

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION)	<u>No. 2012 - 61</u>
§ 6-211: INTERCOUNTY COURTESY)	(Affecting Administrative
TRANSFERS)	Order No. 2009-116)
)	

Pursuant to the Arizona Code of Judicial Administration § 1-201(E), the Chief Justice may adopt emergency administrative code proposals and technical changes in existing code sections by administrative order without prior distribution for comment and action by the Arizona Judicial Council.

Now, 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 adopted, remain unchanged and in effect.

Dated this 31st day of July, 2012.

REBECCA WHITE BERCH
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-211: Intercounty Courtesy Transfers

Sections A through D – No changes

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 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.

- ~~d. Is convicted of a felony offense that requires the probationer to register pursuant to A.R.S. § 13-3821 and whose residence does not meet the requirements outlined in A.R.S. § 13-922 within the time period specified by the receiving county.~~

Sections F through H – No changes

I. Standards of Supervision.

1. Each receiving department shall supervise a transferred probationer as they would a probationer sentenced in their county for the same offense and in accordance with departmental policies and procedures and applicable sections of this code.
2. The receiving department shall comply with any special supervision requirements requested, provided that the receiving department uses the supervision technique or program for their own probationers. The receiving department shall notify the sending department of any supervision requirements which cannot be met. The sending department shall be responsible for either a modification of probation at the time of transfer or probation termination, or retaining the case until the condition has been satisfied.
3. The receiving department shall forward to the sending department all requests to change the level of supervision on a transferred probationer on intensive probation supervision for determination.
4. The receiving department shall only issue an out-of-state travel permit for a transferred probationer if approved by both departments.
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 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. A.R.S. § 13-3822 (B) provides:

Within seventy-two hours after a person moves from a county in which the person is registered, the person shall notify in writing the sheriff of the county from which the person moves. If the person is subject to community notification requirements, the sheriff of the county from which the person moves shall advise the local law enforcement agency of the county to which the person moves of the move....

7. Each department shall comply with all provisions of the Victims' Bill of Rights.
A.R.S. § 13-922 provides:

~~A. An adult probation officer shall not approve the residence of a probationer who has been convicted of a felony offense that requires the probationer to register pursuant to § 13-3821 in any multifamily dwelling unless the number of probationers who are required to register and who reside in the multifamily dwelling is less than ten per cent of the number of dwelling units that are contained in the multifamily dwelling. Not more than one probationer who is classified as a level three offender pursuant to §§ 13-3825 and 13-3826 shall reside in a multifamily dwelling.~~

~~B. Subsection A of this section does not apply to any of the following:~~

~~1. A person who was convicted of a sexual offense and who was placed on probation before the effective date of this section until that person changes residence.~~

~~2. A person who resides in a residential treatment facility or a person who participates in a supervised program that provides transitional services, including diagnostic evaluation, behavioral, medical, psychiatric, psychological and social service care.~~

~~3. A juvenile who resides with a parent or guardian.~~

~~4. A multifamily dwelling in an industrial or commercial zone.~~

~~C. This section does not limit the court's discretion to prohibit or restrict, as a condition of probation, a person who is convicted of a sexual offense from residing in any multifamily dwelling.~~

~~D. A public entity or an employee of a public entity is not liable for any failure to prevent a violation of this section unless the public employee, acting within the scope of the public employee's employment, intended to disregard the provisions of this section or to cause injury or was grossly negligent.~~

~~E. This section applies only in counties with a population of more than two million five hundred thousand persons.~~

~~F. For the purposes of this section:~~

~~1. "Multifamily dwelling" means a building or buildings that are located in an area zoned residential, that are attached to each other, that contain two or more dwelling units, including triplexes, fourplexes and apartments, and that have as their primary access a common hallway or corridor.~~

~~2. "Multifamily dwelling unit" means one or more rooms within a building that are arranged, designed or used for residential purposes and that contain independent sanitary and cooking facilities.~~

~~3. "Residential treatment facility" means a residential facility that provides any service or care, including diagnostic evaluation, behavioral, medical, psychiatric, psychological and social service care, vocational rehabilitation or career counseling, to residents and that is licensed by this state or a political subdivision of this state.~~

~~8. The sending department determines the length of supervision. Each department shall comply with all provisions of the Victims' Bill of Rights.~~

~~9. The sending department determines the length of supervision.~~

Sections J through M – No changes