

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ADOPTING ARIZONA CODE OF) Administrative Order
JUDICIAL ADMINISTRATION § 5-209:) No. 2023 - 118
COURT-APPROVED DOMESTIC)
VIOLENCE OFFENDER TREATMENT)
PROGRAMS)
_____)

The above-captioned new section of the Arizona Code of Judicial Administration (ACJA) having come before the Arizona Judicial Council on June 27, 2023 was approved and recommended for adoption.

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

IT IS ORDERED that the above-captioned new section ACJA § 5-209, as indicated on the attached document, is adopted.

Dated this 3rd day of July, 2023.

ROBERT BRUTINEL
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 2: Programs and Standards

Section 5-209: Court-Approved Domestic Violence Offender Treatment Programs

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

“Alternative provider” means a facility that offers a domestic violence offender treatment program and is not otherwise approved by the Arizona Department of Health Services, a probation department, or the United States Department of Veterans Affairs.

“Court” means the superior court or any court of limited jurisdiction.

“Director” means the Administrative Director of the Administrative Office of the Courts.

“Domestic violence” has the meaning given in A.R.S. § 13-3601.

“Domestic violence specialist” means a person who has specific training, knowledge, and experience in the fields of partner abuse, child abuse, sexual abuse, and the dynamics of violence and abuse; has at least six months of full-time work experience with domestic violence offenders or other criminal offenders; and uses a curriculum that is supported by research and has been specifically developed for domestic violence offenders.

“Intimate partner relationship” means a relationship between a defendant and a victim:

- who, in the present or the past, have been married to each other, lived together intimately, or had a romantic or sexual relationship with each other;
- who have a child in common; or
- in which one person currently is pregnant with the other’s child.

B. Applicability. This section applies to any court that approves a domestic violence offender treatment program provider that is not otherwise approved by the Arizona Department of Health Services, a probation department, or the United States Department of Veterans Affairs.

C. Purpose. The purpose of this section is to implement the provisions of A.R.S. § 13-3601.01, which authorizes courts to approve facilities to provide domestic violence offender treatment programs to domestic violence offenders. This section establishes minimum standards that a court must follow when approving a provider that is not otherwise approved by the Arizona Department of Health Services, a probation department, or the United States Department of Veterans Affairs.

This section acknowledges that differential responses are appropriate based on the relationship between the defendant and the victim, creates access to appropriate services in rural communities, and ensures the ongoing evaluation of alternative providers.

D. General Administration.

1. A court that orders a defendant to participate in domestic violence offender treatment must order the defendant to attend a program that is approved by the court pursuant to this section, the Arizona Department of Health Services, a probation department, or the United States Department of Veterans Affairs.
2. A court that orders a defendant to attend a domestic violence offender program offered by an alternative provider must ensure that the program meets the minimum standards in subsection (E). If the defendant and the victim have an intimate partner relationship or if the defendant has a history of domestic violence within an intimate partner relationship, the court must ensure that the alternative provider's program also meets the additional standards defined in subsection (F). The Questionnaire for Alternative Domestic Violence Program Providers in the form approved by the Director must be completed and submitted to the court by an authorized representative of the alternative provider.
3. If a court approves an alternative provider, the court must issue written approval to the provider. The court must reassess the program every 12 months and issue another written approval if the approval is renewed.
4. Where practicable, a court that sentences a defendant to a program offered by an alternative provider should conduct periodic review hearings to ensure program compliance and effectiveness.

E. Minimum Standards for All Court-Approved Alternative Providers. Before the court approves an alternative provider, the court must ensure that the alternative provider:

1. Has a program description that includes a method for providing domestic violence education.
2. Provides domestic violence education using a curriculum that is supported by published research.
3. Ensures that its program does not disproportionately or exclusively include one or more of the following:
 - a. Anger or stress management.
 - b. Conflict resolution.
 - c. Education or information about family violence.
 - d. Education or information about domestic violence.
4. Ensures that its program emphasizes personal responsibility.

5. Complies with the notification, recordkeeping, and reporting requirements in subsection (H).

F. Additional Standards for Court-Approved Alternative Providers. If the relationship between the defendant and the victim is an intimate partner relationship or the defendant has a history of domestic violence within an intimate partner relationship, then the court must ensure that the alternative provider's program also meets the following criteria:

1. Provides documentation to the court that it has conducted domestic violence offender programs for at least one year.
2. Identifies domestic violence as a means of asserting power and control over another individual.
3. Uses a curriculum that is supported by published research and has been specifically developed for domestic violence offenders.
4. Does not require the participation of a victim of domestic violence.
5. Is not provided at a location where a victim of domestic violence is sheltered.
6. Includes individual classes, group classes, or a combination of individual and group classes that are conducted in person or by interactive video link and that are:
 - a. Conducted by a domestic violence specialist who has licensed personnel in the field of human behavior available for consultation and direction.
 - b. Documented in the defendant's record.
 - c. Comprised of 15 persons or fewer in group classes.
 - d. For classes provided by interactive video link, the program:
 - i. Is designed with safeguards in place to assure confidentiality for both the victim and the defendant.
 - ii. Has a policy to ensure that the defendant is alone in the area where the defendant is participating in the class.
 - iii. Has established a process to verify the defendant's identity.
7. Provides classes that meet the following minimum number and duration requirements:
 - a. Sessions. The program includes, at a minimum, the following number of sessions to be completed after the applicable offense for which the defendant is required to complete a domestic violence offender program:

- i. For a first offense, 26 sessions.
 - ii. For a second offense, 36 sessions.
 - iii. For a third offense or any subsequent offense, 52 sessions.
- b. Duration. The duration of a session is:
- i. For an individual session, not less than 50 minutes.
 - ii. For a group session, not less than 90 minutes and not longer than 180 minutes.

G. Risk Assessment. If the provider uses a risk assessment instrument that is validated and evidence-based and assesses a defendant's ongoing risk as the classes progress, the provider may provide written justification, along with the risk assessment results and the progress reports, to the sentencing court. Notwithstanding subsection (F)(7)(a), after consideration of the provider's written justification, the risk assessment results, and the progress reports, the sentencing court may exercise its discretion to decrease or increase the number of classes in which the defendant is required to participate.

H. Notices, Recordkeeping, and Reporting Requirements. The court must ensure that an alternative provider has developed, documented, and implemented policies and procedures that give notice to the defendant of the program's expectations, require the maintenance of specific records, and require specific reporting to the court regarding the defendant's progress.

1. The provider's policies and procedures must include provisions for providing the defendant with the following:
 - a. At the time of admission, notice of:
 - i. The process for a defendant to begin and complete the program.
 - ii. The timeline for a defendant to begin the program.
 - iii. The timeline for a defendant to complete the program, which cannot exceed 12 months.
 - iv. The criteria for successful completion of the program, including attendance, conduct, and participation requirements.
 - v. The consequences to the defendant if the defendant fails to successfully complete the program.
 - vi. A notice of confidentiality and a consent form signed by the defendant at time of intake authorizing release of information to a multidisciplinary team.

- b. At the time of completion, an original of the defendant's certificate of completion that includes the required information in subsection H(2)(e).
2. Recordkeeping. The court must ensure that the alternative provider maintains the following records:
 - a. All notices to the defendant as identified in H(1).
 - b. Attendance records.
 - c. Records of individual classes.
 - d. Any reports submitted to the court.
 - e. A certificate of completion that includes:
 - i. The case number or identification number assigned to the defendant by the referring court or, if the provider has made three documented attempts to obtain the case number or identification number without success, the defendant's date of birth.
 - ii. The defendant's name.
 - iii. The date of completion of the program.
 - iv. The name, address, and telephone number of the provider.
 - v. The signature of an individual authorized to sign on behalf of the provider.
3. Reporting to the Court. The court must ensure that the alternative provider will submit a written report to the court that ordered the defendant into the program, within a timeline established by the referring court, when any of the following occurs:
 - a. A defendant has not reported for admission to the program.
 - b. A defendant is ineligible or inappropriate for the program.
 - c. A defendant is admitted to the program.
 - d. A defendant is voluntarily or involuntarily discharged from the program.
 - e. A defendant fails to comply with the program.
 - f. A defendant completes the program. The written report must include a copy of the defendant's certificate of completion that meets the requirements in subsection H(2)(e).