

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-19-0014  
RULES 27.1, 27.3, AND 27.4, RULES )  
OF CRIMINAL PROCEDURE )  
 )  
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 )  
 ) **FILED 08/27/2019**  
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**ORDER  
AMENDING RULES 27.1, 27.3, AND 27.4, RULES OF CRIMINAL PROCEDURE**

A petition having been filed proposing to amend Rule 27.1, 27.3, and 27.4, Rules of Criminal Procedure, and one comment having been received, upon consideration,

**IT IS ORDERED** that Rules 27.1, 27.3, and 27.4, Rules of Criminal Procedure, be amended in accordance with the attachment hereto, effective January 1, 2020.

DATED this 27th day of August, 2019.

\_\_\_\_\_/s/\_\_\_\_\_  
ROBERT BRUTINEL  
Chief Justice

TO:  
Rule 28 Distribution  
David K Byers  
Lise R Witt

**ATTACHMENT\***

(\*Additions to text are indicated by underscoring; deletions by strikeouts.)

**Rule 27.1 Conditions and Regulations of Probation**

**(a) Definitions.**

(1) *Condition.* “Condition” means any court-ordered term of probation.

(2) *Regulation.* “Regulation” means any specific instructions or directives given by a probation officer to a probationer to implement a court-imposed condition of probation.

**(b) Authority of the Court and the Probation Officer.** The sentencing court may impose conditions on a probationer that promote rehabilitation and protect any victim. The probation officer ~~or any other person the court designates~~ also may impose regulations that are necessary to implement the court's conditions and that are consistent with them. The court and probation officer must give the probationer a written copy of the conditions and regulations. Unless there is an intergovernmental agreement to the contrary, references to and notice requirements for probation officers do not apply in limited jurisdiction courts.

**Rule 27.3 Modification of Conditions or Regulations**

**(a) Definitions.**

(1) *Condition.* ~~“Condition” means any court-ordered term of probation.~~

(2) *Regulation.* ~~“Regulation” means any term imposed by the probation department, or by any other person the court designates to implement a court-imposed condition of probation.~~

~~(b)~~ **(a) By a Probation Officer.** A probation officer ~~or any other person the court designates~~ may modify or clarify any regulation imposed.

~~(e)~~ **(b) By the Court.**

(1) *Generally.* ~~After giving notice to the State, the probationer, and a victim who has the right to notice under Rule 27.10, the court may modify or clarify any term, condition, or regulation of probation. The court's authority to modify probation must comply with due process, statutory limitations, and party agreement. Any modification of probation must comply with case law and statutes, due process, and statutory limitations. The court may modify or clarify any condition or regulation of probation after:~~

(A) Giving notice to the State, the probationer, the probation department, and a victim who has the right to notice under Rule 27.10 and

(B) Considering an investigation report, when required by (b)(3) of this rule.

(2) *Who May Request Modification or Clarification.* At any time before the probationer's absolute discharge, a probationer, probation officer, the State, or any other person the court designates, may ask the court to modify or clarify any condition or regulation.

(3) Required Investigation Report. Upon any request for modification from supervised to unsupervised probation, the probation department must prepare and file an investigative report describing the probationer's compliance with conditions and regulations and recommending either for or against a request to modify.

(34) *Restitution.* At any time before the probationer's absolute discharge, persons entitled to restitution under a court order may ask the court, based on changed circumstances, to modify or clarify the manner in which restitution is paid.

(45) *Hearing.* The court may hold a hearing on any request for modification or clarification under (c)(2) or (c)(3).

~~(d)~~ **(c) Written Copy and Effect.** The probationer and the probation department must be given a written copy of any modification or clarification of a condition or regulation of probation. A modification of a regulation may go into effect immediately. An oral modification may not be the sole basis for revoking probation unless the condition or regulation is in writing and both the probationer and the probation department received a copy before the violation.

## **Rule 27.4 Early Termination of Probation**

### **(a) Discretionary Probation Termination.**

(1) Generally. At any time during the term of probation, the court may terminate probation and discharge the probationer as provided by law. ~~The court may take such action on the probationer's motion, the probation officer's motion, or on its own, but only after any required notice to the victim and the State.~~ after:

(A) Giving notice to the State, the probationer, the probation department, and the victim who has the right to notice under Rule 27.10; and

(B) Considering an investigation report.

(2) Who May Request Termination. At any time before the probationer's discharge from probation, the court may terminate probation and discharge the probationer on motion of the probationer, probation department, the State or the court.

(3) *Required Investigation Report.* Upon any request for termination, the probation department must prepare and file an investigative report describing the probationer's compliance with conditions and regulations and recommending either for or against a request to modify.

(4) *Hearing.* The court may hold a hearing on any request for early termination.

**(b) Earned Time Credit Probation Termination.** The court may reduce the term or duration of supervised probation for earned time credit as provided by law.

**(c) Written Copy and Effect.** The court must provide probationer and the probation department a copy of the order terminating probation and specifying the effective date.