalid.

Example 2:

Troy was on parole when his parole officer gave him a 28 day suspension and returned him to custody. Two weeks later the parole board sent him a show cause letter (information notice) stating that they were considering cancelling the parole order because of drug use and failure to attend interventions. The information notice said that Troy had 14 days to show cause why the Parole Board should change its decision. Troy made submissions to the Parole Board, explaining why he used drugs and what will be different next time. He lists some support services that he plans to access in the community and includes letters of support from a rehab.

The parole board replied that Troy's parole would be cancelled. Troy wrote to request a statement of reasons within 28 days, and sent the statement of reasons to PLS to get advice.

Example 3:

Jane was released on parole on 4 January. On 4 May Jane was charged with public nuisance, for an event that happened on 4 April. She was granted bail but her parole was suspended by the Parole Board so she was returned to custody. She pleaded guilty on 4 June and was sentenced to one month in prison. She cannot count the month between 4 April and 4 May as time off her first sentence. Her parole was automatically cancelled because she was sentenced to a further term of imprisonment and she must apply to the parole board for parole.

Example 4:

Jo was returned to custody on a 28 day breach by his parole officer. He does not know the reason for the breach, but thinks that it might be because of a change in his address that he forgot to tell his parole officer about. Five weeks later, Jo has not received any letters from a parole board. Jo should have received a show cause letter (information notice) after 28 days if the board decided to continue the suspension given by the parole officer. Jo contacts PLS for legal advice and we contact the parole board to demand an information notice.



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Contact Prisoners' Legal Service:

Telephone Advice Line: Tuesday, Wednesday and Thursday, 9am to 1pm on the ARUNTA system

Postal Address: GPO Box 257, Brisbane QLD 4001

This broadsheet is intended to provide legal information only and is no substitute for legal advice. If you wish to take any action arising from matters raised in this publication you should consult a lawyer immediately.

The information was current as at 23 January 2017.