

CORRECTIONS CODE OF 1953 (EXCERPT)
Act 232 of 1953

791.239a Arrest for alleged parole violation; right to preliminary hearing; notice of hearing; rights at hearing; postponement; notice of charges, summary of evidence, and determination of guilt when preliminary hearing not held.

Sec. 39a.

(1) Within 10 days after an arrest for an alleged violation of parole, the parolee shall be entitled to a preliminary hearing to determine whether there is probable cause to believe that the conditions of parole have been violated or a fact-finding hearing held pursuant to section 40a.

(2) Prior to the preliminary hearing, the accused parolee shall be given written notice of the charges, time, place, and purpose of the preliminary hearing.

(3) At the preliminary hearing, the accused parolee is entitled to the following rights:

(a) Disclosure of the evidence against him or her.

(b) The right to testify and present relevant witnesses and documentary evidence.

(c) The right to confront and cross-examine adverse witnesses unless the person conducting the preliminary hearing finds on the record that a witness may be subjected to risk of harm if his or her identity is revealed.

(4) A preliminary hearing may be postponed beyond the 10-day time limit on the written request of the parolee, but shall not be postponed by the department.

(5) If a preliminary hearing is not held pursuant to subsection (1), an accused parolee shall be given written notice of the charges against him or her, the time, place and purpose of the fact-finding hearing and a written summary of the evidence to be presented against him or her.

(6) If a preliminary hearing is not held pursuant to subsection (1), an accused parolee may not be found guilty of a violation based on evidence that was not summarized in the notice provided pursuant to subsection (5) except for good cause stated on the record and included in the written findings of fact provided to the parolee.

History: Add. 1982, Act 314, Imd. Eff. Oct. 15, 1982

Popular Name: Department of Corrections Act