

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 2: Programs and Standards

Section 5-201: Evidence Based Pretrial Services

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

“Court” or “courts” means superior court or limited jurisdiction court.

“Electronic Monitoring” means various technologies utilized to monitor a defendant’s compliance with release conditions, including use of global positioning satellite and radio frequency.

“Evidence based practices” means programs, assessments and supervision policies and practices that scientific research demonstrates reduce instances of a pretrial defendant’s failure to appear in court and involvement in criminal activity.

“Offense” (or public offense) means “conduct for which a sentence to a term of imprisonment or of a fine is provided by any law of the state in which it occurred or by any law, regulation or ordinance of a political subdivision of that state and, if the act occurred in a state other than this state, it would be so punishable under the laws, regulations or ordinances of this state or of a political subdivision of this state if the act had occurred in this state” as provided in A.R.S. § 13-105(27).

“Pretrial risk assessment” means a state-approved validated actuarial assessment that predicts a pretrial defendant’s risk of committing a new crime or failing to appear while on pretrial release for the purpose of assisting the court in determining release decisions and release conditions and to assist the pretrial services staff with supervision monitoring requirements.

“Pretrial services” means programs that perform functions to assist the court in making prompt, fair, and effective decisions regarding the release, detention or conditions of release of persons arrested.

“Pretrial services staff” means court employees who assist the court in making determinations regarding the release or detention of persons arrested, make recommendations for release conditions, and provide supervision or monitoring of persons released under supervision. Pretrial services staff includes probation officers who perform these duties.

“Pretrial supervision” means monitoring and supervising defendants who are released pursuant to A.R.S. § 13-3967(D)(5) to minimize risks of committing a new crime or failing to appear while on pretrial release.

“Release order” means the court order that contains the conditions and restrictions imposed by the court as well as the next court date and location.

“Risk” means measurable factors that correlate to a pretrial defendant’s probability of committing a new crime or failing to appear while on pretrial release that are gathered

through a standardized risk assessment instrument, information from the defendant, victims, interested parties or other sources of information.

B. Purpose.

This code section provides the scope, requirements, and procedures for Arizona courts to establish and operate pretrial services consistent with evidence-based practices. The superior court in each county may operate pretrial services in the probation department, pretrial services department or court administration. Municipal and justice courts may also establish and operate pretrial services.

The purpose of pretrial services is to provide information that will assist the court in making pretrial release decisions, as well as supervising defendants who are released pursuant to A.R.S. § 13-3967(D)(5).

C. Authority.

1. Az. Const. Art. 6, § 3, provides that the supreme court shall have administrative supervision over all the courts of the state. As part of that administrative supervision, this code section establishes requirements for the formation and operation of pretrial service programs consistent with Az. Const. Art. 2 § 22(A),(B) and A.R.S. § 13-3967.
2. In order to assist the court in making determinations regarding release, the imposition of conditions of release or to make determinations regarding violations of conditions of release pursuant to Az. Const. Art. 2 § 22(A),(B), and A.R.S. § 13-3967(C),(D)(5), pretrial services shall have authority to interview and process all persons charged with an offense either before or after first appearance.

D. Applicability.

This code section applies to all courts or court departments that operate pretrial services including interviewing pretrial defendants, administering pretrial risk assessments, providing recommendations regarding release conditions and/or supervising persons released to pretrial supervision.

E. Program Operations.

1. Courts operating pretrial services shall use a pretrial risk assessment tool approved by the Arizona Judicial Council to assist in determining a defendant's likelihood of committing a new crime or failing to appear for court while on pretrial release. The results of the pretrial risk assessment tool shall be provided to the court prior to the initial appearance and, when requested by the court, for use at any hearing in which release decisions are made.
2. To the extent this information is available, pretrial services staff shall assist in providing the following for the court's consideration in determining release decisions, pursuant to A.R.S. § 13-3967(A),(B):

1. The views of the victim.
2. The nature and circumstances of the offense charged.
3. The weight of evidence against the accused.
4. The accused's family ties, employment, financial resources, character and mental condition.
5. The results of any drug test submitted to the court.
6. Whether the accused is using any substance if its possession or use is illegal pursuant to chapter 34 of this title.
7. Whether the accused violated section 13-3407, subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.
8. The length of residence in the community.
9. The accused's record of arrests and convictions.
10. The accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.
11. Whether the accused has entered or remained in the United States illegally.
12. Whether the accused's residence is in this state, in another state or outside the United States.

3. A.R.S. § 13-3967(D)-(E) states:

D. After providing notice to the victim pursuant to section 13-4406, a judicial officer may impose any of the following conditions on a person who is released on his own recognizance or on bail:

1. Place the person in the custody of a designated person or organization agreeing to supervise him.
2. Place restrictions on the person's travel, associates or place of abode during the period of release.
3. Require the deposit with the clerk of the court of cash or other security, such deposit to be returned on the performance of the conditions of release.
4. Prohibit the person from possessing any dangerous weapon or engaging in certain described activities or indulging in intoxicating liquors or certain drugs.
5. Require the person to report regularly to and remain under the supervision of an officer of the court.
6. Impose any other conditions deemed reasonably necessary to assure appearance as required including a condition requiring that the person return to custody after specified hours.

E. In addition to any of the conditions a judicial officer may impose pursuant to subsection D of this section, the judicial officer shall impose both of the following conditions on a person who is charged with a felony violation of chapter 14 or 35.1 of this title and who is released on his own recognizance or on bail:

1. Electronic monitoring where available.
2. A condition prohibiting the person from having any contact with the victim.

4. Pretrial services staff shall provide information and may make recommendations to assist the court in setting release conditions consistent with A.R.S. § 13-3967(D)-(E) and local policy. Release conditions recommendations shall be based on results from a risk assessment, and may also include but are not limited to:
 - a. Use of electronic monitoring;
 - b. Imposing curfews or house arrest;
 - c. Drug and alcohol monitoring, testing, evaluation or treatment; and
 - d. Assessing needs of seriously mentally ill defendants.
5. Pretrial services staff supervising defendants released to pretrial supervision shall:
 - a. Ensure released defendants are informed of their next court date and, when required by local policy, provide released defendants with a reminder of future court dates;
 - b. Inform the court of violations of pretrial release conditions pursuant to local policy;
 - c. Facilitate the return to court of defendants who fail to appear for their scheduled court dates;
 - d. Make arrests of persons on pretrial release if authorized pursuant to A.R.S. § 12-256;
 - e. Promptly inform the court of any danger the person poses to other persons or the community, or other significant changes that may impact the person's risk; and
 - f. Provide reports to the court to inform of violations or assist the court in modification or revocation of conditions of release pursuant to Rule 7.4(b) or 7.5(c), Rules of Criminal Procedure.
6. When juveniles transferred or charged in adult court are released to pretrial supervision, pretrial services staff shall assist the court as necessary in notifying the appropriate school district, pursuant to A.R.S. § 13-3967(J) which provides:

A judicial officer who orders the release of a juvenile who has been transferred to the criminal division of the superior court pursuant to section 8-327 or who has been charged as an adult pursuant to section 13-501 shall notify the appropriate school district on the release of the juvenile from custody.
7. Courts shall establish supervision requirements which support the goals of minimizing the risk of defendants committing a new crime or failing to appear while on pretrial release.

F. General Administration.

1. A presiding judge or designee operating pretrial services or pretrial supervision shall adopt policies and procedures in support of this code that conform with this section and are consistent with the principles of evidence-based practices.
2. A presiding judge or designee operating pretrial services or pretrial supervision shall provide data reports to the AOC as requested.

G. Training Requirements.

1. Courts using a risk assessment instrument shall ensure that pretrial services staff responsible for administration of a pretrial risk assessment instrument complete approved training.
2. Courts that provide supervision of persons released under supervision of a pretrial services agency shall ensure that all pretrial services staff providing supervision have completed approved training.

Adopted by Administrative Order 2014-12, effective January 10, 2014.