

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ARIZONA CODE OF JUDICIAL) Administrative Order
ADMINISTRATION § 6-301.01:) No. 2013 – 91
JUVENILE STANDARD PROBATION)
EVIDENCE-BASED PRACTICES)
_____)

The above-captioned provision having come before the Arizona Judicial Council on October 17, 2013, and having been approved and recommended for adoption,

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the above-captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration.

IT IS FURTHER ORDERED that courts and probation departments shall be governed by section 6-301, unless and until the presiding judge of the court submits a plan and requests approval by the Administrative Director, Administrative Office of the Courts (AOC), for the court's probation department to be governed by section 6-301.01. The Administrative Director shall approve a request and plan that meets the following criteria:

1. The plan presents policies and procedures for the approval of the Administrative Director of the AOC that do the following:
 - a. Aim to reduce juvenile risk and the likelihood of future delinquent behavior that are consistent with the principles of evidence-based practices;
 - b. Require the administration of a youth assessment within 30 days, if not completed during the pre-dispositional process. Require the updating of the youth assessment upon each subsequent referral or once every six months, at a minimum;
 - c. Require probation officers to utilize graduated responses of incentives and consequences to address violation behavior and promote positive behavioral change, and;
 - d. Identify the criteria for requesting termination of probation when it is determined supervision is no longer necessary including the requirement that officers review case plans to determine eligibility.

2. The plan documents and confirms that all current probation and surveillance officers have completed AOC approved training in the following areas:
 - a. Standardized youth assessment
 - b. Arizona Code of Judicial Administration section 6-301.01
3. The plan presents for approval a strategic plan that is consistent with evidence-based practices.

IT IS FURTHER ORDERED that all juvenile courts shall comply with these requirements and be governed by ACJA 6-301.01 no later than July 1, 2015.

Dated this 6th day of November, 2013.

REBECCA WHITE BERCH
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 3: Juvenile Services
Section 6-301.01: Juvenile Standard Probation Evidence-Based Practices

Courts shall be governed by section 6-301, except and until approved by the Administrative Director to be governed by section 6-301.01.

A. Definitions. In this section, the following definitions apply:

“Administrative director” means both the administrative director of the Administrative Office of the Courts and the director’s designee.

“Administrative status” means a juvenile is not currently receiving active supervision or contact requirements have been suspended by the juvenile probation department.

“Alcohol and drug testing” means any validated or verified method of determining the level of identifiable substances in the body including, but not limited to, breath, blood, oral fluid, urine, hair and sweat testing.

“Average caseload” means the total active cases divided by total number of supervising probation officers.

“Case plan” means the documented behavior change plan and supervision strategy developed by the supervising probation officer in collaboration with the juvenile and family or adult probationer which clearly identifies the risk factors and needs of the probationer and how they will be addressed.

“Case record” means any record pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

“Child” “youth” or “juvenile” means “an individual who is under the age of eighteen years,” as provided in A.R.S. § 8-201(6).

“Community restitution” means unpaid labor or services provided to a private not-for-profit or governmental agency.

“Court” means the superior court.

“Criminogenic need” means any issues of concern which are directly linked to criminal or delinquent behavior that when addressed and changed affect a probationer’s risk for recidivism, which include, but are not limited to criminal personality, antisocial attitudes, values, beliefs, low self control, criminal peers, substance abuse, dysfunctional family, unemployment, and lack of education.

“Default” means a juvenile has not met obligations of supervision as outlined in terms of probation.

“Delinquent act” means “an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense” as provided in A.R.S. § 8-201(10).

“Delinquent juvenile” means “a child who is adjudicated to have committed a delinquent act,” as provided in A.R.S. § 8-201(11).

“Delinquency risk” means measurable factors that have been correlated to the probability of recidivism that are gathered informally through routine interactions and observations with juveniles and by formal assessment guided by instruments.

“Director” means the director of the juvenile court or chief probation officer in combined departments.

“Evidence-based practice” means strategies that have been shown, through current, scientific research to lead to a reduction in recidivism.

“Hand count” means manual tabulation of all probation case files, conducted independently from any automated system.

“Out-of-home placement” means “the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian ...” as provided in A.R.S. § 8-501(8).

“Petition” means “a written statement of the essential facts that allege delinquency, incorrigibility or dependency” as provided in A.R.S. § 8-201(24).

“Protective supervision” means “supervision that is ordered by the juvenile court of children who are found to be dependent or incorrigible” as provided in A.R.S. § 8-201(26).

“Referral” means “a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act” as provided in A.R.S. § 8-201(27).

“Specialized caseload” means a group of juveniles with similar presenting problems or needs who are supervised by a probation officer focusing on addressing the problem or need.

“Target interventions” means supervision related services determined by the juvenile’s risk, criminogenic needs, and other factors such as temperament, learning style, motivation, gender and culture.

“Visual contact” means face-to-face communication with the juvenile at any place, including but not limited to, the probation department and the juvenile’s residence, place of employment, treatment location or community restitution placement to discuss progress, issues of concern or other appropriate matters. Contacts with juveniles are not ends in themselves but are opportunities for officers to achieve specific objectives. These objectives include establishing rapport with the juvenile, assessing the juvenile’s criminogenic factors and triggers, developing and, when needed, modifying a case plan, and using both subtle and overt incentives and sanctions to guide the juvenile toward positive change.

“Youth assessment” means the state approved system of actuarial tools designed to assess risk, need, and responsivity factors of youth at various stages of the juvenile justice system.

B. Applicability. Az. Const. Art. 6, § 3 and A.R.S. § 12-261 authorize the supreme court to administer state funding to aid probation services. The Administrative Office of the Courts (AOC) shall administer state aid funding for juvenile standard probation on behalf of the supreme court.

C. Purpose. The purpose of juvenile standard probation in Arizona is to provide the highest quality service to the court, community, juveniles being supervised and their families. This is accomplished by promoting public safety through effective community based supervision and enforcement of court orders, offering accurate and reliable information and affording juveniles opportunities to be accountable and initiate positive changes.

D. General Administration.

1. The AOC shall:

- a. Administer and direct juvenile standard probation state appropriations on behalf of the supreme court;
- b. Monitor state appropriations for juvenile standard probation;
- c. Prepare written material establishing various techniques, practices, guidelines, and other recommendations regarding the operation and management of juvenile standard probation and distribute this material to appropriate superior and juvenile court judges and probation personnel;
- d. Inspect, audit, or have audited the records of any court operating a juvenile standard probation;

- e. Prescribe and adopt procedures, forms, and reports necessary for financial administration, program administration and operation, and management of juvenile standard probation;
 - f. Conduct seminars and educational sessions regarding the purpose and management of juvenile standard probation;
 - g. Establish performance measures and expectations in consultation with juvenile courts, for determining compliance with each courts' juvenile standard probation plan and budget request;
 - h. Assist juvenile courts in developing their juvenile standard probation plans and budgets;
 - i. Provide general assistance to juvenile courts on the administration and management of juvenile standard probation; and
 - j. Adopt other administrative practices and procedures, consistent with this section, as necessary for the administration of juvenile standard probation.
2. Each juvenile court and juvenile probation department receiving state juvenile standard probation funds shall comply with this section, to promote uniform administration.

E. Budget Request Preparation.

1. A.R.S. § 12-262 provides “The presiding judge of the superior court in each county desiring to improve, maintain or expand juvenile probation services ... may prepare a plan in accordance with guidelines issued by the supreme court.”
2. The presiding judge of the juvenile court in any county requesting state funding to operate juvenile standard probation shall submit a proposed plan and budget request for the subsequent fiscal year to the AOC. The administrative director shall establish the date for submission, as well as the forms to be used, and the corresponding instructions.
3. The administrative director shall review each request, and may modify the request based on appropriate statewide considerations. The AOC shall include the court's request or the modified request in the annual supreme court budget. The administrative director shall allocate to the juvenile court the monies appropriated by the legislature for standard probation based on the proposed plan, availability of funds, caseload population, past year use, county support and program effectiveness.
4. The chief justice shall make the final determination if a court does not agree with the allocations and requests further review.

5. Each juvenile court shall support the budget request with written justification and explanation as required by the administrative director.

6. A.R.S. § 12-269(A) provides:

The administrative office of the courts shall not disburse any direct state aid for probation services monies, including motor pool costs, that are appropriated for juvenile intensive probation services pursuant to section 8-353, state aid for probation services pursuant to section 12-262, adult intensive probation pursuant to title 13, chapter 9 and community punishment programs pursuant to article 11 of this chapter to a county with a population of two million or more persons.

F. Program Plan and Financial Management.

1. A.R.S. § 8-203(B) provides “A juvenile probation officer performing field supervision shall not supervise more than an average of thirty-five juveniles on probation at one time.” Each juvenile court shall submit an expenditure plan to the administrative director. The juvenile court shall outline in the expenditure plan how the requested state funds shall be used in achieving or maintaining the average case supervision requirements. The juvenile court shall submit the plan within the prescribed time frame and on forms required by the administrative director.

2. Each presiding judge of the juvenile court shall submit, in writing, all requests to modify expenditure plans on a form approved by the administrative director.

3. Each program plan shall explicitly document:

a. That a minimum of 80 percent of the state juvenile standard probation funds allocated to a juvenile court shall be used only for the payment of salaries and employee related benefits of probation officers involved in the case management, field supervision and enforcement of court orders of juveniles on standard probation who reside in the county; and

b. That not more than twenty percent of the allocated state juvenile standard probation funds for probation services are being used to otherwise maintain, improve or enhance standard probation services.

4. On request, the administrative director may approve a plan permitting an expenditure of funds of more than twenty percent on support, operating and ancillary services. The requesting juvenile court shall file the request with the AOC on a form prescribed by the administrative director.

5. In the event that the administrative director disapproves a plan or plan modification submitted by a juvenile court, the presiding judge of the juvenile court may request that

the administrative director submit the plan to the chief justice for consideration and final determination. A.R.S. § 12-263 provides “Upon approval of a plan submitted, the supreme court shall enter into a funding agreement with the county and shall make payments to the county as necessary to carry out the agreement.”

- a. The administrative director shall enter into a written funding agreement with the submitting juvenile court for the distribution of funds upon approval of the plan as submitted or modified and the availability of funds.
 - b. The administrative director may amend or terminate funding agreements due to lack of funds, lack of financial need or the juvenile court’s failure to comply with applicable statutes, the approved plan, funding agreement, or this section.
6. The administrative director may reallocate funds during the year based on documented need, current use of funds and approved plan or budget modifications.
7. A.R.S. § 12-262(2) provides “That the funds provided by the state for this purpose will be used to supplement county funds provided for probation services.” A.R.S. § 12-265(C) provides “No state funds may be used to increase any salaries funded under current county probation programs.”
- a. A.R.S. § 12-268(D) provides “State monies expended from the juvenile probation services fund shall be used to supplement, not supplant, county appropriations for the superior court juvenile probation department.”
 - b. In accordance with the general appropriations act, probation department receipt of state probation monies is contingent on the county maintenance of expenditure levels for each probation program the previous fiscal year.
8. A.R.S. § 12-268(A) provides:
- A. The board of supervisors shall designate a chief fiscal officer who shall establish and administer a juvenile probation fund consisting of:
 1. County general fund appropriations for juvenile probation.
 2. Court information cost monies received pursuant to section 8-134, subsection L.
 3. State appropriations for juvenile probation, except monies in the juvenile probation services fund established by section 8-322 and except monies in the court appointed special advocate fund established by section 8-524, but including:
 - (a) Monies for juvenile probation officers authorized by section 8-203.

- (b) Monies for state aid for juvenile probation services authorized by this article.
 - (c) Monies for family counseling services established by title 8, chapter 2, article 5.
 - (d) Monies for juvenile intensive probation services established by title 8, chapter 3, article 4.
4. Probation fees collected pursuant to section 8-321, subsection N for community based alternative programs or diversion programs administered by the juvenile court.
 5. Probation fees collected pursuant to section 8-341.
 6. Federal monies provided for juvenile probation services.
 7. Juvenile probation monies from any other source.

9. A.R.S. § 12-268(B) provides:

The chief fiscal officer shall establish and maintain separate accounts in the fund showing receipts and expenditures of monies from each source listed in subsection A of this section. The presiding juvenile judge of the superior court shall annually present to the board of supervisors for approval a detailed expenditure plan for the juvenile probation services fund accounts. Any modifications to the expenditure plan affecting state appropriations shall be made in accordance with the rules and procedures established by the supreme court. Any modifications to the expenditure plan affecting county appropriated funds shall be made in accordance with the policies established by the county. The chief fiscal officer shall disburse monies from the fund accounts only at the direction of the presiding juvenile judge of the superior court. The chief fiscal officer, on or before August 31 of each year for the preceding fiscal year, shall submit an annual report to the supreme court showing the total amount of receipts and expenditures in each account of the juvenile probation services fund.

10. Each juvenile court shall use allocated state funds and interest only for the support and operation of juvenile standard probation.
11. On agreement with a juvenile court, the administrative director may withhold funds allocated to the juvenile court and may authorize direct expenditures for the benefit of the court. The administrative director may also reallocate these funds during the fiscal year.
12. The presiding judge of each juvenile court shall submit to the AOC, by January 31 of each year, a mid-year financial and program activity report related to the court's plan through December 31. Failure to submit the report in a timely manner may result in financial sanctions.

13. The presiding judge of each juvenile court shall submit to the AOC, by August 31 of each year, a closing financial and program activity report related to the court's plan through June 30. Failure to submit the report in a timely manner may result in financial sanctions.
14. The presiding judge of each juvenile court shall return to the AOC by August 31 of each year, all juvenile standard probation funds distributed to the juvenile court which are unencumbered through June 30 and unexpended through July 31. Failure to revert unexpended funds in a timely manner may result in financial sanctions.
15. The administrative director shall determine how the funds are used in the event that a juvenile court experiences a decreased need for funds or declines to participate after the legislature has appropriated funds for juvenile standard probation services.
16. Each juvenile court shall maintain and provide data and statistics to the AOC, as may be required by the supreme court to administer funding for juvenile standard probation.
17. On request of the AOC, the director shall conduct a hand count of the department's standard probation population. The director shall submit the results of the hand count to the AOC.
18. Each juvenile court shall retain all financial records, applicable program records, and data related to each approved plan for a period of at least five years from the close of each fiscal year.

G. Allocation and Management of Juvenile Standard Probation Personnel Placements.

The administrative director shall allocate state funded juvenile standard probation personnel placements approved for standard probation among juvenile courts. The administrative director may prepare and implement procedures for adjusting allocated placements and associated monies among juvenile courts.

H. Standard Probation Caseload Limit. A.R.S. § 8-203(B) provides: "A juvenile probation officer performing field supervision shall not supervise more than an average of thirty-five juveniles on probation at one time." Only those juveniles on the probation officer's active caseload are included in determining the average caseload of thirty-five juveniles.

I. Active Cases.

1. A juvenile standard probation officer's active caseload shall include:
 - a. Juveniles residing in county and receiving standard probation services;
 - b. Juveniles in out-of home placement;
 - c. Juveniles placed in detention; and

- d. Juveniles on warrant status for less than 90 days.
- 2. A juvenile standard probation officer's active caseload shall not include:
 - a. Juveniles on administrative status for one of the following reasons:
 - (1) Juveniles traveling for more than 30 days out of state or country with the approval of the juvenile probation department;
 - (2) Juveniles direct filed to adult court and currently held in adult jail pending the adult court action; or
 - (3) Juveniles residing for more than 30 days out of state or country, but the department has retained jurisdiction of the juvenile.
 - b. Juveniles on warrant status for 90 days or more, and
 - c. Juveniles not yet dispositioned to standard probation, nor protective supervision by the court.

J. Program Operations.

- 1. Each probation department shall develop policies, procedures, and protocols:
 - a. That aim to reduce juvenile risk and the likelihood of future delinquent acts that are consistent with the principles of evidence-based practices;
 - b. Regarding the alcohol and drug testing of juveniles on standard probation. The procedures shall address the methods used to select juveniles for testing, the frequency of testing, and the type of test to be administered;
 - c. By which accurate and timely records of the completion of community restitution hours are maintained for each juvenile on standard probation. Credit toward court ordered community restitution requirements are awarded on basis of actual hours completed unless authorized by the court;
 - d. For working with the office of the clerk of the superior court to establish a process by which supervising probation officers are provided with accurate and timely information concerning collections;
 - e. To ensure the collection of monies owed as a condition of probation. Each probation department and supervising officer shall address any arrearage per departmental policy. Each probation department and supervising officer shall also encourage payment of other assessments or fines as ordered by any court;

- f. Which require standard probation officers to administer a youth assessment for each juvenile supervised, within 30 days, if not completed during the pre-dispositional process. Probation officers shall consider assessment results, family feedback, other agencies involved, as well as any other relevant information, when developing a case plan;
- g. Which require the supervising juvenile probation officer to update the youth assessment, upon each subsequent referral and once every six months, at a minimum. Upon each re-administration, juvenile officers shall review the previous case plan evaluating and updating noted strategies to reflect identified risks and needs;
- h. That require probation officers to utilize graduated responses to promote positive behavioral change through incentives, consequences, and supervision to address violations;
- i. That ensure probation officers providing standard supervision shall re-examine and reassess the risk and needs of each juvenile under their supervision and the factors associated with reducing, maintaining or increasing the juvenile's level of supervision; and

2. A.R.S. § 8-396(B) provides:

- B. On request of a victim who has provided a current address or other current contact information, the probation department shall notify the victim of the following:
 - 1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the delinquent's contact with or the safety of the victim.
 - 2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
 - 3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.
 - 4. That a petition to revoke probation alleging that the juvenile absconded from probation has been filed with the court.
 - 5. Any conduct by the juvenile that raises a substantial concern for the victim's safety.

3. The juvenile probation officer shall:
 - a. For every juvenile placed on standard probation, a case plan must be developed within 30 days of disposition. The probation officer shall ensure the case plan includes objectives that are measurable and signatures of the probation officer, juvenile, and the juvenile's parent or guardian.
 - b. Develop and implement supervision strategies that match the youth assessment results and address criminogenic needs, in addition to the juvenile's delinquency risk, and strengths that promote case plan goals and provide effective supervision that is individualized, proportional and purposeful.
 - c. Evaluate and update the case plan on an on-going basis to identify progress toward goals and conditions of probation.
 - d. Ensure that each juvenile under supervision is either employed (if authorized to work in the United States), seeking employment, attending school, participating in a community restitution program, or attending a court ordered treatment program or any combination thereof.
 - (1) Assist juveniles seeking employment and closely monitor employment of juveniles;
 - (2) Closely monitor participation in court-ordered treatment programs, involve the parent or guardian in the rehabilitation and treatment of the juvenile; and
 - (3) Provide or arrange for appropriate supervision of juveniles performing community restitution work.
 - e. Respond to emerging risk indicators with graduated increases in supervision, pursuant to departmental procedures.
 - f. Provide juveniles with feedback on the results of an assessment by providing positive reinforcement to encourage behavioral changes and progress with the established behavioral goals and conditions of probation.
 - g. Involve the parent or guardian in the rehabilitation and treatment of the juvenile.
 - h. Monitor court-ordered financial obligations.
 - i. Make documented efforts to locate a defaulted juvenile. The supervising probation officer shall request a warrant be issued if the juvenile is not located. Efforts to locate the juvenile shall continue pursuant to the court's departmental policy.

- j. Re-evaluate the adequacy and applicability of the court ordered conditions of probation as part of the ongoing assessment and planning process and, if applicable, petition the court for modifications.
 - k. Target interventions to high-risk cases to promote public safety.
 - l. Review the case plan to determine if a modification of strategies is required to promote behavioral changes. Strategies shall be re-evaluated if there has been regression or no change in behavior.
 - m. Petition the court to terminate probation when it has been determined that supervision is no longer necessary.
4. A.R.S. § 8-396(A) provides:

- A. On request of a victim who has provided an address or other contact information, the court shall notify the victim of any of the following:
 - 1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of the delinquent who committed the delinquent act against the victim.
 - 2. Any hearing on a proposed modification of the terms of probation or intensive probation.
 - 3. The arrest of a delinquent pursuant to a warrant issued for a probation violation.

K. Minimum Supervision Requirements. Each juvenile court shall develop policies and procedures that ensure minimum levels of supervision for juveniles placed on standard probation. These policies and procedures shall include minimum contacts once every 30 days for:

- 1. Visual contacts with the juvenile. Visual contacts shall be varied, scheduled, and unscheduled. Visual contacts and supervision strategies shall be proportionate to the level of risk and needs of the juvenile based on results of the youth assessment and other significant case information. Visual contacts with the juvenile shall continue when in out-of-home placement or detention;
- 2. Parental contacts;
- 3. Treatment providers, as appropriate;

4. Employment contacts and verification if necessary; and
5. School contacts and verification.

L. Specialized Populations.

1. Any juvenile court establishing or maintaining specialized caseloads shall have a written description of the specialized caseload, including objectives and goals.
2. Any juvenile court establishing or maintaining specialized caseloads shall have written screening and assessment criteria for placement on the caseload, as well as criteria for exiting or graduating from the caseload.
3. Any juvenile court establishing or maintaining specialized caseloads shall have written policies and procedures for minimum contact standards specific to the needs and goals of the identified caseload and shall include minimum monthly contacts for:
 - a. Visual contacts with the juvenile;
 - b. Parental contacts;
 - c. Employment contacts and verification as necessary, if juvenile is authorized to work in the United States;
 - d. School contacts and verification; and
 - e. Treatment providers as appropriate.
4. Probation officers assigned to supervise specialized caseloads shall participate in continuing education and training on the specific needs of the specialized population.

M. Required Case Records. Each standard probation officer shall maintain verifiable case records for each juvenile supervised, including, but not limited to:

1. A written statement of the conditions of the probation;
2. An individual case plan setting forth behavioral and program expectations and recommendations subject to the approval of the director; and
3. Logs detailing the time, nature, and location of each contact made with each juvenile on standard probation.