

Creating a Referral for Technical Violations of Juvenile Court Ordered Probation

- A juvenile probation department should create a formal referral for a technical violation of probation if the department intends to file a motion to modify based on the violation.
- A juvenile probation department should create a formal referral for a technical violation of probation if the juvenile **is detained** for the violation.

Creating a Referral for Technical Violations of Probation – Juvenile is Detained

In accordance with Title 3 of the Family Code and other applicable administrative standards, a pre-adjudication (detention) facility may not be used for the placement of a juvenile for an adjudicated referral.

If a probationer is detained due to non-compliance of probation orders, the juvenile probation department should create a formal referral for the violation and attach the detention entry to this pending formal referral. Technical violations of probation should be tracked in both CASEWORKER and JCMS as **50129003 - Viol of Court Order – Technical**.

The assumption by TJJD is that if a juvenile is detained for a Violation, then the department intends to file a motion to modify based on the Violation. If a motion to modify is **not** filed based on this violation of probation, this formal referral for Violation can be closed as Supervisory Caution.

Examples

Situation: A child is detained for the offense of **Viol of Court Order - Technical**, but is released before the initial detention hearing.

Answer: Because the child was detained, the Violation should be recorded as a formal referral. It is presumed that a motion to modify will be filed.

Situation: At a review hearing, the judge orders a probationer to be detained due to the juvenile's non-compliance to conditions of probation. The judge does not intend to modify the juvenile's probation terms based on this non-compliance.

Answer: Because the child was detained, the violation should be recorded as a formal referral. If no further action is taken based on this violation, the referral should be disposed as **Supervisory Caution**. NOTE: The violation referral does not have to be disposed at the conclusion of the detention and can remain pending until a later date.

Situation: A probationer is picked up and placed in detention by law enforcement for violating conditions of probation. No other offense was alleged.

Answer: Because the child was detained, the violation should be recorded as a formal referral. It is presumed that a motion to modify will be filed.

Situation: A probationer fails his drug test during a scheduled appointment with the probation department. The officer detains the juvenile based on this technical violation.

Answer: Because the child was detained, the violation should be recorded as a formal referral. It is presumed that a motion to modify will be filed

Situation: At a review hearing, the judge orders a juvenile into detention for two days as a sanction. The juvenile did not violate the terms of probation.

Answer: As stated above, juveniles on probation cannot be detained in a pre-adjudication (detention) facility for an adjudicated referral. However, TJJD is aware that these detentions may, from time to time, still occur. In this example, because the juvenile was detained without a violation, do not create a formal referral for violation. The detention screen will be attached to the original, adjudicated referral. Attaching the detention to the adjudicated referral instead of creating a referral for violation accurately tracks that the child was detained without a pre-adjudicated offense. This situation will generate an error on the Comprehensive Data Audit – Detention Check 6 – Detention Date Prior to Referral Date or After Disposition Date.

Creating a Referral for Technical Violations of Probation – Juvenile is Not Detained

A juvenile probation department should create a formal referral for a technical violation of probation if the department intends to file a motion to modify based on the violation.

Examples

Situation: A child violates his probation conditions and the department sanctions the child by reducing his curfew.

Answer: Because the probation department handled this situation internally, the child was not detained, and a motion to modify was not filed, the department should not count this Violation as a referral.

Situation: A child on probation commits a Viol of Juvenile Court Order - Technical. The department requests that the prosecutor file a motion to modify.

Answer: Because a motion to modify was requested by the probation department, the department will create a referral for this violation.

Situation: A child on deferred prosecution violates the terms of his deferred prosecution contract.

Answer: This situation would not generate a referral because violating deferred prosecution is not an offense.