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The Misdemeanor Probation Oversight Unit (MPOU) is authorized to register misdemeanor probation entities and individuals, conduct audits to determine compliance, and investigate potential violations of laws and/or rules. The Misdemeanor Probation Oversight unit established within DCS implements rules and regulations promulgated by the Board of Community Supervision, and develops processes for registration & compliance of providers. There shall be a director of the Misdemeanor Probation Oversight Unit who shall be appointed by the Commissioner. The director shall oversee the Unit and have authority, with the concurrence of the Commissioner, to impose sanctions for violations and to otherwise carry out the laws and rules in regard to misdemeanor probation supervision.

MPOU Mission:

“Evaluate, Educate, and Regulate Misdemeanor Probation to ensure compliance with Georgia Law, Board rules and Policies, as well as promote the industry's best probation supervision practices.”

The Department of Community Supervision is the sole entity responsible for enforcement of DCS rules and regulations regarding misdemeanor probation oversight promulgated by the DCS Board (OCGA 42-8-100 through 109).

- The Role of DCS is oversight - ***Not*** caseload supervision
- Board of Community Supervision and Advisory Committee are in place, focus shifted to processes and quality assurance

From the MPOU Director:

“Working in concert with providers toward a common goal. We are all in this together.” -

Barbara Neville

[DCS-Adult Misdemeanor Probation Oversight](http://www.dcs.georgia.gov)

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Registration

MPOU will require initial registration for any probation entity who plans to provide misdemeanor probation services in Georgia. Once initially approved, a probation entity shall remain approved as long as it remains in compliance with applicable laws and rules. Additionally, any employee, agent or volunteer who provides any service to offenders or has access to probation entity records, or who has telephone or face-to-face contact with offenders under Georgia supervision, or access to offender data, must be registered with MPOU.

**Annual Registration is required by January 31 of the calendar year, for all probation entities in good standing.*

- **DCS Board Rule 105-2-.04 - Registration**

All probation entities or individuals are required to submit registration to and be approved by MPOU, as well as re-register as often as necessary to maintain current, up-to-date information. Registration is required to be approved prior to engaging in or providing services to a court and shall be made in such detail as MPOU may require. The failure or refusal to register or re-register as required shall subject the probation entity or individuals to sanctions provided in these rules.

- **DCS Board Rule 105-2-.05 - Probation Entity Registration and Approval Requirements**

No probation entity may operate without first registering and being approved by MPOU as set forth herein subsections *a-i*.

- **DCS Board Rule 105-2-.06 - Individual and Approval Requirements**

No individual will provide services to probation entities without first registering and being approved by MPOU as set forth herein subsections *a-f*.

Complete Rules and Regulation for Misdemeanor Probation Services are available at: [DCS Board Rules](#)

For all forms and detailed procedures that are required for entity registration and employee registration, see *Appendix A, pg. 23*.



Training

MPOU coordinates training events and opportunities, monitors training related activities, and audits training records of the State of Georgia's public and private misdemeanor probation providers. MPOU approves training resources/curriculum and trainer qualifications utilized by providers and performs training related compliance reviews per Georgia state law and DCS policies.

The MPOU Training Coordinator develops the forms and procedures to be utilized by providers for documenting compliance with all aspects of 105-2-.12. Additionally, the Coordinator develops training presentations designed to address matters pertinent to misdemeanor operations and that will assist entities and individuals meet the training requirements.

The training materials are available to all providers and can be found on the MPOU website under "Catalog of Presentations" or they can also be obtained directly from the Coordinator. The "Catalog of Presentation" is not an exhaustive list; new topics may be added and/or some topics may be revised to meet the current standards for the misdemeanor probation industry.

For all the required training forms, i.e. the Initial Orientation Training forms and the Annual In-Service form, and the full catalog of training presentations, see *Appendix B, page 31*.

Complete Rules and Regulation regarding all training requirements are available at: [DCS Board Rules](#)



Entity Compliance Review Introduction

DCS is charged with regulating entities and individuals which provide misdemeanor probation services, reviewing the effectiveness of uniform professional standards related to misdemeanor probation, and administering the laws, rules, and regulations related to misdemeanor probation supervision. O.C.G.A. § 42-3-3(a). All records of private and governmental misdemeanor probation programs are subject to inspection upon the request of DCS. O.C.G.A. § 42-8-108(b). DCS is authorized to conduct periodic inspections of misdemeanor probation providers to assess compliance with DCS requirements, Rules 105-2-.19(a) and 105-2-.20. The compliance reviews are usually conducted annually; however, in certain cases, those reviews may be conducted more often, particularly, if high liability areas have been noted.

Compliance Review Phases

There are three (3) phases to the audit process: (1) the administrative review process, (2) the on-site/conference call compliance visit, and (3) compliance report and report dissemination. During the administrative phase, the compliance monitors review all of the court service agreements, conduct criminal background checks, review probation case management, and staff bonding and liability insurance (private providers only). During the on-site compliance visit, the compliance monitor(s) review and discuss the probation case management findings and MPOU recommendations. Lastly, the report dissemination will be a date that is agreed upon with the compliance monitor and the provider. Each phase is detailed below.

Phase 1: Administrative Phase

Step One

- Compliance monitors receive their assigned probation providers for the year.
- Compliance monitors review the previous compliance reports to determine which courts to be reviewed.
- Contact the probation director to confirm the date and time of the site visit that has been selected by the compliance monitor. If the date and/or time conflicts with the director's schedule, the compliance monitor will reschedule the date, preferably within a two (2) week period.
- A correspondence is emailed to the provider requesting probation cases list(s) from the selected court(s). Compliance monitors will select courts that were not reviewed the previous year (if possible). The classes of courts include: Superior, State, Magistrate, Municipal, Probate and Recorder's Court.
- The provider is given three (3) to five (5) business days to submit the requested case list(s) to the compliance monitor.

Step Two

- Once the case list is received, the compliance monitor will use the Quarterly Report data (number of cases reported by the probation provider) and choose 6% or 30 cases, whichever is greater, from each court, not to exceed 150 cases (**unless case management trends require reviewing more cases**). The classifications of cases include: Active, Warrants, Pay-Only, Administrative, Closed Successful, and Closed Unsuccessful.
 - **UPDATE as of 01/01/21:** the compliance monitor will **Choose 4% or 50 cases,** whichever is greater from each court, not to exceed 120 cases (unless case management trends require reviewing more cases).



- After the cases are selected, a correspondence is emailed to the director and they are advised to submit the cases within a time frame designated. This time will vary depending on the number of cases requested (usually between 14-21 business days). Each case file must contain at minimum: court sentences, case notes/chronological documentation, warrants, revocations, all orders, financial transaction records, etc., and any correspondence relating to the supervision of the case. Additionally, the provider is asked to provide a list of abbreviations if they are used in case note documentation.

Phase 2: Onsite/Conference Call Compliance Review Phase

Once the cases have been reviewed, the compliance monitor team will meet to discuss probation case management findings/recommendations, MPOU recommendations, and high liability areas (if applicable-see page 16 for more details). This meeting is to help to ensure the findings are accurate and aligned with DCS Board Rules and Georgia Statute, as well as ensuring that MPOU is promoting the industry's best probation supervision practices prior to meeting with the director.

- The lead compliance monitor and designated secondary monitor(s) will meet with the director and the probation supervisor (if available) at the entity's probation office or virtually.
- The director is provided with a copy of the audit guide to discuss the preliminary findings, recommendations, and MPOU recommendations found during the case review. An example of the guide may be found in *Appendix C on page 43*.
- It should be noted that after the onsite case discussion, some findings and recommendations may be revised/removed during the visit. The director is strongly encouraged to provide responses to the remaining findings and recommendations contained in the audit guide within at least fourteen (14) business days from the date of the onsite visit.
 - Please note: If areas of high liability findings are noted during the review, the provider will be required to conduct an internal audit of the cases they supervise to determine if other cases have been impacted by those high liability areas. They will be given a separate due date to submit this information.
 - See Appendix F, page 50 for details regarding internal audit procedures.
- Once the responses for the audit guide are received, the compliance monitor will review those responses to determine if additional findings/recommendations need to be revised and/or removed.

Phase 3: Compliance report/Report Dissemination Phase

- Once the audit guide has been updated, the compliance monitor will prepare the compliance review report (final audit) and submit it to the probation director. They will be given two (2) business days to review the updated audit guide and the compliance report.
 - Please Note: any findings the Probation Director needs further guidance on after having spoken with the Compliance Monitor and submitted a response, shall request in writing via email to the Compliance Monitor and the Director of MPOU for review. The MPOU Director shall review the finding(s) and the response(s) and may request further information. The finding(s) shall stand unless the MPOU director sees fit to bring any legal or rule questions to the Advisory Committee for review. The Probation Provider shall be invited personally to the review by the Advisory Committee. The decision of the Committee shall stand unless otherwise directed by the Commissioner of DCS.
- The final compliance review report will only contain information that has been agreed upon or settled on (whichever is relevant) between the probation director and the compliance monitor. This report and the entity's responses to the compliance review will be disbursed to all the courts for which the entity provides probation services.



Compliance Review Process (case reviews)

Pursuant to Department of Community Supervision Board Rules, the Misdemeanor Probation Oversight Unit of the Department of Community Supervision (DCS) conducts annual Compliance Reviews/Audits of the State of Georgia's public and private misdemeanor probation providers. During the case review, the compliance monitor will request individual case files, a list of abbreviations if they are used in case note documentation, and any Standing Orders that have been issued by the Courts regarding probation supervision.

The next section will provide a detailed overview of "What We Look For" during the case review process. At minimum, the following documents should be included in the case file:

Sentencing Sheet	Pg. 7
Probation Provider's Reporting Instructions/ Conditions of Probation	Pg. 8
Case Notes	Pg. 9
Financial Records <ul style="list-style-type: none">• Restitution• Pay Only (correct fee disbursement)• Probation Fees (<i>to include priority of fees</i>)• Georgia Crime Victims Emergency Fund• Other fees designated by sentencing form or Court Service Agreement	Pg. 10
Warrants <ul style="list-style-type: none">• Tolling Affidavits/Tolling Orders	Pg. 12
Revocation Petitions	Pg. 14
Modification Orders	Pg. 14
Correspondences to Probationers	Pg. 15
Community Service Agreement Form(s) and <ul style="list-style-type: none">• Waiver of Liability Form(s)	Pg. 15
Findings of High Liability (trends) <ul style="list-style-type: none">• Definitions• Internal Audit procedures• Sanction Matrix	Pg. 16
Court Service Agreements	Pg. 18
MPOU Recommendations Attachment	Pg. 20



Sentencing Form/Court Sentence

Sentencing forms or court sentences are documents that detail conditions of probation that are ordered by the sentencing Judge. It is recommended by MPOU that at minimum, the sentence should include:

- Appropriate Court Sentence that was requested (Superior, State, Magistrate, Probate, Municipal, Recorder's)
- Probationer's Name
- Charges/Offenses (guilty, not guilty, nolo contendere, etc.)
- Length of Sentence
 - Number of Months
 - Credit for Time Served (if applicable)
 - Consecutive or Concurrent counts

■ ***Pursuant to O.C.G.A. § 17-10-10(a)(b)(c): Concurrent Sentences***

(a) Where at one term of court a person is convicted on more than one indictment or accusation, or on more than one count thereof, and sentenced to imprisonment, the sentences shall be served concurrently unless otherwise expressly provided therein.

(b) Where a person is convicted on more than one indictment or accusation at separate terms of court, or in different courts, and sentenced to imprisonment, the sentences shall be served concurrently, one with the other, unless otherwise expressly provided therein.

(c) This Code section shall apply alike to felony and misdemeanor offenses.

■ ***Pursuant to O.C.G.A. § 42-8-103.1: Consecutive Sentences***

(a) When a defendant is serving consecutive misdemeanor sentences, whether as a result of one case from one jurisdiction or multiple cases from multiple jurisdictions, upon motion by the defendant, the court may discharge such defendant from further supervision or otherwise terminate probation when it is satisfied that its action would be in the best interest of justice and the welfare of society. Such motion shall not be ripe until 12 months after the sentence was entered and every four months thereafter. The defendant shall serve the applicable entity or governing authority that is providing his or her probation services with a copy of such motion.

(b) When a defendant is serving consecutive misdemeanor sentences, his or her probation officer or private probation officer, as the case may be, shall review such case after 12 consecutive months of probation supervision wherein the defendant has paid in full all court imposed fines, statutory surcharges, and restitution and has otherwise completed all testing, evaluations, and rehabilitative treatment programs ordered by the court to determine if such officer recommends early termination of probation. Each such case shall be reviewed every four months thereafter for the same determination until the termination, expiration, or other disposition of the case. If such officer recommends early termination, he or she shall immediately submit an order to the court to effectuate such purpose.

- Total Court Fine amount
 - Surcharges
 - All applicable/statutory fees



- Restitution Amount (if applicable)
 - Total amount
 - Victim/Recipient's Name
- Probation Supervision Fee Amount (***this amount should reflect what is noted on the Court Service Agreement***)
- Georgia Crime Victim Emergency Fund Fee (GCVEF)
- General Conditions of Probation
- Special Conditions (if applicable). ***If there are no special conditions or Restitution noted on the sentence, the case will qualify as a pay-only case.***
 - ***Pay Only*** shall mean any case that does not have any other conditions except for fine collection unless otherwise ordered by the court.
 - ***New Law:*** NO fee or any charge (photo fee, etc) shall be assessed on pay only cases effective July 1, 2018.
- If the sentence is a Terminate Upon Payment, Terminate Upon Completion of Conditions of Probation, etc.
- Date of Sentence
- Judge's Signature
- Probationer's Acknowledgement of Sentence (signature)

Probation Entity's Reporting Instructions/Conditions of Probation (if applicable)

This form is given to probationers during intake as a supplement to the court sentence. It may provide more details regarding probation entity supervision. If the form is given to the probationer, it should include at minimum:

- Probationer's Name
- Charges/Offenses
- Initial Report Date
 - Time and Location
 - Type of Report (in-person, mail-in/call-in)
- Frequency of Reporting (weekly, bi-weekly, monthly, etc.)
- Payment Schedule
 - Weekly, monthly, etc. payment
 - Amount to be paid (including the restitution, fine amount, probation fees, etc.)
 - Forms of payment accepted
- Special Conditions (if applicable)
 - Time frame to complete those conditions



Case Notes

Whether case notes are manually documented or managed by a case management software system, MPOU simply looks for the, “WHO, WHAT, WHEN, WHERE, WHY AND HOW” of the case. The case notes should contain at minimum, monthly entries that tell a “story” about the probationer’s progress toward successful completion of probation.

The following information should be addressed during each contact with the probationer which, in turn, should help to avoid gaps in case notes:

- Addressing the general conditions of probation. Ex: any contact with law enforcement, any changes to personal information, etc.
- Progress toward completion of special conditions (including deadlines for completion)
 - Addressing:
 - No Contact/No Violent Contact Provisions
 - Risk Reduction Program
 - Community Service
 - Substance Abuse Evaluation/Treatment
 - Ignition Interlock Device
 - Completion of Jail Time (if applicable)
 - Random Drug Screens
 - Anger Management Program/Family Violence Intervention Program
 - Defensive Driving Course

(MPOU understands that different jurisdictions may have other special conditions that are not listed here; however, **ALL** special conditions should be addressed during each contact with the probationer).

- Noting that supporting documentation was received (ex. Completion of Community Service, Risk Reduction, Anger Management, Substance Abuse Eval).
- Correspondences mailed to the probationer
- Warrants/Tolling Affidavits requested
 - Dates the warrants and tolling orders were issued by the Judge
 - If the warrants/tolling orders were recalled
- Petition for Revocation Hearing Request
 - Dates of the revocation hearing
 - When and how the probationer was notified and served with a copy of the petition with 72 hour notice of revocation or waiver of petition for revocation.
 - Disposition of revocation hearing to include if the probation time was revoked, and/or if the probationer was reinstated, or case closed (***MPOU understands that most times the court clerk or the Judge may complete this portion; however, please ensure that any omissions regarding this information is brought to the court’s attention***).
- Modification Orders
 - Reason for request to modify (whether initiated by the probation officer or the Courts)
 - For example: Fine conversions to community service work, terminate cases early (if applicable), etc.
- Probationer provided with the next report date



If there is a finding that the above have not been documented in case notes, there may be a finding of DCS Board Rule 105-2.11: General Probation Responsibilities.

Financial Records

A payment history or ledger of money collected by the entity as outlined in the entity's court service agreement or the court sentence. During the review of financial records, MPOU will determine if court fines and fees have been disbursed in accordance with the sentencing form and the court service agreement. MPOU will also review financial records to determine if fees have been disbursed prior to them being due or after the termination of the sentence.

Additionally, MPOU will require that all entities adhere to the "priority of fees" as described in O.C.G.A. § 17-14-8: Apportionment of payments for fines and restitution. **Priority of fee disbursements should be as follows: Restitution, Probation Fees/GCVEF, Fines, etc.**

- Fees
 - ***Restitution (if applicable)***
 - ***Pursuant to O.C.G.A. § 17-14-8: Apportionment of payments for fines and restitution; payment to victims***

Partial payments that are received shall be applied at "not less than one-half of each payment to the restitution before paying any portion of such fine or any forfeitures, costs, fees, or surcharges provided for by law..."

If there is a finding that restitution was not disbursed in accordance with the law, there may be a violation of DCS Board Rule 105-2-15: Money Collection.

- ***Pay-Only fees (if applicable)***
 - ***Pursuant to DCS Board Rule 105-2.11(h) and O.C.G.A. § 42-8-103(b):***

"When pay-only probation is imposed, the total maximum fee collected shall be capped so as not to exceed three months of ordinary probation supervision fees at a monthly rate not to exceed the rate set forth in the contract between the court and the provider of services, notwithstanding the number of cases for which a fine and statutory surcharge were imposed or that the defendant was sentenced to serve consecutive sentences; provided, however, that collection of such fee shall terminate as soon as all court imposed fines and statutory surcharges are paid in full; and provided, further, that when all such fines and statutory surcharges are paid in full, the probation officer or private probation officer, as the case may be, shall submit an order to the court terminating the probated sentence within 30 days of fulfillment of such conditions. Within 90 days of receiving such order, the court shall issue an order terminating such probated sentence or issue an order stating why such probated sentence shall continue."

Additionally, **NO** fee or any charge (photo fee, etc) shall be assessed on pay only cases.

If there is a finding that pay only fees were not disbursed in accordance with the pay-only statute, there may be a violation of DCS Board Rule 105-2.11(h): Abiding by statute in reference to pay only cases F.

- ***Probation fees***



- These fees must be disbursed in accordance with the sentencing form and/or court service agreement.

*If there is a finding that probation fees were not disbursed in accordance with the law, there may be a violation of **DCS Board Rule 105-2-15: Money Collection.***

- **Georgia Crime Victim Emergency Fees (GCVEF) fees**

- **Pursuant to O.C.G.A. § 17-15-13(f):**

In every case where an individual is serving under active probation supervision and paying a supervision fee, \$9.00 per month shall be added to any supervision fee collected by any entity authorized to collect such fees and shall be paid into the fund. This subsection shall apply to probationers supervised by community supervision officers or private probation officers or probation officers pursuant to Article 6 of Chapter 8 of Title 42. The probation supervising entity shall collect and forward the \$9.00 fee...by the end of each month.

- **Additionally, for Pay-only case, the collection of the GCVEF fee is waived after the three (3) month cap.**

[All fees must be forwarded to Criminal Justice Coordinating Council (CJCC)].

*If there is a finding that GCVEF was not collected and disbursed in accordance with statute, there will be a violation of **DCS Board Rule 105-2-15: Money Collection and O.C.G.A. § 17-15-13(f): Georgia Crime Victim Emergency Fees (GCVEF) fees.***

- **Other fees designated by sentencing form or Court Service Agreement**

- These fees must be disbursed in accordance with the sentence form or court service agreement.

*If there is a finding that other fees were not disbursed in accordance with the law, there may be a violation of **DCS Board Rule 105-2-15: Money Collection.***

In the event that a probationer requests a payment receipt or a “ledger” of their payment history, entities should note that:

Pursuant to O.C.G.A § 42-8-108, “Any probationer under supervision shall be provided with a written receipt and a balance statement each time he or she makes a payment.”

- All other reports, files, records, and papers of whatever kind relative to the supervision of probationers are declared to be confidential and shall be available only to the affected county, municipality, or consolidated government, or an auditor appointed by such county, municipality, or consolidated government, the judge handling a particular case, the Department of Audits and Accounts, the Department of Corrections, DCS, the State Board of Pardons and Paroles, or the board.



Warrants

A document issued by a Judge on behalf of the state, which authorizes the arrest and detention of an individual, or the search and seizure of an individual's property. The arrest is usually made by the Sheriff in the county or jurisdiction or other law enforcement officer of the state. They are charged to take the body of the probationer and safely keep them until they are returned to the Court.

- Probationer's Name
- Case Number/Warrant Number
- Violations Alleged
 - All allegations noted (either alleged subsequent(s) or technical violations) must be substantiated in case notes
 - If fine and probation fee arrearages are noted on the warrant, they must reflect the current amount that is due at the time the warrant was requested. ***Future probation fees can not be included in this amount.***
- Probation Officer's Signature
- Judge's Signature (Allow the judge to complete the warrant upon his/her signature. This will ensure the accuracy of the warrant issue date).
- Expiration Date if the case is not tolled or process to recall warrants upon sentence expiration
- Demographics (if requested by your arresting agency)

Tolling Affidavit

An affidavit from the probation officer or private probation officer, as the case may be, setting forth such failure [of the Defendant's failure to report] and stating efforts made by such officer to contact the probationer. At minimum, the affidavit must include:

- Probationer's Name
- Case Number/Warrant Number
- Affiant's name (probation officer or qualified designee)

Pursuant to DCS Board Rule 105-2-.11(j) and O.C.G.A. § 42-8-105, the probation sentence may be tolled upon a probationer's failure to appear in court for a revocation hearing or failure to report to the probation officer as directed, either of such failures shall be evidenced by an affidavit from the probation officer setting forth such failure and stating efforts made to contact the probationer. At a minimum, an averment by the probation officer or private probation officer that:

- (A) The probationer has failed to report to his or her probation officer or private probation officer, as the case may be, on at least two occasions;
 - ***Include the dates of the two missed occasions***
- (B) The officer has attempted to contact the probationer at least two times by telephone or e-mail at the probationer's last known telephone number or e-mail address, which information shall be listed in the affidavit;
 - ***Include the telephone number or email address here***



(MPOU Recommendation would be to include the two dates attempted)

- (C) The officer has checked the local jail rosters and determined that the probationer is not incarcerated;
 - **Providers: copy this language and include this on the affidavit**
- (D) The officer has sent a letter by first-class mail to the probationer's last known address, which shall be listed in the affidavit, advising the probationer that the officer will seek a tolling order if the probationer does not report to such officer in person within ten (10) days of the date on which the letter was mailed; and
 - **The address used must be included on the tolling affidavit.**
- (E) The probationer has failed to report to the probation officer or private probation officer, as the case may be, as directed in the letter set forth in subparagraph (D) of this paragraph and ten days have passed since the date on which the letter was mailed.
 - **Providers: copy this language and include on the affidavit**
 - (2) In the event the probationer does not report to his or her probation officer or private probation officer, as the case may be, within the ten [10 days], such officer shall submit the affidavit required by this subsection to the court. If the probationer reports to his or her probation officer or private probation officer, as the case may be, within the [10 days], such officer shall neither submit such affidavit nor seek a tolling order."

If there is a finding that tolling affidavit procedures were not adhered to, there may be a violation of DCS Board Rule 105-2-.11(j): Abiding by statute in reference to the tolling of misdemeanor sentences per O.C.G.A. § 42-8-105.

Tolling Orders

An order issued by the Court that upon receipt of the affidavit, the court may, in its discretion, toll the probated sentence. The effective date of the tolling of the sentence shall be the date the court enters a tolling order and shall continue until the probationer personally reports to the probation officer or private probation officer, as the case may be, is taken into custody in this state, or is otherwise available to the court, whichever event first occurs. This document must include:

- Judge's Signature (Allow the judge to complete the tolling date upon his/her signature. This will ensure the accuracy of the tolling order issue date).
- Consult with the Courts regarding language to ensure that it understood that the Judge's signature and date constitutes the probation time has "stopped."
- Tolling Order must be dated at least ten days from the date of the intent to toll letter.

If the Judge's signature or the date is not included, the order may not be "valid" and any omissions should be brought to the attention of the Courts immediately.

For an example of a Tolling Affidavit and Order, see *Appendix D*, page 45.

******Please note that the example provided is for illustration purposes only and MPOU does not assume any legal responsibility for use of the for. Consult with the Courts and and county or private attorney regarding use of this form.******



Revocation Petitions

This document is usually prepared by the probation officer or his or her designee that outlines the alleged probation violations, signed by the Judge, probation officer or his or her designee, and the Defendant. It is presented to the Courts to determine if the Defendant has violated the conditions of probation. This document should include at minimum:

- Probationer's Name
- Charges/Offenses
- Case Number
- Sentencing Court
- Terms and Conditions that were allegedly violated
- Date of Revocation hearing
- Judge's signature and date
- Probationer's acknowledgment of petition
- 72 Hour Waiver Notice (if applicable)
- Disposition of revocation hearing including the Judge's signature

For an example of a Tolling Affidavit and Order, *see Appendix E, page 47.*

Modification Orders

Is an order issued by the Court that will modify the terms of probation. At minimum the order should include:

- Probationer's Name
- Charges/Offenses
- Case Number
- Sentencing Court
- Terms and Conditions of original sentence
- Recommendations by Probation Officer or Court
- Terms and Conditions of the modification order
- Judge's Signature and Date



Correspondences to Probationers

Any type of correspondence, either by mail or electronically, that notes any aspect of the Defendant's probation, probation terms or probation supervision. At minimum, the correspondence should include:

- Probationer's Name
- Address
- Date
- Alleged Violation(s)
- Instructions given to be in compliance to include when to report, fine/fee arrearage (if applicable), and proof of progress toward completion of special conditions.

If Tolling Notices are mailed or emailed to probationers, the notice must include the probation officer's intent is to seek a tolling order. The correspondence must at minimum provide the probationer with a next report date, ten (10) days from the date of the correspondence and that they must report in person. The notice may also include:

- Instructions given to be in compliance to include when to report, fine/fee arrearage (if applicable), and proof of progress toward completion or completion of special conditions.

Community Service Agreement Form(s) and Waiver of Liability Form(s)

These forms are provided by the probation entity to the probationers noting the number of hours the probationer must perform whether court ordered or in lieu of the court fine. MPOU advises the entity to consult with the courts and their attorney regarding the language for both forms. The forms should include at minimum:

- Probationer's Name
- Case Number
- Terms and conditions of the community service agreement forms
- Terms and conditions of the waiver of liability forms
- Probationer's signature and date

MPOU Recommendation: If the probationer has been given the option to convert their fine to community service, ensure that the waiver of liability form notes the conversion hours. This may help to reduce the risk of liability to the entity.



Findings of High Liability (Trends)

In an effort to help the entities reduce the risk of liabilities, MPOU has implemented standards to address areas of high liability/findings of noncompliance with DCS Board Rule 105-2-.11. Below is a list of the most common areas of high liability:

- Pay only cases
 - Pay only is defined as any case that is sentenced for the collection of court ordered fines and surcharges only. Cases which appear to qualify as “Pay-Only” in that no special conditions were ordered; however, more than three (3) months of ordinary probation supervision fees were collected.
- Tolling Affidavits/Orders
 - Cases in which tolling affidavits and/or pre-tolling letters lacked elements required per O.C.G.A. §42-8-105.
- Indigent Offenders
 - Cases in which an offender does not have the ability to pay court fines, statutory surcharges, and probation supervision fees due to hardship and should be brought before the judge to determine if the offender is indigent.
- Consecutive cases
 - Cases in which sentence forms do not specify whether separate counts should be consecutive. All cases are to be considered concurrent unless otherwise specifically stated on the sentence.
- Supervising cases past expiration
 - Cases in which the period of probation supervision was extended past the termination of the sentence.
- Money Collection
 - Cases in which payments were collected by probation staff that were not court ordered.

******Please note, during the compliance review, the high liabilities are not limited to those listed above. Although the “most commonly” found ones are listed above, there are other high liabilities that are not highlighted here. The other high liability are listed in the “Internal Audit Procedures, ” see Appendix F, page 50.***

During the compliance review, DCS reviews case notes and documents any findings of noncompliance with the areas noted above. If high liability findings are noted during the review, the entity is advised to conduct an internal audit to ensure that the particular violation(s) have not impacted any other cases they supervise. Once the internal audit is completed, the provider is given a due date to forward the information identifying any cases that may have been affected and a



corrective action plan to address the violation(s). The information will be reviewed by DCS staff and a determination will be made whether or not the action plan adequately addressed and corrected the violation(s).

Please note, if high liability findings are continually noted during the compliance reviews, the following actions may be taken.

Sanction Matrix:

Disciplinary action that may be taken by MPOU in accordance with DCS Board Rule 105-8-.21 and DCS Board Rule 105-8-.22.

Level 1*	Level 2*
<ul style="list-style-type: none">• Corrective Action Letter and Internal Audit.• One on One training session (comments on Final Audit to Judges)• Letter of Reprimand to the Provider and Judges are notified.• (Advisory Committee Review prior to level 2)	<ul style="list-style-type: none">• \$5000.00 fine for each “finding”. (this can be for each ‘offense’).• Probationary Registration Revocation.• Registration Termination

**Graduated sanctions are contingent upon the severity of the offense*



Court Service Agreement and Checklist



DCS Board Rule 105-2-.08: Service Agreements

MPOU reviews court service agreements as a part of the compliance review process. Each service agreement must be filed with MPOU prior to providing probation supervision services. Below is the checklist the entities may use to ensure that all required elements are present in their court service agreement prior to submission to their respective local governing authorities and the Chief Judge of each court that the entity plans to provide misdemeanor probation supervision services to.

Probation entity service agreements must minimally contain the following information and must be filed and maintained current with MPOU:

1. Description of the extent of services to be rendered by the probation entity;
2. Individual qualifications which meet or exceed the statute;
*105-2-.09
3. Criminal records checks completed on all individuals in accordance with laws and DCS rules;
*105-2-.10
4. Policies and procedures for individual training;
*105-2-.09
*105-2-.12
5. Private Probation Entities Only-Liability Insurance (\$1 Million) and Bonding of staff (at least \$25,000)
6. Staffing levels and standards of supervision, including the type and frequency of contacts:
Example: *Ratio of probationers to probation officers (300:1; one (1) probation officer will not supervise more than 300 probationers. One (1) face office per month; two (2) face office for probationers classified as high.)
7. Collection procedures for handling court-ordered fines, fees, and restitution;
*105-2-.15
*O.C.G.A. §42-8-103



*O.C.G.A. § 17-15-13

*O.C.G.A. § 17-14-8

(MPOU recommends that the entity provide a priority of fees (the order in which the fees are disbursed) in accordance with the restitution statute, in that, restitution must be allocated first when a payment is made).

8. Procedures for handling indigent probationers, pay only cases, and consecutive sentences;

*O.C.G.A. § 42-8-102

*O.C.G.A. § 42-8-103

9. Revocation procedures and circumstances;

*O.C.G.A. § 42-8-102

10. Reporting and record keeping procedures;

*105-2-.13

*105-2-.14

*O.C.G.A. § 42-8-108

*O.C.G.A. § 42-8-109.2

11. Default and contract termination procedures with specific expiration date not to exceed 5 years unless authorized by statute; and

12. A schedule of probation fees and charges assessed to the probationers supervised by the probation entity. The schedule should include all fees required by law or these rules.

*This portion of the contract must contain, at a minimum, language that is in compliance with this rule and/or statute.



Misdemeanor Probation Oversight Unit (MPOU) Recommendations

Below you will find a list of “*MPOU Recommendations*” notated on misdemeanor probation providers’ compliance reports. With these MPOU Recommendations, no DCS Board Rule or Georgia statute has been violated. **This is not an exhaustive list**; however, these recommendations are used in community corrections and reflect case management supervision practices that may increase the opportunity for successful outcomes.

MPOU Recommendations are defined as: No clear DCS rule or GA statute violated; however, it is a practice that is being used in community corrections that may reduce the risk of liability and/or increase the opportunity for successful outcomes.

1. Consider developing a consistent standard for operating procedures including formal procedures for case management and oversight, drug testing policies, etc. This helps ensure a consistent quality of service for each probationer and generally decreases liability.
2. Ensure court sentences are completely documented including, the length of probation term and special conditions if applicable. This will avoid confusion as to the length of probated time. Any errors or omissions should be brought to the court’s attention.
3. Avoid asserting absolute authority in regards to issuing a warrant. The Judge maintains authority in issuing warrants. Consider changing the language to state that the courts “***may*** issue a warrant.”
4. Avoid pre-printing issue dates on the warrants. Allow the judge to complete the warrant and tolling issue date upon his/her signature. This will ensure the accuracy of the warrant issue date and tolling date.
5. Avoid tolling cases near the probation end date, to limit the possibility of erroneous arrests.
6. Ensure that 72-hours’ notice is given to the probationer prior to Revocation Hearing. However, if the probationer is given less than 72-hour’s notice, consider adopting a formal, written waiver to be used.



7. Obtain written court orders for any local practices (such as community service credits) which may differ significantly from standard operating procedures.
8. Provide defendants with specific next report dates after failures to report, prior to preparing a warrant. This ensures that the defendant is aware of the date they are expected to report.
9. Provide probationers with a list of all state approved DUI schools and clinical evaluators within the area as well as the link to the DDS and DBHDD websites.
 - Pursuant to DCS Board Rule 105-2-.07(d), “no probation entity nor its individuals shall specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk Reduction Program which a probationer may or shall attend.”
10. Consult with courts regarding warrants and tolling orders issued using O.C.G.A. § 42-8-36 and prior to O.C.G.A. § 42-8-105.
11. DCS staff recommends that a court order is present prior to the probationer performing community service in lieu of fine. This may help to ensure consistent operating procedures and minimize liability.
12. Ensure court sentences include the probationer’s signature to acknowledge the court sentence and the conditions set forth therein.
13. Consult with the Prosecutor's Office for guidance relative to the supervision of cases for the Pre-Trial Diversion Program and policies established by the Prosecutor’s Office (see O.C.G.A. § 15-18-80). DCS staff does not regulate pre-trial cases.
14. To ensure quality case management, conduct a review of cases when inherited or transferred from another probation provider to ensure that all documents relative to case supervision are present.
15. To ensure the quality of case management, document all attempts to contact the probationer in case notes and the status of the case within case notes; particularly when warrant/tolling orders are issued.
16. Consider using Collateral Telephone designation where a meaningful phone conversation takes place between the supervising officer and a third party about a probationer.
17. Avoid converting fines to community service on probationers that have documented medical conditions that prevent maintaining employment.
18. Ensure quality case management and the execution of all court orders, verify the accuracy of documents prior to court submission.



19. Ensure all cases are removed from automated calling rotation, once case has terminated.
20. Ensure to abide by statute in reference to pay only cases per O.C.G.A. § 42-8-103 prior to payment disbursements. DCS defines pay only as any case that has no other conditions except for fine collection unless otherwise noted by the court.
21. Ensure fees are assessed, collected, and disbursed in accordance with the entity's court service agreement and court orders.
22. Maintain copies of all correspondences relative to supervision in the case file. It is recommended that correspondences be printed after they are prepared to ensure the accuracy of dates particularly when requesting warrants and submitting tolling affidavits to the courts.
23. Collect and disburse fees in accordance with the State Law. For each probation supervision fee collected, \$9.00 must be disbursed to the Georgia Crime Victim Emergency Fund pursuant to O.C.G.A § 17-15-13.
24. To ensure quality case management and execution of all court orders, document an expiration date on the warrant in the absence of a valid tolling order.
25. Consult with the Court regarding the probation end date during the probationer's incarceration particularly when the probation term ends while incarcerated on a probation revocation. This may limit the possibility of unlawful incarceration.
26. Maintain Case File Documents: To ensure the quality of case management, maintain case files. Per O.C.G.A. § 42-8-105, to toll a case, you are required to send a first-class letter directing the probationer to report. DCS staff recommend that you keep a copy of the tolling letters, including tolling orders, failure to report letters, warrants, warrant letters, and emails in the probationer's case file.
27. Document an expiration date on warrants to limit the possibility of erroneous arrests; particularly in cases adjudicated prior to July 1, 2015 and prior to valid tolling statute.
- *When there is no intent to toll, an expiration date should be included.*
 - *When there is intent/potential for tolling a expiration date is not required, however, the entity must demonstrate a "Recall" policy designed to prevent a non-tolled warrant remaining active and the probationer being at jeopardy after expiration. Liability rests on the entity to diligently perform reasonable operational duties to prevent improper arrest.*
28. To ensure accountability and accuracy to court and DCS in reporting the status of probation cases, promptly close cases upon expiration.



Appendix A:

Entity and Employee Registration

Entity and Employee Registration

- Entity Checklist
- Employee Checklist
- Lawful Presence Affidavit
- MPOU GAPS Step Procedures
- CHRI Consent/Inquiry Form

- **CJIS Network & Data Agreement (pdf)**
- **CJIS Security Addendum (pdf)**
- **GCIC Awareness Statement (pdf)**
 - <https://gbi.georgia.gov/cjis-vendor-compliance-program/forms-and-links>

The forms that are in bold are available on the link provided.





DCS RULE 105-2-.05 Probation Entity Registration and Approval Requirements.

NEW PROBATION ENTITY REGISTRATION

There are two types of entities that fall under the oversight of DCS. The two types are Governmental and Private. Below is a checklist of items needed prior to submitting the application for approval.

Entity Checklist - Governmental

- ☐ Resume of 5 yr. PO Supervisor
- ☐ Resume/POST Record of each Owner/Operator/Director
- ☐ GEMALTO/GAPS Response Body
- ☐ Statement of Confidentiality
- ☐ Lawful Presence Affidavit w/Supporting Documentation (Director Only)
- ☐ Service Agreement (Contract)
- ☐ CJIS Agreement

Entity Checklist - Private

- ☐ Resume of 5 yr. PO Supervisor
- ☐ Resume of each Owner/Operator/Director
- ☐ GEMALTO/GAPS Response Body
- ☐ Statement of Confidentiality for each staff
- ☐ Lawful Presence Affidavit w/Supporting Documentation (Director Only)
- ☐ Service Agreement (Contract)
- ☐ CJIS Agreement



DCS BOARD RULE 105-2-.06 Individual Registration and Approval Requirements

NEW EMPLOYEE CHECKLIST

Director, Owner, Agent

- New Employee Registration Completed via MPO Website
- Criminal History Consent Form Completed



- GEMALTO/GAPs Fingerprints Completed and Clear (No arrest/convictions/pending charges) One employee who will be listed as and meets the 5 yr. PO Supervisor requirements
- Lawful presence affidavit
- Copy of Driver's licence (name must match)
- Signed Awareness Statement
- Signed Confidentiality Form
- Security Awareness certificate from the GBI's LMS.
- Link to take Security Awareness training:
<https://firstnetcampus.com/GBI/entities/GBI/logon.htm>
- Signed Security Addendum (Private Entities Only)
- At least 21 years of age

5 Year Probation Officer Supervisor

- New Employee Registration Completed via MPO Website
- Criminal History Consent Form Completed
- GEMALTO/GAPs Fingerprints Completed and Clear (No arrest/convictions/pending charges)
- Proof of Education or Experience:
 - 2 years of College = 90 quarter hours or 60 semester hours) or 4 years of law enforcement exp. as a certified peace officer employed as a private PO as of July 1, 1996 for at least 6 months and no break in service as a PO or
 - Employed as a governmental (county/municipal) PO as of March 1, 2006 for at least 6 months and no break in service as a PO
- Five (5) years of experience as a
 - Probation Officer
 - Parole Officer
 - Corrections' Counselor
- Signed Awareness Statement
- Signed Confidentiality Form
- Security Awareness certificate from the GBI's LMS.
- Link to take Security Awareness training:
<https://firstnetcampus.com/GBI/entities/GBI/logon.htm>
- Signed Security Addendum (Private Entities Only)
- At least 21 years of age

Probation Officers

- New Employee Registration Completed via MPO Website
- Criminal History Consent Form Completed
- GEMALTO/GAPs Fingerprints Completed and Clear (No arrest/convictions/pending charges)
- Proof of Education or Experience:
 - 2 years of College=90 quarter hours or 60 semester hours) or 4 years of law enforcement exp. as a certified peace officer Employed as a private PO as of July 1, 1996 for at least 6 months and no break in service as a PO or employed as a governmental (county/municipal) PO as of March 1, 2006 for at least 6 months and no break in service as a PO



- Signed Awareness Statement
- Signed Confidentiality Form
- Security Awareness certificate from the GBI's LMS.
- Link to take Security Awareness training:
<https://firstnetcampus.com/GBI/entities/GBI/logon.htm>
- Signed Security Addendum (Private Entities Only)
- At least 21 years of age

Probation Employees (Admin Staff and Interns)

- New Employee Registration Completed via MPO Website
- Criminal History Consent Form Completed
- GEMALTO/GAPs Fingerprints Completed and Clear (No arrest/convictions/pending charges)
- Proof of Education:
 - High School Diploma or its equivalent
- Signed Awareness Statement
- Signed Confidentiality Form
- Security Awareness certificate from the GBI's LMS.
- Link to take Security Awareness training:
<https://firstnetcampus.com/GBI/entities/GBI/logon.htm>
- Signed Security Addendum (Private Entities Only)
- At least 18 years of age





Brian P. Kemp
Governor

Department of Community Supervision

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www.dcs.georgia.gov



Michael W. Nail
Commissioner

O.C.G.A. § 50-36-1(e)(2) Affidavit

By executing this affidavit under oath, as an applicant for a professional license, as referenced in O.C.G.A. § 50-36-1, from _____ [name of government entity], the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- 1) _____ I am a United States citizen.
- 2) _____ I am a legal permanent resident of the United States.
- 3) _____ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A.

§ 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

_____.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in _____ (city), _____ (state).

Signature of Applicant



Printed Name of Applicant

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
___ DAY OF _____, 20___

NOTARY PUBLIC
My Commission Expires:



Brian P. Kemp
Governor

Department of Community Supervision

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Michael W. Nail
Commissioner

Misdemeanor Probation Oversight GAPS PROCESS STEPS

Employment/Licensing Background Check Fingerprinting Procedure:

LiveScan fingerprinting is the electronic Georgia Applicant Processing Service (GAPS) managed by Cogent Systems, Inc. Fingerprints will be scanned electronically.

REGISTER with Cogent Systems, Inc. prior before you visit a fingerprinting location:

- STEP 1 Visit Cogent Systems website at www.cogentid.com
- STEP 2 Select the **APPLICANT REGISTRATION** tab.
- STEP 3 Select **DEPARTMENT OF COMMUNITY SUPERVISION (DCS)** tab. It is located at the bottom of the page.
- STEP 4 Select the appropriate tab for your entity type.
MISDEMEANOR PROBATION OVERSIGHT GOVERNMENTAL ENTITY
MISDEMEANOR PROBATION OVERSIGHT PRIVATE ENTITY
(Do NOT select the DCS employee tab, you will be required to redo this process)
- STEP 5 Accept the **APPLICANT PRIVACY RIGHTS**.
- STEP 6 The **REVIEWING AGENCY** will be automatically populated (**GA060M65G**).
- STEP 7 **REASON:** Choose the applicable reason in the drop down menu.
- STEP 8 **REQUESTING AGENCY ID.** Enter the GAC number that was sent to you.



- STEP 9 Enter **POSITION** applied for.
- STEP 10 Enter **PAYMENT** information.
- STEP 11 Fill in the required **PERSONAL** and **ADDRESS INFORMATION**, click the Continue button to advance to the next section.
- STEP 12 Review the **TRANSACTION, PERSONAL, and ADDRESS INFORMATION** for accuracy.
- STEP 13 Print the **REGISTRATION RECEIPT**. Bring a copy of the receipt to the fingerprinting site and keep a copy for your records.

ELECTRONIC FINGERPRINTING:

- STEP 14 On the home page under the **HELPFUL LINKS** header, select the **FIND A FINGERPRINT LOCATION** link.
- STEP 15 Gather the following documents:
- Registration receipt listing the registration confirmation number and a valid and unexpired picture identification document.
 - Money order if you chose this as a form of payment in STEP 10.
- STEP 16 Visit the PRINT SITE LOCATION of your choice and electronically scan your fingerprints. Record the TCN number.

NOTE: Results of the fingerprinting will be transferred to MPOU electronically for review.



Name-Based Criminal History Record Information Consent/Inquiry Form

I hereby authorize **DCS Misdemeanor Probation Oversight** to conduct an inquiry for
(Entity Name)_____ the purposes
listed below and receive any Georgia and/or national criminal history record information as authorized by state
and federal law.

Full Name: (print) _____

Home Address: _____

Sex: Male ____/Female ____

Race: _____

Date of Birth:(MM/DD/YY) ____/____/____

Social Security Number: ____-____-____

This authorization is valid for the **duration of employment** from date of signature for employee and specific
entity only.

I, _____, give consent to the above-named entity to
perform periodic criminal history background checks for the duration of my employment.

Signature: _____

Signature Date: _____

FOR DCS/PURPOSES ONLY

(Do not write below this line)

Date of Inquiry: _____ Time of Inquiry: _____ Operator's Initials: _____

Purpose Code Used:(check one)

CRIMINAL JUSTICE EMPLOYMENT

____J - Civilian Criminal Justice Employment (State & III Info Received)

____Z - Sworn Criminal Justice Employment (State & III Info Received)

The inquiry resulted in the following: (check all that apply)

No Criminal Record Available Criminal Record (Attached/Released) No NCIC/GCIC Warrant Possible
NCIC/GCIC Warrant (List Wanting Agency Below)

Wanting Agency Name: DCS/MPOU



Wanting Agency Telephone: _____

Agency Designee Signature and Title

_Revised March 2019

Appendix B: **Training**

MPOU Training

- 40 hr Orientation Training Form
- 16 hr Orientation Training Form
- Supplemental Orientation Training Form
- Annual In-Service Training Form
- Catalog of Training Presentations





40 Hour Orientation Training - Owner/Director, Probation Officer

105-2-.09 and 105-2-.12

Employee: _____

Probation Entity: _____

Date of Hire: _____

All employees classified as Director and/or Probation Officer are to obtain 40 hours of initial orientation training as required by the Rules set by The Board of the Department of Community Supervision within the first 6 months of employment. Individuals with evidence of satisfactorily completing a probation or parole officer basic course of training certified by the Georgia P.O.S.T. Council are exempt from this 40 hour Orientation requirement.

Please check one: ☐ 40 hours required ☐ Exempt, documentation attached

Position classification: ☐ Owner ☐ Director ☐ Probation Officer

5-hour block of instruction covering General Probation Overview and consisting of: History of Probation, Ethics and Professionalism, Liabilities and Responsibilities, Constitutional and Probation Law.

The requirement is for new employees to receive a minimum of 5 hours of instruction on foundational elements of probation services which should include but is not limited to the topics listed.

General Probation Overview	Total Hours:	Date completed:
-----------------------------------	---------------------	------------------------

20-hour block of instruction covering Probationer Management and consisting of: Confidentiality, Intake, Preparation & Maintenance of Files, Case Documentation, Interviewing & Communication Skills, Sentencing Options, Financial Collections, Community Service, Alcohol & Substance Abuse, Personal Welfare & Safety. The requirement is for new employees to receive a minimum of 20 hours of instruction on foundational elements of case supervision, operational procedures and probationer management which should include but is not limited to the topics listed.

Probationer Management	Total Hours:	Date completed:
-------------------------------	---------------------	------------------------

15- hour block of instruction covering Legal Procedures and Reports and consisting of: General Report Writing Techniques, Violations, Delinquency Reports and Warrants, Courtroom Protocol, Testimony and Revocation Proceedings, First Offender Act, Case Termination Reports, Domestic Violence, Statutory Changes and Updates. The requirement is for new employees to receive a minimum of 15 hours of instruction on foundational elements of probation related legal proceedings, the corresponding operational practices of the entity and court(s) being served which should include but is not limited to the topics listed.

Legal Procedures and Reports	Total Hours:	Date completed:
-------------------------------------	---------------------	------------------------



MPOU recognizes probation entities utilize a variety of resources and processes for accomplishing the requirements of Rule 105-2-.12. It is the expectation of MPOU that entity directors have an established plan for complying with these requirements and that such plan clearly demonstrates adherence to sound employee development procedures and commitment to standards that will enable their staff to provide probation services that are professional, competent and efficient.

This form, along with training certificates or other proof of training (e.g. POST print out, sign-in roster, etc...), is to be submitted electronically to the MPOU Training Coordinator upon completion of Orientation and the original maintained within each employee's file. Rule 105-2-.09 (b) 1. (iii)

By signing this form the trainee and the entity representative affirm the trainee received a thorough and comprehensive orientation which included not less than 40 hours of instruction on the required blocks of information. Further, in making the above representation the signees understand that knowingly providing false written or verbal statements or submitting fraudulent documents shall subject the individuals and the probation entity to sanctions imposed by the MPOU Director and/or by the Board of Community Supervision. Rule 105-2-.21.

Trainee – Print name

Trainee – Signature and Date

Director/Designee – Print name

Director/Designee Signature and Date

Title

Request for Orientation Requirement be Waived

MPOU recognizes the potential movement of individuals between service providers, as well as circumstances of rehires without a significant length of absence. In such circumstances where the individual previously completed Orientation, the Director may submit a letter to MPOU detailing the work history and training history of the individual and request the Orientation requirement be waived.

Request for Training Requirements be Waived

MPOU recognizes the potential utilization of individuals within the operational structure of a service provider that has no interaction with probationers nor performing management/supervisory duties over probation services staff. Examples of such are those working in areas of information technology, business accounting, human resources and/or non-engaged business owners. In such circumstances the Director may submit a letter to MPOU detailing the job functions of the individual, asserting there is no contact with probationers nor supervisory duties over probation staff and request the training requirements be waived. The letter must also demonstrate awareness that the individual will maintain compliance with all other registrations requirements such as criminal history checks and confidentiality awareness.

Revised April 2018





16 Hour Orientation Training
Administrative, Agent, Intern, Volunteer
105-2-.09 and 105-2-.12

Employee: _____
Probation Entity: _____
Date of Hire: _____

All employees classified as Administrative, Agent, Intern, Volunteer are to obtain 16 hours of initial orientation training as required by the Rules set by The Board of the Department of Community Supervision within the first 6 months of employment.

Please check one: ☐ 16 hours required ☐ Exempt, documentation attached

Position classification: ☐ Admin ☐ Agent ☐ Intern ☐ Volunteer

4-hour block of instruction covering General Probation Overview and consisting of: History of Probation, Ethics and Professionalism, Liabilities and Responsibilities, Constitutional and Probation Law. The requirement is for new employees to receive a minimum of 4 hours of instruction on foundational elements of probation services which should include but is not limited to the topics listed.

General Probation Overview	Total Hours:	Date completed:
-----------------------------------	---------------------	------------------------

8-hour block of instruction covering Probationer Management and consisting of: Confidentiality, Intake, Preparation & Maintenance of Files, Case Documentation, Interviewing & Communication Skills, Sentencing Options, Financial Collections, Community Service, Alcohol & Substance Abuse, Personal Welfare & Safety. The requirement is for new employees to receive a minimum of 8 hours of instruction on foundational elements of case supervision, operational procedures and probationer management which should include but is not limited to the topics listed.

Probationer Management	Total Hours:	Date completed:
-------------------------------	---------------------	------------------------

4-hour block of instruction covering Legal Procedures and Reports and consisting of: General Report Writing Techniques, Violations, Delinquency Reports and Warrants, Courtroom Protocol, Testimony and Revocation Proceedings, First Offender Act, Case Termination Reports, Domestic Violence, Statutory Changes and Updates. The requirement is for new employees to receive a minimum of 4 hours of instruction on foundational elements of probation related legal proceedings, the corresponding operational practices of the entity and court(s) being served which should include but is not limited to the topics listed.

Legal Procedures and Reports	Total Hours:	Date completed:
-------------------------------------	---------------------	------------------------



MPOU recognizes probation entities utilize a variety of resources and processes for accomplishing the requirements of Rule 105-2-.12. It is the expectation of MPOU that entity directors have an established plan for complying with these requirements and that such plan clearly demonstrates adherence to sound employee development procedures and commitment to standards that will enable their staff to provide probation services that are professional, competent and efficient.

This form, along with training certificates or other proof of training (e.g. POST print out, sign-in roster, etc...), is to be submitted electronically to the MPOU Training Coordinator upon completion of Orientation and the original maintained within each employee's file. Rule 105-2-.09 (b) 1. (iii)

By signing this form the trainee and the entity representative affirm the trainee received a thorough and comprehensive orientation which included not less than 16 hours of instruction on the required blocks of information. Further, in making the above representation the signees understand that knowingly providing false written or verbal statements or submitting fraudulent documents shall subject the individuals and the probation entity to sanctions imposed by the MPOU Director and/or by the Board of Community Supervision. Rule 105-2-.21.

Trainee – Print name

Trainee – Signature and Date

Entity Director or Designee – Print name

Entity Director or Designee Signature and Date

Title

Revised April 2018



Supplemental Orientation Hours

Director and/or Probation Officer

105-2-.09 and 105-2-.12

Employee: _____

Probation Entity: _____

Date of Hire: _____

All employees classified as Director and/or Probation Officer are to obtain 40 hours of initial orientation training as required by the Rules set by The Board of the Department of Community Supervision within the first 6 months of employment. Individuals with evidence of satisfactorily completing a probation or parole officer basic course of training certified by the Georgia P.O.S.T. Council are exempt from this 40 hour Orientation requirement.

Please check one: ☐ 40 hours required ☐ Exempt, documentation attached

Position classification: ☐ Owner ☐ Director ☐ Probation Officer

The Orientation requirements imposed on probation officers (Rule 105-2.12 (a) 1.) differ from the requirement of individuals registered in non-probation officer categories (Rule 105-2-.12 (c) 1.). The purpose of this form is to provide assistance and direction upon the movement of an individual registered in a non-probation officer designation to being registered as a probation officer or director. In such circumstances where the individual satisfactorily completed the 16 Hour Orientation and registration is being changed to that of Probation Officer or Director, MPOU will allow the previously completed 16 hours be credited towards the 40 hour requirement. MPOU recommends the remaining 24 hours be directed towards topics focused on probationer management, legal proceedings, statutory updates and other pertinent subjects that will further develop the skills necessary in their new role as a probation officer.

16 Hour Orientation completed on or about: _____

Supplemental Orientation	Total Hours:	Date completed:
---------------------------------	---------------------	------------------------

By signing this form the trainee and the entity representative affirm the trainee received a thorough and comprehensive orientation which included not less than 40 hours of instruction on the required blocks of information. Further, in making the above representation the signees understand that knowingly providing false written or verbal statements or submitting fraudulent documents shall subject the individuals and the probation entity to sanctions imposed by the MPOU Director and/or by the Board of Community Supervision. Rule 105-2-.21.

Trainee – Print name

Trainee – Signature and Date

Director/Designee – Print name

Director/Designee Signature and Date

Title



Annual In-Service Training



Date of Hire: _____

Probation Entity: _____

Calendar Year: _____

Position (check one): 20 hours required = ☐ Owner/Director
8 hours required = ☐ Admin

☐ Probation Officer
☐ Agent ☐ Intern ☐ Volunteer

[illegible]

By signing this form the trainee and the entity representative affirm the trainee successfully completed the courses as listed. Further, in making the above representation the signees understand that knowingly providing false written or verbal statements or submitting fraudulent documents shall subject the individuals and the probation entity to sanctions imposed by the MPOU Director and/or by the Board of Community Supervision. Rules and Regulations 105-2-.21.

Trainee – Print name

Trainee Signature and date

Entity Director or Designee - Print name

Entity Director or Designee and date

Title:

Revised February 2017

MPOU Catalog of Training Presentations

Year	Course Description
------	--------------------



2017	Community Service (2017): A 1 hour block of instruction identifying applicable laws and suggesting best practices to enhance reliability of the overall process and reducing opportunity for abuse/fraud.
	DCS General Overview (2017): A 1 hour block of instruction reviewing the organizational structure of DCS and MPOU, and the duties and responsibilities of each.
	Drug Screens (2017): Designed as a 2 hour block of instruction providing comprehensive information on various specimen collection methods, specimen testing products, as well as identifying how probationers may attempt to avoid the test or dilute the specimen.
	Financial Collections (2017): Designed as a 2 hour block of instruction discussing applicable laws and DCS rules, requirements related to Pay Only cases, stressing the importance of transparency and utilizing sound practices and policies for this critical function.
	History of Probation (2017): A 1 hour block of instruction reviewing the origin of probation in the United States and specifically in Georgia. This includes the evolution of misdemeanor probation services in the state since 1992.
	Limitations & Conflict of Interest (Rule 105-2-.07) (2017): A 1 hour block of instruction specific to this rule which establishes limitations on potential business and personal relationship conflicts and similar matters.
	MPOU Case Audit Guidelines & Procedures (2017): A 1 hour block of instruction providing an overview of the MPOU audit process, case reviews and the procedures of the MPOU Compliance Monitors.
	Probation Office Responsibilities & Liabilities (2017): A 1 hour block of instruction which references Rule 105-2-.11, plus aspects of liability associated with probation services activities.
	Professionalism & Ethics (2017): A 1 hour block of instruction presenting foundational concepts of respectful interaction with individuals being supervised and the importance of probation staff demonstrating high standards of character and personal integrity.
	Tolling (2017): A 1 hour block of instruction on this important aspect of case supervision. Includes review of the law and highlights the requirements necessary for a case to be legally tolled.
	Training Requirements & Individual Development (2017): A 1 hour block of instruction reviewing the requirements of Orientation and Annual In-service training for all individuals registered with MPOU to provide probation services.
	Wellness & Security (2017): A 1 hour block of instruction identifying areas of life and work which creates circumstances that endangers the mental, emotional and physical well-being of those working in probation services. Suggestions are offered as to means for combating the stress and potential dangers of the job.
2018	Case Supervision, Documentation & Caseload Management: Designed as a 2 hour block of instruction addressing 3 foundational elements of probation services.



	Customer Service (2018): A 1 hour block of instruction encouraging staff to dedicate themselves to practices that will build trust with all their customers ranging from the public, to court officials, probationers and their families, to other stakeholders and even their co-workers.
	Directors - Administrative Update (2018): This 1 hour block is designed specifically for owners, directors and supervisory staff. Content includes information related to agency and individual registration, required actions following “approval”, agency responsibilities to report changes, and quarterly activity report items.
	Directors - Compliance Review Update = “What We Look For” (2018): This 2 hour block is designed specifically for owners, directors and supervisory staff. Content includes information related to the review process performed by MPOU compliance monitors.
	Directors - Training Update (2018): This 1 hour block is designed specifically for owners, directors and supervisory staff. Content includes updates on forms, verification procedures, requesting waivers, the “catalog of presentations” and new emphasis on each agency developing a staff development plan.
	File Preparation & Maintenance (2018): A 1 hour block of information on the laws and DCS rules pertinent to the records of probation services. This includes details on the basics of documents required to be in the file of each probationer, aspects of confidentiality and file retention.
	First Offender and Conditional Discharge Cases (2018): A 1 hour block of instruction reviewing the laws and best practices associated with these special sentence types.
	Hearing Preparation, Testimony & Courtroom Protocol (2018): 2 hour block of instruction emphasizing the importance of proper preparation of documents prior to a hearing, and being ready to handle the demands of testifying at a public hearing. <i>*2020 1 hour revised version also available to be used in a virtual training environment.</i>
	Hot Topics & High Liability Items (2018): A 1 hour block of instruction reiterating critical concepts on such topics as tolling, pay only cases, consecutive cases and other items.
	Intake (2018): A 1 hour block of instruction providing introductory information on this very important but often overlooked duty of probation staff.
	Report Writing (2018): A 1 hour block of instruction on the fundamentals of writing reports specific to probation/law enforcement purposes.
	Sentencing Types & Options (2018): A 1 hour block of instruction on elementary aspects of the adjudication process, common sentencing practices and court forms.
	Supervising Alcohol & Drug Cases (2018): A 1 hour block of instruction that focuses on various issues related to these offense types. Includes limited information on the physiological impact of addiction, common special conditions imposed and the financial impact of the fines/surcharges and other costs that customarily accompany these cases.



	Violations & Warrants (2018): A 1 hour block of instruction focused on what constitutes a potential violation of probation, the process of documenting the alleged non-compliance and ensuring all reasonable efforts are made to resolve the non-compliance prior to submitting a Violation of Probation warrant to the judge.
2019	Constitutional Law (2019): A 1 hour block of instruction reviewing the U.S. Constitution and the Bill of Rights, specifically to supervision of probationers
	Criminal Thinking (2019): A 1 hour block of information introducing concepts of criminal thinking and helping the student better understand the perspective and decision making process of the probationer.
	De-escalation & Stress Management (2019): Probation services create the possibility for a wide range of interactions and dynamics. This 1 hour block provides an introduction to basic de-escalation skills and also emphasizes the importance of the mental, emotional and physical preparation of the employee to respond appropriately to a potentially volatile situation.
	Drug Testing - 101 (2019): A 1 hour session presenting the fundamental aspects of drug testing offenders which includes descriptions of customary testing procedures, testing equipment and applicable laws.
	Enhanced Supervision Program (2019): A 2 hour lesson created by the DCS - ESP Unit. The session highlights elements of the program implemented by DCS, identifies the potential benefits of ESP and educates the student on 3 of the core ESP skills.
	Interstate Compact: Transferring a Case out of State (2019): A 2 hour block of instruction prepared by the DCS - Interstate Compact Unit. The session details the misdemeanor offenses eligible for transfer, the ICAOS process and related factors when transferring a case outside of Georgia.
	Rule 105-2-.16 - Transferring a Case to Another Agency in Georgia (2019): A 1 hour block of instruction detailing proper procedures for cases being transferred between misdemeanor entities.
	Sovereign Citizens: Beliefs & Common Tactics (2019): An informative 1 hour block of instruction on the history of this group, their beliefs and the tactics of individuals who identify themselves as sovereign citizens.
	Tolling (revised 2019): A 1 hour block of instruction on this important aspect of case supervision. Includes review of the law and highlights the requirements necessary for a case to be legally tolled.
	What We Look For - MPOU Compliance Monitor Reviews: Case Notes & Forms (2019): This 4 hour block of instruction details the case management review process performed by the compliance monitors. The training is focused on deficiencies found in the areas of case management documentation and completion of court documents (VOP warrants, tolling orders, revocation petitions). Practical exercises are utilized to reinforce the content of the lesson. *2020 two 1 hour revised versions developed to be used in a virtual training environment titled "What We Look For: Documentation & Forms" and "What We Look For: Compliance Monitor Reviews."
2020	Being Professional (2020): A 1 hour block of instruction discussing traits and behaviors which will promote conduct at work that will lead the student towards



	earning the reputation of being professional.
	Case Documentation (2020): A 1 hour block of instruction focused on the critical aspects of case documentation.
	Caseload Management (2020): A 2 hour block of instruction on skills that produce consistent performance, identifying obstacles to quality caseload management and discuss strategies that will enhance the ability to manage a caseload. <i>*2020 1 hour revised version also available to be used in a virtual training environment.</i>
	History of Misdemeanor Probation in Georgia (revised 2020): A 1 hour block of instruction reviewing the origin of probation in the United States and specifically in Georgia.
	Hot Topics & High Liability Items (2020): A 1 hour block of instruction reiterating critical concepts on such topics as tolling, pay only cases, consecutive cases and other items. This presentation is revised annually to remain current with changes in laws and rules.
	Human Trafficking (2020): A 2 hour block of instruction composed of information gathered from the DCS Academy and other sources. Reviews the recent changes in GA law and the GRACE Commission overseen by First Lady Marty Kemp.
	Introduction to DCS & MPOU (2020): A 1 hour block of instruction reviewing the creation of MPOU, and the authority, responsibilities and activities of the unit.
	Rule 105-2-.07 - Limitations & Conflict of Interest (Revised 2020): A 1 hour block of instruction specific to this rule which establishes limitations on potential business and personal relationship conflicts and similar matters.
	Rule 105-2-.11 - Responsibilities of Entities & Individuals (revised 2020): A 1 hour block of instruction reviewing the specifics of this rule to ensure every individual understands their responsibility as a “registered” person delivering misdemeanor probation services in GA.
	Supervising Offenders with Mental Health Disorders (2020): A 2 hour block of instruction composed of information gathered from the DCS Academy and other sources.

****Presentations conducted by guest speakers, such as representatives of the Georgia Commission on Family Violence, the GBI, the Task Force on Human Trafficking and others maybe be obtained upon requests.*

****In 2020 we are recruiting assistance from mental health experts to conduct the presentation on “Supervising Offenders with Mental Health Disorders”. Upon request the guest presentation may be made available.*

****In 2019 MPOU developed 2 specialty courses for tenured employees desiring to develop additional skills. “Essential Skills for Trainers” is a 16 hour course designed to introduce fundamental teaching/training techniques, lesson preparation and delivery. “Management 101” is an 8 hour course which introduces the student to management and supervision theories, styles and applications. Contact me directly for the lessons included in these specialty courses*





Appendix C:

Compliance Review Audit Guide

Example



PRELIMINARY FINDINGS, RECOMMENDATIONS AND MPOU RECOMMENDATIONS

Below are the preliminary findings, recommendations, and proposed MPOU recommendation practices based on DCS staff's administrative review. The provider is invited to submit a response, in writing, to these findings, which may be incorporated into the final report. The final compliance report may include revised or additional findings.

*If a DCS Board rule and/or GA Statue has not been violated then it cannot be a finding. If it is not a violation of DCS Board Rule or GA Statue then it may be a "MPOU recommendation." **Finding:** DCS has authority to govern; enforceable **MPOU Recommendation (MR):** DCS has no authority to govern but can suggest*



Finding #1 : Gaps in Case Note Documentation

In the cases reviewed below, gaps in case note documentation were found.

of probationers (affected by the finding)

Recommendation 1: DCS Rule 105-2-.11(d):

To ensure quality case management and to avoid gaps in case note documentation, make monthly case note entries.

Finding #2: Case Status

Probation cases reviewed by DCS staff were incorrectly classified on the case list(s) sent to MPOU staff.

of probationers (affected by the finding)

Recommendation #2: DCS Board Rule 105-2-.11(e) & DCS Board Rule 105-2-.13

To ensure complete accountability to the courts, conduct a comprehensive review of cases and develop procedures to accurately classify case statuses reported to the courts and to the Department of Community Supervision.

MPOU Recommendation (MR):

1. Avoid tolling cases near the probation end date, to limit the possibility of erroneous arrests.

PROBATIONER'S NAME	CASE TYPE STATUS	LENGTH OF SENTENCE	SUMMARY OF FINDING/ MPOU RECOMMENDATIONS	DCS BOARD RULE/GA STATUTE VIOLATED/MPOU RECOMMENDATIONS
State Court				
1. XXXX, x.	Active	36 mos 11/03/16	Disorderly Conduct Gaps in case notes from 12/13/16 to 05/25/17.	DCS Rule 105-2-.11(d): To ensure quality case management and to avoid gaps in case note documentation, make monthly case note entries.
2. XXXX, x.	Admin	12 mos. 06/07/16	Theft by Taking Case list sent to DCS on 2/16/18 documents this case in administrative status. However, the case was revoked and closed on 6/7/17 and should not have been reported as an administrative case. Case tolled with 19 days remaining.	DCS Rule 105-2-.11(e) & DCS Rule 105-2-.13: To ensure accountability and accuracy to court and DCS in reporting the status of probation cases, accurately classify cases. MR: Avoid tolling cases near the probation end date, to limit the possibility of erroneous arrests.



Appendix D: Tolling Affidavit and Tolling Order

******For illustration purposes only; consult with the courts and county or private attorney regarding use of this form.******

IN THE _____ COURT OF _____ COUNTY	
STATE OF GEORGIA	
NAME OF DEFENDANT: _____	CASE NO: _____
OFFENSES: _____	
<u>AFFIDAVIT AND ORDER TOLLING SENTENCE</u>	
COMES NOW the undersigned affiant, _____, who is a probation officer/private probation officer with the _____ Probation assigned to supervise the defendant named above in the referenced case, who after being duly sworn and based upon personal knowledge states that:	



The above-referenced Defendant has absconded and cannot be found. The defendant has failed to report to his /her Probation Officer as directed on at least two (2) occasions, to wit: ____and____. Defendant's location is unknown, and Defendant has failed to respond to the Probation Officer's attempt to contact Defendant.

1. The Probation officer has made the following specific efforts to contact the defendant at least two times, as follows:
☐ Phone call attempted to phone number _____.
Date(s) attempted _____.
☐ Email sent to address _____. Date(s) attempted _____.
2. The Probation officer has sent a letter by first-class mail to the Defendant's last known address : _____, advising the Defendant that the Probation Officer will seek a tolling order if the Defendant does not report to the Probation Officer in person, within ten (10) days of the date on which the letter was mailed and ten (10) days have passed since the date on which the letter was mailed. Date Mailed:_____.
3. The Probation Officer has checked the local jail rosters and determined that the Defendant is not incarcerated.
4. Failure to appear for Revocation Hearing on: _____

Based on the foregoing, your affiant requests that the Court suspend the running of Defendant's probated sentence.

This____ date of _____, 20____

Affiant Probation Officer

Sworn to and subscribed before me

This ____ date of _____, 20__

Notary Public (Seal)

ORDER TOLLING SENTENCE

THIS MATTER came before the Court on the above affidavit and application of Defendant's Probation Officer for an order tolling Defendant's sentence. Having reviewed the Probation Officer's affidavit, all matters of record, and the applicable and controlling law, the Court finds that it is proper to toll Defendant's sentence. The above affidavit, submitted to the Court on this date, shows that Defendant has failed to report as directed and cannot be found.

Therefore, it is hereby ORDERED that the running of Defendant's probated sentence is suspended this date.

SO ORDERED this ____ date of _____, 20____

Judge



Appendix E:

Revocation Hearing Petition

Below is an example of a Revocation Hearing Petition. The example is for illustrative purposes and MPOU does not assume any responsibility for use of this form. Consult with the Courts and the county or private attorney regarding the use of this form.

*******For illustration purposes only; consult with the courts and county or private attorney regarding use of this form.*******

IN THE _____ COURT OF _____ COUNTY	
STATE OF GEORGIA	
<u>PETITION FOR MODIFICATION/REVOCATION OF PROBATION</u>	
THE STATE	CITATION/CASE NUMBER: _____
VS	OFFENSE: _____



COMES NOW the undersigned affiant, _____, who is a probation officer/private probation officer with the _____ Probation assigned to supervise the defendant named above in the referenced case; now comes and bring this action against (defendant's name) hereinafter called the Defendant, and shows:

I.

That the Defendant entered a plea of guilty to (was convicted of) the offense(s) of _____ at the _____ Term, 20____.

II.

That this Court on the _____ day of _____, 20____, did sentence the Defendant to serve as follows:

III.

That this Court, by proper order, however, permitted the Defendant to serve said sentence on probation, the terms and conditions of which are fully set forth in the copy of said sentence which is attached hereto, and specifically incorporated herein.

IV.

That the Defendant has violated the terms and conditions of probation in the following particulars:

V.

WHEREFORE, the State of Georgia orders that the citation for modification/revocation of probation be served on the Defendant and that the Defendant be directed to appear before this Court on a day to be fixed by the Court and at that time to show cause why probation should not be modified/revoked.

This _____ day of _____, 20____.

PROBATION OFFICER

ORDER

Having read and considered the foregoing petition, it is hereby ordered that the Defendant be served with a copy of same and that the Defendant show cause before me on the _____ day of _____, 20____, at _____ AM/PM in _____, Georgia, why said probation should not be modified/revoked.

This day of _____, 20____.

Judge

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing petition upon the Defendant in person.

This day of _____, 20____.

Probation Officer



ACKNOWLEDGMENT

I, the Defendant listed above, hereby acknowledge service of the foregoing petition and order, and hereby waive the seventy-two (72) hour notice of this hearing and agree to proceed instant. I am aware that I may employ my own legal counsel or be represented otherwise as the court may direct.

This day of _____, 20____.

Defendant

Page 1 of 2

WHEREAS, pursuant to notice given to the Defendant, a full hearing was conducted by this Court on the date aforesaid in accordance with O.C.G.A. § 42-8-38, § 71-10-1 (a) (3) (A) and the Court has adjudged that the terms of probation had been violated as set forth in the following particulars:

NOW, THEREFORE, it is ordered and adjudged that the probation provision is said original sentence be: (check)

- ☐ Revoked in accordance with O.C.G.A. § 42-8-38, and the Defendant is hereby required to serve ____
days/months in the County Jail or such other place as the Judge may direct, or
- ☐ Continued, under supervision subject to the further provision that:

This day of _____, 20____.

Judge

Page 2 of 2



Appendix F:

Internal Audit Procedures

Internal Audit Requirements

MPOU Mission:

“Evaluate, Educate, and Regulate Misdemeanor Probation to ensure compliance with Georgia Law, Board rules and Policies, as well as promote the industry's best probation supervision practices.”

In an effort to help the entities reduce the risk of liabilities, DCS has implemented standards to address areas of high liability/findings of noncompliance with DCS Board Rules and Georgia statutes. The implementation of standards includes advising the entity to conduct an internal audit to ensure the violation(s) does not impact any other cases on their caseloads. Areas of high liability include, but are not limited to:

- **Pay Only Cases**



- **Tolling Affidavits/Orders**
- **Indigent Offenders**
- **Consecutive vs Concurrent Cases**
- **Consecutive Cases**
- **Supervising Cases Past Expiration**
- **Money Collection:** *front loading, payment collection not court ordered, Restitution*
- **Georgia Crime Victim Emergency Fund Disbursement (GCVEF)**

Below are detailed procedures on how to conduct an internal audit of the entity's cases for each high liability area noted above:

Pay Only Cases

Pay only is defined as any case that is sentenced for the collection of court ordered fines and surcharges only. Cases in which appear to qualify as "Pay-Only" in that no special conditions were ordered; however, more than three (3) months of ordinary probation supervision fees were collected.

Recommendation: DCS Board Rule 105-2-.11(h) & O.C.G.A. §42-8-103:

Unless the court sentence expresses otherwise, treat all cases with no special conditions as Pay-Only; particularly where the court order states the case may terminate upon payment: ***See Statute for [Pay-Only](#)**

- Ensure to review entire case load for ALL cases for ALL courts served to include reviewing active, pay-only, closed, warrant, and non-report/administrative cases to determine if any case qualifies as pay-only cases. This includes cases that were inherited from a previous provider.
- If additional cases are identified, consult with the courts to ensure the intention of the sentencing Judge(s) to determine whether the case is deemed pay-only or not pay-only.
- If more than three (3) months of ordinary probation supervision fees were collected on a pay-only case, ensure to re-allocate probation supervision fees appropriately.

*Internal audit case review for **Pay-Only Cases** is from July 1, 2015 to present; however, some cases are still active past the July 2015 mark and should be reviewed in its entirety, ie., warrant tolled, warrant untolled, consecutive cases, etc.,*

Tolling Affidavits/Orders

Cases in which tolling affidavits and/or pre-tolling letters lacked elements required per O.C.G.A. §42-8-105.

Recommendation: DCS Board Rule 105-2-.11(j) & O.C.G.A. §42-8-105:

Ensure to abide by statute in reference to the tolling of misdemeanor sentences. Ensure all minimally required steps for tolling have been completed prior to tolling the case: ***See [Tolling Statute](#) or [Tolling Checklist \(summarized version\)](#)**

- Ensure to review the entire case load for ALL warrants issued for ALL courts served to include reviewing active, pay-only, non-report/administrative cases to see if any warrants were tolled improperly and to re-adjust sentence end dates and close cases promptly.
 - This includes cases that were inherited from a previous provider.



- Warrant cases that are closed do not have to be reviewed during the internal audit.
- Ensure to cross check the tolling affidavit and case notes to ensure attempted telephone calls are unsuccessful telephone calls. However, successful telephone calls can be used as attempted telephone calls in certain instances: *See [Attempted Phone Calls](#)
- Ensure to review ALL intent to toll letters to ensure the letters have the intent to toll language and the probationer is instructed to report in person within at least 10 days. Ensure the probationer is given at least 10 days to report in person before the case is tolled. The 10 day calendar period should start counting after 24 hours of when the letter was mailed.
- If additional cases are identified, consult with the court(s) to ensure cases are being properly tolled.
- If warrants are still valid but improperly tolled, you do not have to re-call the warrants if there is still time remaining on the sentences (*MPOU recommends a minimum of 30 days left on a sentence*) you can re-toll the case with proper tolling steps taken per O.C.G.A. § 42-8-105.
- Cases tolled after July 1, 2015 must be tolled per O.C.G.A. § 42-8-105.
- The entity can also toll a case that was adjudicated prior to new tolling statute O.C.G.A. § 42-8-105; however, the tolling affidavit must meet all the requirements per new tolling statute.
 - Internal audit case review for [Tolling Affidavits/Orders](#) is for the entire caseload supervised by the entity with the exception of closed cases.
 - If the court judge(s) does not want to dismiss improperly tolled warrants, ensure to request an order and/or the director may submit a statement in writing stating the fact.

Indigent Offenders

Cases in which an offender does not have the ability to pay court fines, statutory surcharges, and probation supervision fees due to hardship and should be brought before the judge to determine if the offender is indigent.

Recommendation: DCS Board Rule 105-2-.11(g) & O.C.G.A. §42-8-102 (e)(2):

Ensure to abide by statute in reference to indigent offenders: *See **statute for** [Indigent Offenders](#)

- Ensure to review entire case load for ALL cases for ALL courts served to include reviewing active, pay-only, warrant, and non-report/administrative cases to determine if any case qualifies as indigent. This includes cases that were inherited from a previous provider.
- If additional cases are identified, ensure to abide by the entity's service agreement and/or policy and bring the cases to the court's attention in a timely manner.

**Internal audit case review for [Indigent Offenders](#) is from July 1, 2015 to present; however, some cases are still active past the July 2015 mark and should be reviewed in its entirety, ie., warrant tolled and untolled cases, etc.,*

Consecutive vs Concurrent Cases

Cases in which sentence forms do not specify whether separate counts should be consecutive. All cases are to be considered concurrent unless otherwise specifically stated on the sentence.

Recommendation: DCS Board Rule 105-2-.11(d) & O.C.G.A. §17-10-10:

Treat all counts as concurrent unless specified otherwise by the court. Where at one term of court a person is convicted on more than one indictment or



accusation, or on more than one count. ***See statute for [Concurrent Cases](#)**

- Ensure to review entire case load for ALL cases for ALL courts served to include reviewing active, pay-only, warrant, and non-report/administrative cases to determine if any case is being treated as consecutive and should be treated as concurrent, per statute. This includes cases that were inherited from a previous provider.
- If additional cases are identified, consult with the courts to ensure the intention of the sentencing Judges to determine whether the cases are deemed consecutive vs concurrent.
- If expired cases are found, ensure to close cases promptly.

Internal audit case review for [Consecutive vs Concurrent Cases](#) is from July 1, 2015 to present; however, some cases are still active past the July 2015 mark and should be reviewed in its entirety, ie., warrant tolled, warrant untolled, consecutive cases, etc.,

Consecutive Misdemeanor Sentences

Cases in which an offender is serving consecutive misdemeanor sentences and the offender has completed the terms and conditions of probation and twelve (12) months have passed.

Recommendation: DCS Board Rule 105-2-.11(i) & O.C.G.A. §42-8-103.1

The probation officer shall review the case to determine if the officer recommends early termination of probation. Each such case shall be reviewed every four months thereafter for the same determination until the termination, expiration, or other disposition of the case. If such officer recommends early termination, he or she shall immediately submit an order to the court to effectuate such purpose: **[See statute for Consecutive Misdemeanor sentences](#)**

- Ensure to review entire case load for ALL cases for ALL courts served to include reviewing active, pay-only, warrant, and non-report/administrative cases to determine if any cases qualify as a consecutive misdemeanor sentence. This includes cases that were inherited from a previous provider.
- **If additional cases are identified, ensure to abide by statute.**

**Internal audit case review for [Consecutive Misdemeanor Sentences](#) is from July 1, 2015 to present; however, some cases are still active past the July 2015 mark and should be reviewed in its entirety, ie., warrant tolled, warrant untolled, consecutive cases, etc.,*

Supervising Cases Past Expiration

Case in which the period of probation supervision was extended past the termination of the sentence.

Recommendation: O.C.G.A. §17-10-1:

To ensure professional execution of court orders in a professional and timely manner, avoid instructing probationers to report and/or complete the conditions of probation once their sentence is complete; particularly, collecting monies, issuing warrants, instructing probationers to report and pay, and revoking sentences past the expiration date. ***See [Procedures for the collection of fines/fees after expiration](#)**

- Ensure to review entire case load for ALL cases for ALL courts served to include reviewing closed, warrant, active, pay-only, and non-report/administrative cases to ensure no



payments were collected past the expiration date. This includes cases that were inherited from a previous provider.

- If additional cases are identified and payments were applied toward probation supervision fees, ensure to re-allocate probation supervision fees appropriately.
- If expired cases are found, ensure to close cases promptly.
- Ensure review of closed, warrant, active, pay-only, and non-report/administrative cases to ensure sentence end dates were not extended to include cases that were revoked past expiration and/or cases that were improperly tolled.
- If expired cases are found, ensure to close cases promptly.
- Ensure review of closed, warrant, active, pay-only, and non-report/administrative cases to ensure warrants were not issued on expired cases.
- If expired warrants are found, ensure to dismiss the warrants and close the cases promptly.
- Ensure to conduct an internal audit of the entire case load to include reviewing closed, warrant, active, pay-only, and non-report/administrative cases to ensure tolling orders were not issued on expired cases.
- If expired tolling orders are found, ensure to dismiss the orders and close the cases promptly.
- Ensure to review ALL tolled cases that were reinstated to ensure the re-adjusted sentence end dates are accurate and not past expiration.

**Internal audit case review for Supervising Cases Past Expiration is from July 1, 2015 to present (including closed cases); however, some cases are still active past the July 2015 mark and should be reviewed in its entirety, ie., warrant tolled, warrant untolled, consecutive cases, etc.,*

Money Collection: Frontloading of Supervision Fees. Payments collected that are not court ordered. Restitution

Frontloading: Cases in which payments were disbursed to future probation supervision fees.

Recommendation: DCS Board Rule 105-2-.11(f) & DCS Board Rule 105-2-.15(d)

No probation entity or individual shall require collection of probation supervision fees prior to providing services nor shall the entity or individual require advance payment of probation supervision fees.

- Ensure to review entire case load for ALL cases for ALL courts served to include reviewing warrant, active, pay-only, and non-report/administrative cases to ensure payments were not applied toward future probation supervision fees. This includes cases that were inherited from a previous provider.
- If payments were applied toward future probation supervision fees, ensure to re-allocate monies appropriately.
 - Cases that are closed do not have to be reviewed during the internal audit.

Payments collected that are not court ordered: Cases in which payments were collected by probation staff that were not court ordered.

Recommendation: DCS Board Rule 105-2-.15

No probation entity or individual shall assess or collect from a probationer or disburse any funds, except as authorized by written order of the court, as authorized by the written service agreement, or as required by State law; particularly, collecting probation supervision fees not court ordered.



****The entity must have a return policy in place to ensure payments collected that were not court ordered are returned to the probationer. This policy must be available for review and provided upon request.***

- Ensure to review entire case load for ALL cases for ALL courts served to include reviewing closed, warrant, active, pay-only, and non-report/administrative cases to
- Ensure payments were not collected that were not court ordered. This includes cases that were inherited from a previous provider.
- If payments were collected that were not court ordered, ensure to re-allocate monies appropriately.
If expired cases are found, ensure to close cases promptly.

**Internal audit case review for Money Collection is from July 1, 2015 to present (including closed cases); however, some cases are still active past the July 2015 mark and should be reviewed in its entirety, ie., warrant tolled, warrant untolled, consecutive cases, etc.,*

Apportionment of Payments for Fines and Restitution: Cases in which restitution was court ordered; however, one-half of each payment was not applied towards restitution.

Recommendation: O.C.G.A. §17-14-8(a)

Ensure partial payments be applied not less than one-half of each payment to the restitution before paying any portion of such fine or any forfeitures, costs, fees, or Surcharges.

- Ensure to review entire case load for ALL cases for ALL courts served to include **reviewing closed, warrant, active, pay-only, and non-report/administrative cases to ensure** payments toward court ordered restitution were allocated appropriately. This includes cases that were inherited from a previous provider.
- If payments were not appropriately applied toward court ordered restitution, ensure to re-allocate monies appropriately.

**Internal audit case review for Apportionment of Payments for Fines and Restitution is from July 1, 2015 to present (including closed cases); however, some cases are still active past the July 2015 mark and should be reviewed in its entirety, ie., warrant tolled, warrant untolled, consecutive cases, etc.,*

Georgia Crime Victim Emergency Fund Disbursement (GCVEF):

Cases in which GCVEF surcharges were given a low disbursement priority.

Recommendation: O.C.G.A. §17-15-13(f)

For each probation supervision fee collected, \$9.00 must be disbursed to the Georgia Crime Victim Emergency Fund and forwarded to the Georgia Crime Victims Compensation Board by the end of each month in accordance with state law.

- Ensure to review entire case load for ALL cases for ALL courts served to include reviewing closed, warrant, active, pay-only, and non-report/administrative cases to ensure payments toward the GCVEF were allocated appropriately. This includes cases that were inherited from a previous provider.



- If payments were not appropriately applied toward the GCVEF, ensure to re-allocate monies appropriately.

**Internal audit case review for Georgia Crime Victim Emergency Fund Disbursement is from July 1, 2015 to present (including closed cases); however, some cases are still active past the July 2015 mark and should be reviewed in its entirety, ie., warrant tolled, warrant untolled, consecutive cases, etc*

Additional Internal Audit Requirements:

During the internal audit process for the violations listed above, ensure to review and make the necessary corrections for the following:
close expired cases.

- dismiss expired warrants.
- check sentence end dates for accuracy; particularly, when cases are tolled or concurrent sentences.
- audit cases that were inherited from a previous provider to ensure compliance, if applicable.
- document in case notes, for each case reviewed, that the particular case was reviewed for internal audit purposes.
- accountability and accuracy to the court and DCS in reporting the status of probation cases assigned to the probation entity for supervision, ensuring to review the case status for each case reviewed during the internal audit process. This will ensure the case status is in compliance and the quarterly report numbers are accurate, per DCS Board Rule 105-2-.11(e) & DCS Board Rule 105-2-.13.

*See [Case Status Definitions](#)

Corrective Action Plan:

Ensure to follow the Internal Audit Requirements listed above and conduct an internal audit for all courts served identify any cases that may have been affected by the above violations.

If additional cases are identified during the internal audit, please submit a corrective action plan advising of how many cases were impacted and how these violations will be corrected to be completed by Day, Month, Date, 2020 (up to 6 months).

MPOU will review the corrective action plan and make a determination as to if the information provided adequately addressed and corrected the noted areas of non-compliance.

Please use the Corrective Action Response Template provided below and send documented proof of your internal audit and corrections, if applicable, to: CM Name and Email Address

Corrective Action Response [Template](#)



DCS Board Rule 105-2-.11(k) - The failure to adhere to these responsibilities shall subject the probation entity or individuals to sanctions as provided in DCS Board Rules

