

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
)  
ARIZONA CODE OF JUDICIAL ) Administrative Order  
ADMINISTRATION § 6-201.01: ) No. 2018 - 73  
STANDARD PROBATION EVIDENCE ) (Affecting Administrative  
BASED PRACTICE ) Order No. 2017-03)  
\_\_\_\_\_ )

An amendment to the above-captioned section of the Arizona Code of Judicial Administration having come before the Arizona Judicial Council on June 18, 2018, and having been approved and recommended for adoption,

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

IT IS ORDERED that Arizona Code of Judicial Administration § 6-201.01 is amended as indicated on the attached document. All other provisions of § 6-201.01, as originally adopted, remain unchanged and in effect.

IT IS FURTHER ORDERED that courts and probation departments shall not count reentry cases as direct cases pursuant to section ACJA § 6-201.01(I)(1)(a) unless and until the presiding judge of the superior court submits a plan and requests approval by the Administrative Director, Administrative Office of the Courts. The Administrative Director shall only approve a request and plan that present policies and procedures that meet the following criteria:

1. Aim to reduce offender risk and the likelihood of future criminal behavior that are consistent with the principles of evidence-based practices by initiating a reentry plan with each offender discharging from the Department of Corrections.
2. Address the requirement for a pre-release contact with the probationer within 90 calendar days of their discharge to assist the probationer to develop a plan and to secure items set forth in ACJA § 6-201.01(I)(1)(a)(1-8).
3. Provide that probationers will be supervised for a minimum of six to nine months to promote the successful reentry to the community based on risk and needs.

Dated this 8th day of August 2018.

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SCOTT BALES  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 2: Adult Services**  
**Section 6-201.01: Standard Probation Evidence Based Practice**

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

“Absconder” as provided in A.R.S. § 13-105(1) “means a probationer who has moved from the probationer’s primary residence without permission of the probation officer, who cannot be located within ninety days of the previous contact and against whom a petition to revoke has been filed in the superior court alleging that the probationer’s whereabouts are unknown. A probationer is no longer deemed an absconder when the probationer is voluntarily or involuntarily returned to probation service.”

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

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

“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.

“AOC” means Arizona Supreme Court, Administrative Office of the Courts.

“Arrest notification” means a notice, by any means, that the probationer has been arrested, cited or had official contact with law enforcement officer.

“Average caseload” means the departmental total of direct 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.

“Collateral” means any individual or agency that has a relationship to a particular probationer that serves as a source of information or point of contact, including but not limited to friends, family members, law enforcement, victims, community members, neighbors, treatment providers or other associates.

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

“Direct case” means probationers actively supervised.

“Employment verification” means face-to-face communication, telephone contact, obtaining pay stubs, or other electronic means as approved by the department.

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

“Hand counts” means the manual tabulation of all standard probation case files in the probation department, conducted independently from any automated system.

~~“Pro social activity” means any action or event that promotes sobriety and/or provides an opportunity for building a social support system that encourages a crime free lifestyle and improved community bonds.~~

“Residing temporarily” means living at a location for 30 days or less.

“Residential treatment” means any type of licensed treatment or counseling where the probationer resides at the facility. “Short term residential treatment” is 30 days or less. “Long term residential treatment” is 31 days or more. Halfway houses are not considered residential treatment.

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

“Standardized assessment” means the state-approved tool to determine the offender’s needs related to criminal behavior and propensity to re-offend.

“Standardized reassessment” means the state-approved tool designed to measure changes in the offender’s needs related to criminal behavior and propensity to re-offend.

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

“Tracking system” means the AOC approved automated case management system which contains adult probation staff work product created and used by adult probation to manage and access cases for purposes of supervision.

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

**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 AOC shall administer state aid funding for adult standard probation on behalf of the supreme court. The following requirements are adopted to govern the administration and operation of standard probation supervision. A.R.S. § 13-805(A)(B)(C) provides:

A. ~~The trial court shall retain jurisdiction of the case for purposes of ordering, modifying and enforcing the manner in which court ordered payments are made until paid in full or until the defendant’s sentence expires. as follows:~~

1. Subject to paragraph 2 of this subsection, for purposes of ordering, modifying and enforcing the manner in which court-ordered payments are made until paid in full or until the defendant's sentence expires.

2. For all restitution orders in favor of a victim, including liens and criminal restitution orders, for purposes of ordering, modifying and enforcing the manner in which payments are made until paid in full.

B. At the time the defendant is ordered to pay restitution by the ~~superior~~ court, the court may enter a criminal restitution order in favor of each person who is entitled to restitution for the unpaid balance of any restitution order. A criminal restitution order does not affect any other monetary obligation imposed on the defendant pursuant to law.

C. At the time the defendant completes the defendant’s period of probation or the defendant’s sentence or the defendant absconds from probation or the defendant’s sentence, the court shall enter both:

1. A criminal restitution order in favor of the state for the unpaid balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.

2. A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered, if a criminal restitution order is not issued pursuant to subsection B of this section.

The provisions of this code section requiring a probation officer to request a criminal restitution order apply to a probationer who moved from the probationer's primary residence on or after July 20, 2011 without permission of the probation officer.

**C. – E. [No changes]**

**F. Program Plan and Financial Management.**

**1. – 7. [No changes]**

8. A.R.S. § 12-262(A)(2) provides that state aid for probation services shall "...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. § 12-267(D) provides: "State monies expended from the adult probation services fund shall be used to supplement, not supplant, county appropriations for the superior court adult probation department." State funds shall not be used by the county for administrative overhead or to reduce the level of county funding available for adult probation services.

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.

**9. – 18. [No changes]**

**G. – H. [No changes]**

**I. Direct Case.**

1. The standard probation officer's direct caseload shall include:

a. Probationers within 90 calendar days of their discharge from the Arizona Department of Corrections (ADC). Departments, at a minimum, shall complete a pre-release contact with the probationer, via telephone or in person, to assist the probationer to develop a plan to secure the following as needed:

(1) Valid state driver license or identification card;

(2) Housing;

(3) Health care;

(4) Prescribed medications;

(5) Transportation;

(6) Potential interstate compact or intercounty transfer;

(7) Social Security card;

(8) Birth certificate.

- ab. Probationers residing in the officer's county and receiving direct supervision services, regardless of supervision level;
  - bc. Probationers in jail in the officer's county who are participating in work furlough, work release or job search or pending probation revocation proceedings, regardless of the length of incarceration;
  - ed. Probationers in residential treatment in the officer's county;
  - de. Probationers in short or long term residential treatment in another county unless transferred pursuant to ACJA 6-211;
  - ef. Probationers placed on probation after January 1, 1999, in a limited jurisdiction court, for aggravated domestic violence;
  - fg. Probationers residing temporarily out of the officer's county or state through the issuance of a travel permit;
  - gh. Probationers in the officer's county on behalf of another state in accordance with the Interstate Compact for Adult Offender Supervision; and
  - hi. Probationers on warrant status for less than 90 days.
2. The standard probation officer's direct caseload shall not include:
- a. ~~Probationers~~ Inmates imprisoned in the ADC who will be released to community supervision with the ADC ~~Arizona Department of Corrections as a condition of probation~~;
  - b. Probationers residing in another state through the Interstate Compact for Adult Offender Supervision;
  - c. Probationers considered absconders with an active warrant for 90 days or more;
  - d. Probationers deported to another country and the officer has received a copy of the deportation notice;
  - e. ~~Probationers~~ Inmates serving concurrent or consecutive prison commitments who are not within 90 calendar days of their discharge from ADC;
  - f. Probationers ~~residing in another county pending acceptance of~~ transferred to another county;
  - g. ~~Probationers in long term residential treatment in another county~~;

~~h. Probationers residing in another state or county, regardless of whether they may be reporting to their county in person or in writing;~~

gi. An offender not yet convicted who is participating in a diversion program;

hj. Probationers in jail as a condition of probation, regardless of the length of incarceration, who are not participating in work furlough, work release, or job search program.

ik. Offenders supervised as a part of pretrial services; or

jl. Unsupervised or summary probation cases.

## **J. Program Operations.**

1. Each probation department shall develop:

a. – f. **[No changes]**

g. Policies and procedures which require officers to maintain accurate and timely records of the completion of statutorily required or court ordered community restitution hours for each probationer. Credit toward court-ordered community restitution requirements are awarded on the basis of actual hours completed unless otherwise authorized by the court.

h. – m. **[No changes]**

2. - 3. **[No changes]**

4. A.R.S. § 12-253(1) provides that adult probation officers shall “Make and file a complete record of persons placed under suspended sentence by the court, and of all reports made to the officer in writing or in person, in accordance with the conditions imposed by the court.” Adult probation officers shall immediately contact the law enforcement officer or agencies involved on receipt of an arrest notification to ascertain the nature and circumstances surrounding the contact and obtain a copy of any corresponding incident report or citation. The supervising probation officer shall document in the case record and tracking system all contacts, information received pertaining to the incident, and actions taken as a result of the incident. Probations officers shall also document information, including but not limited to, violation behavior, positive progress and behavioral changes.

5. A.R.S. § 12-253(2) provides that adult probation officers shall “Exercise general supervision and observation over persons under suspended sentence, subject to control and direction by the court.”

a. Adult probation officers shall:

(1) - (10) [No changes]

(11) Document in the case record and tracking system that a case plan is not needed for an assessed low risk probationer if no case plan is required;

(12) Conduct documented case file reviews for probationers assessed as low risk every year. Case file reviews shall include, but are not limited to, case notes, collateral information and investigation of any arrest notification.

(a) Actions shall be taken in response to indicators of changes in criminogenic risk and needs or involvement in criminal conduct.

(b) Probationers that are eligible and in compliance with court-ordered conditions of probation shall be recommended for early termination. The officer shall recommend that any outstanding financial obligations be reduced to a criminal restitution order.

(c) Probationers with outstanding restitution are not eligible for early termination;

(13) – (16) [No changes]

b. Adult probation officers shall provide a written directive to the probationer referring the probationer to an appropriate service provider within 60 days of sentencing, release from custody as a condition of probation, or when identification of a the need if a need for treatment, education or counseling is identified through the use of a statewide standardized assessment, ~~or is ordered by the court, or otherwise identified.~~ If more than one area of treatment or counseling is identified, the supervising probation officer shall prioritize the needs and address the one with highest priority within the prescribed time frame. The supervising probation officer shall then address the remaining treatment or counseling areas in descending order.

c. The supervising probation officer shall administer or cause to have administered alcohol and drug tests on a variable schedule, when appropriate. The frequency of testing shall be dependent upon the probationer's substance abuse history, unless otherwise directed by the court, and shall be documented in the case record and tracking system.

6. [No changes]

7. A.R.S. § 12-253(5) provides that adult probation officers shall “Secure and keep a complete identification record of every person released under a suspended sentence and a written statement of the conditions of the suspension.” Each standard probation officer shall maintain the tracking system and verifiable case records for each probationer supervised, including, but not limited to:

a. A written statement of the ordered conditions of probation;

b. An individual case plan setting forth behavioral expectations for probationers that assess as medium or high risk on the standardized assessment;

c. Contact logs detailing the time, nature and location of each contact made with each person on standard probation.

8. – 9. [No changes]

10. Probation officers, surveillance officers and absconder or warrant officers shall follow the minimum requirements for probationers on warrant status ~~for less than 90 days~~ as applicable:

- a. Physically check last known address and place of employment. Ask sources, such as neighbors, apartment managers and former employers, for information.
- b. Contact collaterals who may know the probationer's whereabouts including former associates, relatives and friends.
- c. Run a criminal history check.
- d. Validate obtained information with agencies and companies such as law enforcement and utility companies.
- e. Provide information that can be used for flyers and wanted posters for dissemination to local law enforcement that has jurisdiction.
- f. Follow up on these requirements at least once every ~~30 days~~ month and document efforts to locate and reengage the probationer until the probationer is apprehended; and
- g. Maintain a complete record of activities in case notes.

11. – 12. [No changes]

## **K. Minimum Supervision Requirements.**

1. - 3. [No changes]

4. The high risk probation supervision level shall include a monthly minimum of two of the following contacts per month, with at least one occurring with the probationer at the probationer's residence:

- a. Visual contact with the probationer. Visual contacts shall be varied, scheduled and unscheduled. The probation officer shall determine a schedule for visual contacts and supervision strategies that are proportionate to the level of risk and needs of the probationer based upon the results of the standardized assessment and other significant case information including the probationer's readiness to change.
- b. Contact with collateral sources who have meaningful knowledge of the probationer, if applicable.

5. [No changes]

6. The medium risk probation supervision level shall include a monthly minimum of one of the following contacts per month, with at least one occurring with the probationer at the probationer's residence every three months:
  - ~~a. An initial contact at the probationer's residence within 30 days of sentencing or release from incarceration;~~
  - ab. Visual contact with the probationer. Visual contacts shall be varied, scheduled and unscheduled. The probation officer shall determine a schedule for visual contacts and supervision strategies that are proportionate to the level of risk and needs of the probationer based upon the results of the standardized assessment and other significant case information including the probationer's readiness to change;
  - be. Contact with collateral sources who have meaningful knowledge of the probationer, if applicable.
7. The medium risk probation supervision level shall also include:
  - a. An initial contact at the probationer's residence within 30 days of sentencing or release from incarceration
  - ba. Investigation of arrest notification including periodic warrants check to be performed a minimum of no less than once prior to the termination of probation. Contact with probationers found to be involved in criminal conduct shall be initiated upon receipt of reliable information that criminal conduct has occurred. An officer shall respond to known serious violations and bring defaulting probationers into court when the conduct of the probationer justifies the court to revoke suspension of the sentence;
  - cb. Employment verification or employment search verification as necessary;
  - de. Community restitution monitoring;
  - ed. Alcohol and drug testing, as necessary;
  - fe. Treatment, counseling, or both, to include evidence-based interventions as necessary;
  - gf. Monitoring of court-ordered financial obligations;
  - hg. Development of case plans that target risk and needs areas evidenced to be significant predictors of risk to re-offend;
  - ih. The use of communication techniques that engage the probationer in his or her own case plan, motivation and goals;
  - ji. Responses to offender behavior pursuant to established departmental policies on graduated responses of consequences and incentives;

kj. Evaluation of ongoing supervision and strategies; and

lk. Consideration for early termination for eligible probationers' meeting behavioral goals and in compliance with court-ordered conditions of probation. The probation officer shall recommend that outstanding financial obligations be reduced to a criminal restitution order. Probationers with outstanding restitution shall not be considered for early termination.

8. The low risk probation supervision level shall include:

a. A minimum of one visual contact with the probationer as an initial interview to provide instruction on the conditions of probation and behavioral expectations. The probation officer shall determine supervision strategies that are proportionate to the level of risk and needs of the probationer based upon the results of the standardized assessment and other significant case information.

b. Subsequent visual contacts shall be varied, scheduled and unscheduled with at least one ~~residence~~ contact with the probationer at their residence within 60 days of sentencing or release from incarceration;

cb. Employment verification as necessary;

de. Investigation of arrest notification, including periodic warrants check to be performed a minimum of no less than once prior to the termination of probation. Contact with probationers found to be involved in criminal conduct shall be initiated upon receipt of reliable information that criminal conduct has occurred. An officer shall respond to known serious violations and bring defaulting probationers into court when the conduct of the probationer justifies the court to revoke suspension of the sentence;

ed. Community restitution monitoring;

fe. Alcohol and drug testing, as necessary;

gf. Treatment, counseling or both, as necessary, to include evidence-based interventions, as necessary;

hg. Monitoring of court-ordered financial obligations;

ih. Reviewing of probationer report letters and telephonic correspondence;

ji. Contact with collateral sources, as necessary;

kj. Annual review of case file;

lk. Evaluation of ongoing supervision and strategies; and

m. Consideration for early termination for eligible probationers' meeting behavioral goals and in compliance with court-ordered conditions of probation. The probation officer shall recommend that outstanding financial obligations be reduced to a criminal restitution order. Probationers with outstanding restitution shall not be considered for early termination.

9. **[No changes]**

**L. [No changes]**