

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
ARIZONA CODE OF JUDICIAL	)	Administrative Order
ADMINISTRATION § 6-211:	)	No. 2018 - <u>76</u>
INTERSTATE COURTESY	)	(Affecting Administrative
TRANSFERS	)	Order No. 2012-61)
_____	)	

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 § 6-211 is amended as indicated on the attached document. All other provisions of § 6-211, as originally adopted, remain unchanged and in effect.

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 6-211: Intercounty Courtesy Transfers**

**A. Definitions.**

~~“Absconder” means a probationer who has moved from the primary place of residence without permission of the probation officer or whose whereabouts are unknown. 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.”~~

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

“Court” means the superior court.

“Department” means the superior court adult probation department in each county.

“Family” means parents, grandparents, adult children, adult siblings, legal spouse, legal guardian, domestic partner, aunt, uncle, parents-in-law or stepparent of the probationer who is willing and able to assist and support the probationer and who has resided in the receiving county for at least 180 days at the time of transfer.

“Intercounty courtesy transfer” means the transfer of a probationer’s supervision from one Arizona county probation department to another Arizona county probation department.

“Notify” means written communication by mail, fax or email.

“Probationer” means an individual placed on supervised probation by the Superior Court of Arizona for a violation of any criminal offense or by a limited jurisdiction court and placed on supervised probation with superior court.

“Receiving county” means the county in which the transferred probationer relocated for courtesy supervision.

“Receiving department” means the department in the county wherein the probationer relocated or is requesting to relocate.

“Reporting Instructions” means the temporary permission provided to a probationer to proceed to and remain in receiving county during the investigation of a transfer request.

“Resident” means a probationer who has resided in the receiving county for at least 180 days at the time of sentencing.

“Residential treatment” means any type of licensed treatment or counseling where the probationer resides at the facility. ~~Halfway houses are not considered residential treatment.~~ “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.

“Sending county” means the county where the probationer was convicted and placed on probation supervision.

“Sending department” means the department in the county where the probationer was convicted and placed on probation supervision.

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

“Transferred probationer” means a probationer whose probation supervision has been accepted by another Arizona county probation department for intercounty courtesy supervision.

“Verifiable offer of employment” means acceptable employment, considering the conditions of probation and the nature of the offense, that is confirmed either by a current pay stub or written, telephonic or personal contact with the prospective employer.

**B. – C. [No changes]**

**D. General Administration.**

1. The AOC shall:
  - a. Prepare written material setting forth various techniques, practices, guidelines and other recommendations regarding the intercounty courtesy transfer of adult probationers;
  - b. Conduct educational sessions regarding intercounty courtesy transfers;
  - c. Provide general assistance to departments on intercounty courtesy transfers; and

- d. Adopt other administrative practices and procedures, consistent with this section, as necessary for the expedient administration of intercounty courtesy transfers.
2. Each department shall designate one or more liaisons to oversee intercounty courtesy transfer matters. The liaison shall:
  - a. Coordinate all incoming and outgoing transfers from the time of the request for transfer or reporting instructions until acceptance or rejection;
  - b. Monitor departmental compliance with this section;
  - c. Resolve all compliance issues in a timely manner; and
  - d. Notify the chief probation officer or designee immediately of all unresolved compliance issues for dispute resolution.
3. Each department shall provide ongoing training for all department staff involved in intercounty courtesy transfers.
4. Both departments involved in the intercounty courtesy transfer of a probationer shall submit supervision data electronically within the tracking system ~~Adult Probation Enterprise Tracking System (APETS)~~.
5. Each department shall comply with all confidentiality provisions adopted by the supreme court.
6. The department shall consider the possibility of a transfer of jurisdiction under Rule 27.2.b for those probationers who have residency in the receiving county.

**E. Transfer Request Eligibility Requirements.**

1. A department shall accept a probationer who intends to reside in the county for a minimum of 120 days and who:
  - a. Is a resident in the county; or
  - b. Has family residing within the county and has demonstrated positive behavioral change; or
  - c. Has a verifiable offer of employment.

2. A department may accept a probationer who:
  - a. Intends to reside in the county for a minimum of 120 days and does not meet eligibility requirements in subsection E (1) but whose transfer will assist in the probationer's positive behavioral change and is in the best interest of public safety; or
  - b. Intends to reside in a residential treatment facility in the county for a minimum 120 days. If the intended stay in a residential treatment facility is less than 120 days, an agreement to provide supervision may be arranged by the liaisons from the counties involved in the intercounty courtesy transfer; or
  - c. Intends to reside in the county for a minimum of 120 days and participate in any program that the receiving county allows probationers ~~offenders~~ from their jurisdiction to attend.
3. A department shall not accept a ~~new~~ transfer request for a probationer who:
  - a. Has not been sentenced to supervised adult probation;
  - b. Is subject to pending probation violation proceedings; or
  - c. Does not intend to reside in the county for a minimum of 120 days, unless qualified under subsection E(2)(b)(c). These cases shall be handled pursuant to the department's policies and procedures for temporary travel.

**F. [No changes]**

**G. Investigation Procedures for Intercounty Courtesy Transfer Requests.**

1. Prior to requesting intercounty courtesy transfer of supervision and authorization for the probationer to relocate, each sending department shall:
  - a. Ensure the probationer meets eligibility requirements; and
  - b. Obtain the prospective residence, mailing address, ~~and, if applicable,~~ a contact phone number, a map to the residence, if applicable, and employment of the probationer; and
  - c. Complete an intercounty courtesy transfer request ~~packet~~ and forward it to the receiving department via email.

2. Each intercounty courtesy transfer request shall include the following attachments:
  - a. Copies of:
    - (1) Administrative Director approved Intercounty Courtesy Transfer Request form;
    - ~~(2) Intercounty Courtesy Transfer Agreement~~;
    - ~~(3) The sentencing court order~~;
    - ~~(4) Signed conditions of probation~~;
    - ~~(5) Pre-sentence Investigation (PSI)~~. If the PSI has been waived by the court, the police report and criminal history shall be included;
    - ~~(6) Photograph~~;
    - ~~(7) Psychological or medical reports with all pertinent releases of information, if applicable~~; and
    - ~~(8) Any assessments or evaluations not available in the tracking system electronic case record~~.
  - b. Each intercounty courtesy transfer request ~~packet~~ shall also include the following updated information in the tracking system APETS:
    - (1) A case note that includes a status of all conditions of probation, if applicable, to include information about any outstanding warrants
    - (2) Current risk and needs assessment, if applicable;
    - (3) Drug, alcohol and sex offender screening instruments, if applicable and available;
    - (4) DNA collection verification, if applicable;
3. The receiving department shall begin the investigation upon receipt of the request and contact the liaison in the sending department to request any ~~documentation~~ missing documentation required by G.2.a. and b. from the intercounty courtesy transfer request or the electronic record of the case. The sending department shall provide the missing information in a timely manner to facilitate the transfer and reply from the receiving department.
4. The receiving department shall conduct an investigation and submit a written reply via email to the sending department within 30 days of receipt of an intercounty courtesy transfer request. The investigation shall follow departmental policies and procedures and at a minimum include:
  - a. Verbal or written confirmation from any other adults living at the proposed residence that they are willing to have the probationer reside at that location and understand all of the court imposed conditions; and
  - b. An initial verification of the proposed residence; and

- c. Verification, either personal, written or telephonic, of the proposed employment or plan to secure employment including business name, address, telephone number, probationer's work hours, wages, and supervisor.
5. The reply shall include the following:
  - a. Whether the request is approved or denied. If denied, include specific reasons for the denial; and
  - b. If approved, nNotification of any court-ordered conditions of probation that cannot be met.
  - c. The receiving department may deny the request for intercounty courtesy transfer if the probationer does not qualify under subsection H.1. and is located within the receiving department's jurisdiction without approved reporting instructions.
6. The reply to an intercounty courtesy transfer request that has been approved shall also include:
  - a. Name, county, email address and telephone number of the assigned supervising probation officer;
  - b. The conditions of probation under which the transferred probationer will be supervised, including any special supervision requirements; and
  - c. Instructions to the transferred probationer for reporting, if not previously provided under subsection H.
7. Supervision:
  - a. For a probationer who has arrived and reported in the receiving county under approved reporting instructions, the receiving department shall be responsible for conducting contacts during the investigation in accordance with their department's case management standards and the Arizona Code of Judicial Administration.
  - b. The receiving department shall immediately begin active supervision of the transferred probationer once the intercounty courtesy transfer request is approved and once the probationer ~~offender~~ reports to the receiving county.
  - c. Supervision shall continue until maximum expiration, until notification of early termination, or until the receiving department returns the transferred probationer pursuant to subsection L(2)(c).
8. If the intercounty courtesy transfer request is denied and the probationer has already reported on approved reporting instructions the sending department shall provide

reporting instructions to the receiving department via email within ~~5~~ five business days from the receipt of the denial. If the probationer is on IPS, the reporting instructions shall be provided within ~~2~~ two business days from the receipt of the denial.

9. If the probationer does not relocate within 30 days after the intercounty courtesy transfer request is approved, the receiving department shall immediately notify the liaison via email in the sending department to determine the status of the probationer. The receiving department shall immediately notify the liaison in the sending department if the probationer is on IPS and has not relocated within 72 hours.

## **H. Reporting Instructions.**

1. For standard probationers who are living in the receiving county at the time of sentencing, the sending department shall request reporting instructions and the receiving department shall provide them within two business days of receipt of the request. The standard probationer may proceed prior to the receipt of the reporting instructions.
2. For probationers on intensive probation supervision and who are living in the receiving county at the time of sentencing, the sending department shall request reporting instructions and the receiving department shall provide them within one business day of receipt of the request. To allow for a residence verification, the intensive supervision probationer shall not proceed until reporting instructions are approved and received.
3. For probationers required to register as a sex offender or subject to sex offender conditions and who were living in the receiving county at the time of sentencing, they shall not proceed until reporting instructions are requested and approved by the receiving department. The receiving department shall provide the reporting instructions within two business days from receipt of the request.
4. For probationers not residing in the receiving county at the time of sentencing, a sending department may request reporting instructions and the receiving department shall respond within five business days from receipt of the request. The probationer shall not proceed until reporting instructions are approved and received.
5. For probationers accepted under interstate compact supervision, the sending department shall request and receive reporting instructions from the receiving department prior to allowing the probationer to proceed to the receiving county. The receiving department shall ~~respond within five business days from receipt of the request~~ approve the reporting instructions within five business days from the receipt of the request, unless the proposed residence does not exist or is not a residence where the receiving department would allow a local probationer to reside. Once the reporting instructions are approved and the probationer reports to the new county, the receiving department becomes solely responsible for the supervision of the interstate compact probationer.

6. The process for requesting and providing reporting instructions is as follows:
- a. The sending department shall contact the liaison in the receiving department to request reporting instructions via ~~the approved form~~ a separate email from the intercounty transfer request. Receiving departments must respond to all requests for reporting instructions via email. The sending department shall then provide the reporting instructions to the probationer if the reporting instructions are approved by the receiving department.
  - b. The sending department shall forward a copy of the probation conditions to the receiving department within one business day when reporting instructions are approved.
  - c. The sending department shall forward, if available, a copy of the pre-sentence report or police report to the receiving department within one business day when reporting instructions are approved for all probationers on intensive probation supervision and probationers required to register as a sex offender or subject to sex offender conditions.
  - d. The sending department shall submit the intercounty courtesy transfer request ~~packet~~ to the receiving department within fifteen business days of receipt of approved reporting instructions.
  - e. The receiving department shall require the probationer to comply with the reporting instructions until the investigation is complete.
  - f. The receiving department shall immediately notify the liaison via email in the sending department to determine the status of the probationer if the probationer fails to comply with the reporting instructions and is unable to be contacted or located. See subsection L.3. regarding absconders if applicable.
  - ~~g. The receiving department liaison shall obtain the probationer's name, date of birth, county of conviction, and the name, email address and telephone number of the probation officer if the receiving department is contacted by a probationer who did not receive reporting instructions. The receiving department liaison shall immediately contact the liaison in the sending department to discuss the matter.~~

## **I. Standards of Supervision**

1. – 4. [No changes]

5. A.R.S. § 13-3822 (A) provides:

Within seventy-two hours, excluding weekends and legal holidays, after moving from the person's residence within a county or after changing the person's name, a person who is required to register under this article shall inform the sheriff in person and in writing of the person's new residence, address or new name. If the person moves to a location that is not a residence and the person receives mail anywhere, including a post office box, the person shall notify the sheriff of the person's address. If the person has more than one residence or does not have an address or a permanent place of residence, the person shall register as a transient not less than every ninety days with the sheriff in whose jurisdiction the transient is physically present. Within three days after receipt of such information, the sheriff shall forward it to the department of public safety and the chief of police, if any, of the place from which the person moves, and shall forward a copy of the statement, fingerprints and photograph of the person to the chief of police, if any, of the place to which the person has moved.

6. - 8. [No changes]

**J. [No changes]**

**K. Requests for Return to Sending Department.**

1. Prior to allowing the transferred probationer to ~~proceed~~ return to the sending county, the receiving department shall contact the sending department via email to provide the proposed address, telephone number and obtain reporting instructions before allowing the probationer to proceed back to the originating county.
2. The sending department shall approve reporting instructions within two business days.
3. The receiving department shall provide written reporting instructions to the transferred probationer.
4. The sending department shall ensure that all victims requiring notification have been notified of the probationer's return to the sending county's jurisdiction.

**L. Probation Violation Procedures.**

1. Each department shall comply with departmental policies and procedures and applicable sections of this code governing all facets of probation violation procedures.

2. Violation Procedures for Non-Absconders:

- a. The receiving department shall immediately notify the sending department of all alleged violations of the conditions of probation that would result in the request of a petition to revoke in the receiving county. Notification shall be via fax,~~mail~~ or email and shall include all documentation requested by the sending department.
- b. The sending department shall respond to the notification of alleged violation(s) via fax,~~mail~~ or email within ~~5~~ five working days of receipt of the notification. The response shall include the sending department's decision regarding action to be taken.
- c. When the receiving department recommends revocation of a transferred probationer based on evidence that would result in the revocation of a probationer sentenced in the receiving county, and the sending department refuses to take any action, then following advance written notification of the intent to return the transferred probationer to the sending county, the receiving department may direct the transferred probationer to return and report to the sending county probation officer of record.
- d. When requested to do so from the sending department, ~~t~~The receiving department shall continue to supervise the transferred probationer who remains out of custody during any probation revocation process until the court disposes of the petition to revoke or the transferred probationer is returned to the sending county.

3. Violation Procedures for Absconders. The receiving department shall notify the sending department via fax,~~mail~~ or email that the transferred probationer has absconded. Each department shall comply with departmental policies and procedures and applicable sections of ~~this code~~ ACJA 6-201.01 and 6-202.01 concerning absconders.

**M. [No changes]**