

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)

ARIZONA CODE OF JUDICIAL)
ADMINISTRATION § 6-201.01:)
STANDARD PROBATION)
EVIDENCE BASED PRACTICE)

Administrative Order
No. 2020 - 19
(Affecting Administrative
Order No. 2018-73)

An amendment to the above-captioned section of the Arizona Code of Judicial Administration came before the Arizona Judicial Council on December 12, 2019 and was 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 remain unchanged and in effect.

Dated this 15th day of January, 2020.

ROBERT BRUTINEL
Chief Justice

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

A. – I. [No Change]

J. Program Operations.

1. Each probation department shall develop:

a.-m. [No Change]

n. Policies and procedures to ensure the securing, transmission, verification and confirmation of deoxyribonucleic acid (DNA) samples on record with the department of public safety (DPS).

2.– 8. [No Change]

9. A.R.S. § 12-253(7) provides that adult probation officers shall “Bring defaulting probationers into court when in the probation officer’s judgment the conduct of the probationer justifies the court to revoke suspension of the sentence.”

a. Adult probation officers shall make a documented effort to locate a defaulting probationer. If the probationer is not located within 90 days, the supervising probation officers shall file a petition to revoke probation; for a probationer who is an absconder as defined in A.R.S. § 13-105(1), seek request a criminal restitution order pursuant to A.R.S. § 13-805(C)(1)(2), for a probationer who is an absconder as defined in A.R.S. § 13-105(1) on the 91st day, or at the earliest opportunity thereafter, but no later than the 120th day, and request that the court issue a warrant. The supervising probation officer may file the petition to revoke sooner based on the circumstances surrounding the case and the need for community protection.

~~b. The probation department’s efforts to locate the probationer shall continue until the probationer is apprehended.~~

b. e. The supervising probation officer may file the petition to revoke sooner based on the circumstances surrounding the case and the need for community protection. When a petition to revoke probation is filed for a probationer who is an absconder as defined in A.R.S. § 13-105(1) prior to the expiration of 90 days, the probation officer shall seek request a criminal restitution order upon the expiration of 90 days, pursuant to A.R.S. § 13-805 (C)(1)(2) on the 91st day, or at the earliest opportunity thereafter, but no later than the 120th day, for a probationer who is an absconder as defined in A.R.S. § 13-105(1). The probation officer shall ensure the criminal restitution order is not requested prior to the 91st day and that any criminal restitution order is for monies not already ordered in a previous criminal restitution order.

- c. The probation department's efforts to locate the probationer shall continue until the probationer is apprehended.

10.-11. [No Change]

- 12. Notify the court having jurisdiction upon finding that the probationer has become in arrears in an amount totaling two full court ordered monthly payments of restitution. This notification shall consist of a petition to modify, petition to revoke, or memorandum to the court outlining the reasons for the delinquencies and expected duration thereof. A copy of the memorandum shall be provided to the victim, if the victim has requested notice of restitution modifications;

13. A.R.S. § 13-610 (C) provides:

Within thirty days after a person is convicted and placed on probation without a term of incarceration or adjudicated delinquent and placed on probation, the county probation department shall secure a sufficient sample of blood or other bodily substances for deoxyribonucleic acid testing and extraction from the person if the person was convicted of or adjudicated delinquent for an offense listed in this section. The county probation department shall transmit the sample to the department of public safety.

A.R.S. § 13-610 (D) provides:

Within thirty days after the arrival of a person who is accepted under the interstate compact for the supervision of parolees and probationers and who is under the supervision of a county probation department, the county probation department shall secure a sufficient sample of blood or other bodily substances for deoxyribonucleic acid testing and extraction from the person if the person was convicted of an offense that was committed in another jurisdiction that if committed in this state would be a violation of any offense listed in this section and was sentenced to a term of probation. The county probation department shall transmit the sample to the department of public safety.

- a. The adult probation department shall document the date the DNA sample was secured and the date transmitted to DPS in the tracking system's DNA screen and case record.
- b. Within 60 days of transmission of the sample to DPS, the adult probation department shall verify that the sample was received and recorded by DPS by accessing the DPS link in the tracking system. The adult probation department shall document this verification in the tracking system's DNA screen and case record.

- c. If the 60-day verification does not indicate receipt and recording of the sample by DPS, the adult probation departments shall repeat the verification in J(13)(b) every six months until determining that the sample was received and recorded by DPS. The adult probation department shall document each attempted verification in the case record. Once DPS has recorded the sample, the adult probation department shall enter the date in the tracking system's DNA screen and case record.
- d. If DNA was previously secured, transmitted and verified by an agency, other than a probation department, the adult probation department shall confirm DNA is recorded by DPS by accessing the DPS link in the tracking system within 30 days of a probationer's placement on probation, initial release from custody, or acceptance of incoming interstate compact.
- e. If DNA was previously secured, transmitted and verified by a probation department, the adult probation department shall confirm DNA is recorded by DPS by reviewing the DNA screen in the tracking system and document the confirmation in the case record.
- f. If the DNA screen in the tracking system is incomplete, the adult probation department shall complete the DNA process described herein.

K. – L. [No Change]