

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION)	No. 2016 - <u>69</u>
§ 6-202.01: ADULT INTENSIVE)	(Affecting Administrative
PROBATION EVIDENCE-BASED)	Order No. 2014-21)
PRACTICES)	
_____)	

Pursuant to the Arizona Code of Judicial Administration § 1-201(E), the Chief Justice may adopt emergency administrative code proposals and technical changes in existing code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

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

IT IS ORDERED that as a result of Senate Bill 1298, Chapter 158, which made changes in the requirements of adult intensive probation, Arizona Code of Judicial Administration § 6-202.01 is amended as indicated on the attached document. All other provisions of § 6-202.01 as adopted, remain unchanged and in effect.

IT IS FURTHER ORDERED that the effective date of this amendment shall be August 6, 2016.

Dated this 3rd day of August, 2016.

SCOTT BALES
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-202.01: Adult Intensive Probation Evidence-Based Practices

A. through H. [no changes]

I. Sentencing Provisions.

1. A.R.S. § 13-914(E) provides:

E. Intensive probation shall be conditioned on the offender:

1. Maintaining employment or ~~maintaining~~ full-time student status at a school subject to title 15 or title 32, chapter 30, or a combination of employment and student status, and making progress deemed satisfactory to the probation officer, ~~or both~~, or being involved in supervised job searches and community restitution work at least six days a week throughout the offender's term of intensive probation.

2. Paying restitution and probation fees of not less than seventy-five dollars unless, after determining the inability of the offender to pay the fee, the court assesses a lesser fee. Probation fees shall be deposited in the adult probation services fund established by § 12-267. Any amount assessed pursuant to this paragraph shall be used to supplement monies used for the salaries of adult probation and surveillance officers and for support of programs and services of the superior court adult probation departments.

3. Establishing a residence at a place approved by the intensive probation team and not changing the offender's residence without the team's prior approval.

4. Remaining at the offender's place of residence at all times except to go to work, to attend school, to perform community restitution and as specifically allowed in each instance by the adult probation officer.

5. Allowing administration of drug and alcohol tests if requested by a member of the intensive probation team.

6. Performing not less than forty hours of community restitution each month. Offenders who are ~~F~~full-time students, employed or in a treatment program approved by the court or the probation department may be exempted or required to perform fewer hours of community restitution. For good cause, the court may reduce the number of community restitution hours performed to not less than twenty hours each month.

7. Meeting any other conditions imposed by the court to meet the needs of the offender and limit the risks to the community, including participation in a program of community punishment authorized in title 12, chapter 2, article 11.

2. Good cause, in the context of reducing an intensive probationer's monthly community restitution requirement, includes but is not limited to:
 - a. Physical or mental disability;
 - b. Physical or mental illness;
 - c. Completion of residential treatment;
 - d. ~~Working full time and attending at least six college credit hours or six hours at general equivalency diploma, adult basic education or vocational education classes per week;~~
 - e. ~~Working full time and participating in a licensed intensive outpatient, or day treatment program;~~
 - fd Successful completion of any level of intensive probation; or
 - ge Progress with positive behavioral changes.
3. An officer shall not recommend reduction of below twenty hours per month.
4. The court shall exempt community restitution requirements while the probationer is incarcerated or participating in residential treatment.
5. A.R.S. § 13-918(B) provides:

The person's wages shall be paid directly to an account established by the chief adult probation officer from which the chief adult probation officer shall make payments for restitution, probation fees, fines and other payments. The balance of the monies shall be placed in an account to be used for or paid to the person or his immediate family in a manner and in such amounts as determined by the chief adult probation officer or the court. Any monies remaining in the account at the time the person successfully completes probation shall be paid to the person.

J. through M. [no changes]

N. Minimum Supervision Requirements.

1. The following supervision requirements are established as minimum thresholds for intensive probationers being supervised in the community without waiver provisions. Each probation department may establish more rigorous intensive supervision requirements. Each chief probation officer shall ensure that all established minimum intensive supervision requirements are provided in writing to each intensive probation team, along with training on adherence to those requirements.

2. The probation department shall establish and document minimum intensive supervision requirements for intensive probationers incarcerated in jail. Each probation department shall provide, in writing to each intensive probation team, the minimum intensive supervision requirements established for intensive probationers incarcerated in jail and furnish training on adherence to those requirements.
3. Supervision level I is reserved for probationers who assess as high risk on the standardized assessment or reassessment as well as newly sentenced probationers who assess as medium or low risk and shall include:
 - a. Visual contacts. The intensive probation team shall have a minimum of four visual contacts each week with each intensive probationer. Home contacts are required on a random and varied basis. Mandatory visual contacts may be made by other probation or surveillance officers when authorized by the chief probation officer. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
 - b. Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation team shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. The intensive probation team shall ~~have face-to-face, telephonic or written contact with the intensive probationer's employer~~ verify the probationer's employment each week. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.
4. Supervision level II is reserved for probationers who assess as high risk on the standardized assessment or reassessment and who have demonstrated positive behavioral change. A modification must be obtained from the court prior to placement on level II. Supervision level II shall include:
 - a. Visual contacts. The intensive probation team shall have a minimum of two visual contacts each week with each intensive probationer, with at least one occurring at the intensive probationer's residence. Mandatory visual contacts may be made by other probation or surveillance officers when authorized by the chief probation officer. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
 - b. Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation team shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. The intensive probation team shall ~~have face-to-face, telephonic or written contact with the intensive probationer's employer~~ verify the probationer's employment every two weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.

- c. Collateral contacts. The intensive probation team shall have a minimum of one collateral contact regarding each intensive probationer every two weeks, if applicable.
5. Supervision level III is designed for transitioning high risk probationers to standard probation supervision and as a step down from level I for probationers assessed as medium or low risk. A modification must be obtained from the court prior to placement on level III. Supervision level III shall include:
 - a. Visual contacts. The intensive probation team shall have a minimum of one visual contact each week with each intensive probationer, with at least one occurring at the intensive probationer's residence every other week. Mandatory visual contacts may be made by other probation or surveillance officers when authorized by the chief probation officer. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
 - b. Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation team shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. ~~The intensive probation team shall have face to face, telephonic or written contact with the intensive probationer's employer~~ verify the probationer's employment every two weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.
 - c. Collateral contacts. The intensive probation team shall have a minimum of one collateral contact regarding each intensive probationer every two weeks, if applicable.
6. Supervision level IV is reserved for probationers who assesses as medium or low risk on the standardized assessment or reassessment and is designed to be a transition between intensive and standard probation. The supervising probation officer may petition the court to reduce the level of supervision for a probationer that assesses as low risk on the standardized assessment or standardized reassessment. The case record shall document the circumstances for continuing probationers that assess as low risk on the standardized risk needs instrument on intensive probation supervision. A modification must be obtained from the court prior to placement on level IV. Supervision level IV shall include:
 - a. Visual contacts. The intensive probation team shall have a minimum of one visual contact every two weeks with each intensive probationer, occurring at the intensive probationer's residence. Mandatory visual contacts may be made by other probation or surveillance officers when authorized by the chief probation officer. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
 - b. Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation team shall notify the intensive probationer's employer of the

intensive probationer's probation status and employment verification requirements. The intensive probation team shall ~~have face-to-face, telephonic or written contact with the intensive probationer's employer once~~ verify the probationer's employment every four weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.

- c. Collateral contacts. The intensive probation team shall have a minimum of one collateral contact regarding each intensive probationer every 4 weeks, if applicable.
7. Supervision level V is reserved for intensive probationers participating in residential treatment. On release from residential treatment, the intensive probation team shall utilize the results of the standardized assessment or reassessment, along with the intensive probationer's compliance with the conditions of intensive probation, discharge plan supported by and involving the treatment provider, intensive probation team and intensive probationer, and any other relevant factors to recommend to the court placement on an appropriate supervision level. Supervision level V shall include:
- a. Visual contacts. The intensive probation team shall have a minimum of one visual contact every 30 days with each intensive probationer. Mandatory visual contacts may be made by other probation or surveillance officers when authorized by the chief probation officer. Visual contacts shall be varied, scheduled and unscheduled.
 - a. Treatment provider contacts. The intensive probation team shall have a minimum of one face-to-face, telephonic or written contact every 30 days with the intensive probationer's treatment provider.
 - c. Collateral contacts. The intensive probation team shall have a minimum of one collateral contact regarding each intensive probationer every 30 days, if applicable.
 - d. Community restitution. Intensive probationers participating in residential treatment are exempt from community restitution requirements.

O. Waiver Provisions.

1. through 5. **[no changes]**
6. A person placed on intensive probation and assigned to a waived officer shall be supervised by the intensive probation officer at supervision Contact Level 2 until the completion of the standardized assessment and initial case plan. The intensive probation officer shall utilize the results of the standardized assessment, along with the probationer's compliance with the conditions of intensive probation and any other relevant factors, and recommend to the court placement on an appropriate supervision contact level. Pursuant to A.R.S. § 13-917, if reductions or increases in supervision level are warranted, such reductions or increases shall be made by the court upon recommendation of the probation officer, as further described in L(8)(k).

- a. Contact Level 2 (CL2) shall be recommended for probationers assessing as high risk on the standardized assessment or reassessment. Minimum contact standards shall include:
- (1) Visual contacts: a minimum of two per week with the probationer, with at least one occurring at the probationer's residence. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
 - (2) Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation officer shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. The intensive probation officer shall ~~have face-to-face, telephonic or written contact with the intensive probationer's employer~~ verify the probationer's employment every two weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.
 - (3) Collateral contacts: The intensive probation officer shall have a minimum of one collateral contact regarding each intensive probationer every two weeks, if applicable.
- b. Contact Level 3 (CL3) may be recommended for probationers who have demonstrated positive behavioral change while under supervision contact level 2. Minimum contact standards shall include:
- (1) Visual contacts: a minimum of one visual contact per week, with at least one contact occurring at the probationer's residence every other week. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
 - (2) Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation officer shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. The intensive probation officer shall ~~have face-to-face, telephonic or written contact with the intensive probationer's employer~~ verify the probationer's employment every two weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.
 - (3) Collateral contacts: The intensive probation officer shall have a minimum of one collateral contact regarding each intensive probationer every two weeks, if applicable.
- c. Contact Level 4 (CL4) may be recommended for probationers assessing as medium or low risk on the standardized assessment or reassessment and who have demonstrated positive behavioral change while under supervision contact level 3. Intensive probation officers shall not recommend supervision contact level 4 for probationers who assess as high risk. Minimum contact standards shall include:

- (1) Visual contacts: a minimum of one visual contact every two weeks, occurring at the probationer's residence. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
 - (2) Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation officer shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. The intensive probation officer shall ~~have face-to-face, telephonic or written contact with the intensive probationer's employer~~ verify the probationer's employment every four weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.
 - (3) Collateral contacts: The intensive probation officer shall have a minimum of one collateral contact regarding each intensive probationer every four weeks, if applicable.
- d. Contact Level 5 (CL5) intensive probationers participating in residential treatment on release from residential treatment, the intensive probation officer shall utilize the results of the standardized assessment or reassessment, along with the intensive probationer's compliance with the conditions of intensive probation, discharge plan supported by and involving the treatment provider, intensive probation officer and intensive probationer, and any other relevant factors to recommend to the court placement on an appropriate supervision contact level. Minimum contact standards shall include:
- (1) Visual contacts. The intensive probation officer shall have a minimum of one visual contact every 30 days with each intensive probationer. Mandatory visual contacts may be made by other probation or surveillance officers when authorized by the chief probation officer. Visual contacts shall be varied, scheduled and unscheduled.
 - (2) Treatment provider contacts. The intensive probation officer shall have a minimum of one face-to-face, telephonic or written contact every 30 days with the intensive probationer's treatment provider.
 - (3) Collateral contacts. The intensive probation team shall have a minimum of one collateral contact regarding each intensive probationer every 30 days, if applicable.

P. [no changes]