ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	**Type of Action Requested:**	**Subject:**
October 22, 2020	_X_ Formal Action/Request __ Information Only __ Other	Arizona Code of Judicial Administration

FROM:

Administrative Office of the Courts, Legal Services

DISCUSSION:

We continue to amend and add to the Arizona Code of Judicial Administration to provide administrative direction to judicial officers and employees throughout the state.

Enclosed are six proposed code sections for consideration with their respective proposal cover sheets summarizing the proposals and any comments received.

- 6-105.01: Powers and Duties of Officers Evidence-Based Practices [amend]
- 6-202.01: Adult Intensive Probation Evidence-Based Practices [amend]
- 6-301.01: Juvenile Standard Probation Evidence-Based Practices [amend]
- 6-302.01Juvenile Intensive Probation Supervision Evidence-Based Practices [amend]
- 7-209: Alternative Business Structures [new]
- 7-210: Legal Paraprofessional [new]

RECOMMENDED COUNCIL ACTION:

Recommend adoption of the amendments and new code sections as proposed.

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	**Type of Action Requested:**	**Subject:**
October 22, 2020	X Formal Action/Request __ Information Only __ Other	Adoption of proposed ACJA § 7-209 and § 7-210

FROM:

Jennifer Albright, on behalf of Dave Byers and Vice Chief Justice Timmer, Presenter

Presenter: VCJ Timmer.

DISCUSSION:

The Supreme Court recently adopted rule changes that allow non-lawyers to have ownership interests in law firms and that eliminated restrictions on lawyer fee-sharing. These changes will result in the formation of Alternative Business Structures (ABSs). These entities will be licensed by the Court and proposed ACJA § 7-209 provides the regulatory framework and the process for licensing them.

The Court also adopted rule changes that allow non-lawyers to provide limited legal services to clients in the areas of family, limited jurisdiction civil, limited jurisdiction criminal (where no loss of liberty is involved), and state administrate agency matters (where the agency permits). These non-lawyers will be known as Legal Paraprofessionals (LPs). These LPs will be licensed by the Certification and Licensing Division of the AOC and become affiliate members of the Arizona State Bar. Proposed ACJA § 7-210 provides the education and experience requirements needed for LPs to sit for the LP examination, and LP licensing procedures and requirements.

RECOMMENDED COUNCIL ACTION:

Recommend adoption of ACJA §§ 7-209 and 7-210 as presented.

Arizona Code of Judicial Administration
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-209: Alternative Business Structures

A. Definitions.

"Alternative business structure" ("ABS") is a business entity that includes nonlawyers who have an economic interest or decision-making authority in the firm and provides legal services in accord with Supreme Court Rules 31 and 31.1(c).

"Authorized person" means a person possessing:

1. An economic interest in the alternative business structure equal to or more than ten percent of all economic interests in the alternative business structure; or
2. The legal right to exercise decision-making authority on behalf of the alternative business structure. Examples may include: a sole proprietor of a sole proprietorship, a manager of a limited liability company, an officer of a corporation, a general partner of a general or limited partnership, or a person possessing comparable rights by operation of law or by agreement.

"Compliance attorney" means an active member of the State Bar of Arizona in good standing who, pursuant to Supreme Court Rule 42, ER 5.3(d) and subsection (G)(3)(b) of this section, is responsible for ensuring compliance with the rules governing ABSs, Supreme Court Rule 42, and the regulatory requirements of this section.

"Decision-making authority" in an ABS means the authority, by operation of law or by agreement, to directly or indirectly:

1. Legally bind the ABS;
2. Control or participate in the management or affairs of the ABS;
3. Direct or cause the direction of the management and policies of the ABS; or
4. Make day-to-day or long-term decisions on matters of management, policy, and operations of the ABS.

"Director" means the administrative director of the courts or the director's designee.

"Economic interest" means (1) a share of a corporation's stock, a capital or profits interest in a partnership or limited liability company, or a similar ownership interest in any other form of entity, or (2) a right to receive payments for providing to or on behalf of the entity management services, property, or the use of property (including software and other intangible personal property) that is based, in whole or in part, on the firm's gross revenue or profits or any portion thereof. Notwithstanding the foregoing, "economic interest" does not mean employment-based compensation pursuant to a plan qualified under the Internal Revenue Code of 1986, as hereafter may be amended, or any successor rule, or discretionary bonuses paid to employees.

"Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative

association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, or government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

B. Applicability. This section governs the administration, licensing and regulation of alternative business structures, and shall be read with the supreme court rules governing the practice of law.

C. Purpose. This section is intended to result in the effective administration of the alternative business structures licensing program.

D. Administration

1. Role and Responsibilities of the Supreme Court. The supreme court is authorized to regulate the practice of law as a function of its responsibility to administer an integrated judiciary, pursuant to article VI, §§ 1 and 3 of the Arizona Constitution.

2. Establishment and Administration of Fund. The state treasurer shall establish an Alternative Business Structures Fund consisting of monies received for licensure fees, costs, and civil penalties. The Administrative Office of the Courts shall administer the fund and shall receive and expend monies from the fund for ABS program operations, including disciplinary operations by the State Bar of Arizona.

3. Role and Responsibilities of the Director. As designated by article VI, § 7 of the Arizona Constitution, the director:

   a. Shall:

      (1) Develop policies and procedures in conformity with this section;
      (2) Appoint and supervise all division staff;
      (3) Approve or disapprove all budgetary matters;
      (4) Ensure implementation of the applicable laws and this section; and
      (5) Develop policies and procedures regarding the processing of applications for licensing by division staff.

   b. May:

      (1) Direct division staff to conduct an investigation into alleged acts of misconduct or violations in relation to initial licensure, renewal of a license or licensure after a period of revocation; and
      (2) Refer a complaint to the state bar.
      (3) Initiate a compliance audit of a license holder to determine if the license holder is in compliance with statutes, court rules, administrative orders, court orders, local rules, the ACJA, and any other legal or ethical requirement relating to the license holder's ABS license. The following provisions apply to audits:
         (a) Timeframes. The director shall develop timeframes and procedures for division

staff conducting compliance audits.

(b) Confidentiality.

(i) Working papers associated with the compliance audit maintained by division staff are not public records and are not subject to disclosure, except to court staff in connection with their official duties, the state bar, the attorney general, county attorney, public regulatory entities, or law enforcement agencies.

(ii) Upon completion of an audit the final report issued to the affected party is a public record subject to public inspection.

(c) Subpoena. The director may subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual relative to the audit.

(d) Referral. The director may refer the audited license holder to the state bar for investigation of alleged acts of misconduct or violations of statutes, court rules, administrative orders, court orders, local rules, the ACJA, and any other legal or ethical requirement relating to the license holder's ABS license.

(e) Violations or Noncompliance. Willful violation of or willful noncompliance with an order of the director regarding the audit, or willful noncompliance with a corrective action plan resulting from an audit, may result in an order directing the license holder to comply. The director may forward a copy of the order or report to the superior court and request the superior court issue an order to require the appearance of a person or business, compliance with the director's order, or both. The superior court may treat the failure to obey the order as contempt of court and may impose penalties as though the license holder had disobeyed an order issued by the superior court.

4. Role and Responsibilities of Division Staff.

a. The director shall designate the division director and other division staff to assist in the administration of the ABS licensing program pursuant to article VI, § 7 of the Arizona Constitution.

b. Division staff shall:

(1) Submit completed applicant fingerprint cards and applicable fees to the Arizona Department of Public Safety, in accordance with A.R.S. § 41-1750 and Public Law 92-544, pursuant to subsection (E)(1)(c);

(2) Make recommendations to the committee on all application and licensing matters and any other matters regarding applicants and license holders;

(3) Provide updates to the committee on program activities;

(4) Maintain a list of license holders and post the list on the applicable website and make the list available to the public;

(5) Conduct compliance audits and monitoring as required by this section; and

(6) Conduct pre-licensure investigations of allegations of acts of misconduct or violations of the statutes, court rules, or the applicable sections of the ACJA by applicants or authorized persons and report the findings to the committee.

(7) Submit a quarterly report to the court and the state bar of current license holders.

5. Role and Responsibilities of Committee on Alterative Business Structures.

a. Appointment of Members. Pursuant to Rule 33.1, the court shall appoint members to initial varying terms of one, two, and three years to encourage continuity of the committee. Other appointment details are contained in Supreme Court Rule 33.1(a)(2) and (3). The members shall assist division staff in the recruitment of committee members.

b. Duties of the Committee. In addition to Supreme Court Rule 33.1(a)(4) – (6) and (b):

(1) The committee shall:
(a) Make recommendations to the supreme court or the Arizona Judicial Council regarding rules, policies, and procedures for regulating ABSs, including:
(i) applicant qualifications;
(ii) fees;
(iii) a code of conduct; and
(iv) any other matter pertaining to ABSs.
(b) Recommend whether to license an applicant for initial licensure;
(c) Examine license renewal applications and grant or deny renewal; and
(d) Order a summary suspension of a license.
(2) The committee may:
(a) Hold interviews of applicants regarding initial licensure; and
(b) Hold interviews of license holders regarding renewal of licensure;

d. In addition to the requirements of subsection (D), and except as otherwise provided herein, committee members must abide by ACJA § 7-201(I)(2) through (7).

e. On or before April 1 of each year the committee shall file a report with the supreme court describing the status of the ABS program. The report shall include, but is not limited to, the following information:

(1) The number of applications granted and declined during the previous calendar year;
(2) The number of licensed ABSs as of December 31 of the previous calendar year;
(3) The number of charges filed against ABSs and ABS compliance attorneys during the previous calendar year and the nature of the charge(s);
(4) The number of complaints initiated by the State Bar during the previous calendar year and the nature of the complaint;
(5) Discipline imposed during the previous calendar year, the nature of conduct leading to the discipline and the discipline imposed; and
(6) Recommendations concerning modification or improvements to the ABS program.

f. The state bar shall provide the committee with the following information:

(1) On a calendar quarter basis:

(a) The number of charges filed against ABSs during the previous calendar quarter and the nature of the charge;
(b) The number of complaints initiated by the state bar during the previous calendar quarter and the nature of the complaint; and
(c) Discipline imposed during the previous calendar quarter, the nature of the conduct leading to the discipline and the discipline imposed.

(2) On or before January 31, on an annual basis:
(a) The number of licensed ABSs as of December 31st; and
(b) Recommendations concerning modifications or improvements to the ABS program.

(3) Such other information as the committee may request to prepare the report described in section (D)(5)(e) herein.

6. Role and Responsibility of the State Bar of Arizona. The State Bar of Arizona is responsible for receiving, processing, investigating, seeking interim suspension of, and prosecuting disciplinary matters against ABSs and an ABS's members, and shall carry out this responsibility according to supreme court rules and this code section.

7. Computation of Time. For the purposes of this section, the computation of days pursuant to Rule 6(a), Rules of Civil Procedure is calculated as follows:

(1) Day of the Event Excluded. Exclude the day of the act, event, or default that begins the period.
(2) Exclusions if the Deadline is Less Than 11 Days. Exclude intermediate Saturdays, Sundays, and legal holidays if the period is less than 11 days.
(3) Last Day. Include the last day of the period unless it is a Saturday, Sunday, or legal holiday. When the last day is excluded, the period runs until the next day that is not a Saturday, Sunday, or legal holiday.
(4) Next Day. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

E. Licensure.

1. Application for Initial Licensure.

a. Forms. An applicant, including all authorized persons, shall apply for licensure on approved forms and file them with division staff.

(1) Division staff shall conduct a preliminary review of the submitted application and determine if the application is deficient, the required supporting documents are deficient, fees are deficient, or a combination of these requirements are deficient.
(2) Division staff shall advise the applicant of the deficiencies.
(3) The applicant shall provide the information and a written response to correct or explain the deficiencies, or otherwise remedy the defects in the application, supporting documents or fees.

(4) Division staff may require the applicant to provide additional information or an explanation reasonably necessary to determine if the applicant meets the required qualifications specified in this section.
(5) Upon receipt of a complete application, division staff may conduct a personal credit review and review records regarding an application for initial licensure, consistent with the policies and procedures developed by the director.
(6) The applicant shall notify division staff of any changes relevant to the application for licensure within five days of the change.
(7) Upon a final review of the application, division staff shall prepare and forward to the committee a written recommendation regarding the applicant's qualifications and eligibility for licensure.
(8) Division staff shall advise the committee in any written recommendation regarding licensure of an applicant, of any complaints alleging acts of misconduct or violations of statute, court rules or order, or this section, if the allegations occurred during the time the applicant held an active license and were received after the applicant's licensure expired.
(9) Division staff's written recommendation to the committee shall note any deficiencies in the application. A deficient application for initial licensure is lacking one or more of the following requirements:
    (a) An explanation or correction of any deficiencies, pursuant to subsection (E)(1)(a)(4);
    (b) Payment of all appropriate fees, pursuant to subsection (E)(1)(b); or
    (c) Necessary information or documents to complete a criminal background check, including a readable fingerprint card or affidavit in lieu of a fingerprint card, pursuant to subsection (E)(1)(c).
(10) The committee, upon review of the division staff recommendation, may request an informal interview with an applicant, pursuant to subsection (D)(5)(c)(2)(a), to establish if:
    (a) Additional information is needed to determine if the applicant meets all qualifications in this section;
    (b) An explanation of the information provided by the applicant is needed to determine if the applicant meets all qualifications in this section; or
    (c) Any complaints, regarding allegations of misconduct or violations of the statutes, court rules, or applicable sections of the ACJA, received after the applicant's original licensure expired, require investigation by division staff pursuant to subsection (E)(1)(a)(4).

b. Fees. The applicant shall submit with the application, an application fee, initial licensure fee, and any other fees required as specified in subsection (J). Fees are not refundable or waivable. An applicant shall make the payment for any fee payable to the Arizona Supreme Court. An application submitted without fees is deficient. In addition to the fees described in subject J, if the cost of the investigation exceeds $1,500, or division staff expends more than 80 hours performing the investigation, applicant shall pay the additional investigation cost and division staff additional investigation time at $100 per hour.

c. Fingerprinting. If required, an authorized person shall submit with the application, a full set of fingerprints, with the fee established by law, for the purpose of obtaining a state and federal criminal records check. An application submitted without a fingerprint card, if required, is deficient.

(1) The authorized person shall provide a readable and complete fingerprint card. The authorized person shall pay any costs attributable to the original fingerprinting or subsequent re-fingerprinting due to unreadable fingerprints and any fees required for the submission or resubmission of fingerprints.
(2) If after two attempts, the FBI determines the fingerprints provided are not readable, the authorized person shall submit a written statement, under oath, that the authorized person has not been arrested, charged, indicted, convicted of or pled guilty to any felony or misdemeanor, other than as disclosed on the application.
(3) Division staff shall submit completed fingerprint cards and the applicable fees to the Arizona Department of Public Safety, pursuant to A.R.S. § 41-1750, Public Law 92-544, and subsection (D)(4)(b)(1).

2. Decisions Regarding Licensure.

a. In determining whether to recommend to the supreme court a grant of licensure, the committee shall take into consideration Supreme Court Rule 33.1(b), which states:

> Decision Regarding Licensure. The Committee shall recommend approval of applications if the requirements in this rule and in ACJA are met by the applicant. The Committee's recommendation shall state the factors in favor of approval.
>
> (1) Decisions of the Committee must take into consideration the following regulatory objectives:
>
> (A) protecting and promoting the public interest;
> (B) promoting access to legal services;
> (C) advancing the administration of justice and the rule of law;
> (D) encouraging an independent, strong, diverse, and effective legal profession; and
> (E) promoting and maintaining adherence to professional principles.
>
> (2) The Committee shall examine whether an applicant has adequate governance structures and policies in place to ensure:
>
> (A) lawyers providing legal services to consumers act with independence consistent with the lawyers' professional responsibilities;
> (B) the alternative business structure maintains proper standards of work;
> (C) the lawyer makes decisions in the best interest of clients;
> (D) confidentiality consistent with Supreme Court Rule 42 is maintained; and
> (E) any other business policies or procedures do not interfere with a lawyers' duties and responsibilities to clients.

b. Notification of Licensure. Upon the supreme court's order approving a license, division staff shall promptly notify qualified applicants of licensure in writing. Each qualified ABS shall receive a document evidencing licensure, stating the applicant's name, date of licensure, license number, and expiration date of the license. Each license shall expire as provided in (F)(1).

c. License Status. All licenses are valid until expired, voluntarily surrendered, suspended or revoked.

d. Denial of Initial License.

(1) The committee shall recommend to the supreme court denial of licensure if the applicant does not meet the qualifications or eligibility requirements at the time of the application described in this section; or has not submitted a complete application with all deficiencies corrected, the required documents and fees.

(2) The committee may recommend denial of licensure if the committee finds, with respect to the applicant or any authorized person, one or more of the following:

(a) Has committed material misrepresentation, omission, fraud, dishonesty, or corruption in the application form;

(b) Has committed any act constituting material misrepresentation, omission, fraud, dishonesty or corruption in business or financial matters;

(c) Has conduct showing the applicant or an authorized person of the applicant is incompetent or a source of injury and loss to the public;

(d) Has a conviction by final judgment of a felony, regardless of whether civil rights have been restored;

(e) Has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of law or the delivery of legal services to be provided by the ABS, regardless of whether civil rights have been restored;

(f) Has been disbarred from, or denied admission to, the practice of law or the equivalent of disbarment or denial in this state or any other jurisdiction;

(g) Is currently suspended from the practice of law in this state or any jurisdiction;

(h) Has a denial, revocation, suspension, or any disciplinary action of any professional or occupational license or certificate;

(i) Has a censure, probation, or any other disciplinary action of any professional or occupational license or certificate by other licensing or regulatory entities if the underlying conduct is relevant to licensure under this section;

(j) Has a termination, suspension, probation, or any other disciplinary action regarding past employment if the underlying conduct is relevant to licensure under this section;

(k) Has been found civilly liable in an action involving misrepresentation, material omission, fraud, misappropriation, theft, or conversion;

(l) Is currently on probation or parole;

(m) Has violated any decision, order, or rule issued by a professional regulatory entity;

(n) Has violated any order of a court, judicial officer, administrative tribunal, or the

committee;

(o) Has made a false or misleading statement or verification in support of an application for licensure filed by another person;

(p) Has made a false or misleading oral or written statement to division staff or the committee;

(q) Failed to disclose information on the application subsequently revealed through the background check;

(r) Failed to respond or furnish information to division staff or the committee when the information is legally requested and is in the applicant's control or is reasonably available to the applicant and pertains to licensure or investigative inquiries; or

(s) If the applicant's business has a record of conduct constituting dishonesty or fraud on the part of an employee, authorized person, or the business.

(3) The committee may consider any or all of the following criteria when reviewing the application of an applicant with a misdemeanor or felony conviction, pursuant to subsection (E)(2)(d)(2)(d) or (e):

(a) The applicant's age at the time of the conviction;

(b) The applicant's experience and general level of sophistication at the time of the pertinent conduct and conviction;

(c) The degree of violence, injury or property damage and the cumulative effect of the conduct;

(d) The applicant's level of disregard of ethical or professional obligations;

(e) The reliability of the information regarding the conduct;

(f) If the offenses involved fraud, deceit, or dishonesty on the part of the applicant resulting in harm to others;

(g) The recency of the conviction;

(h) Any evidence of rehabilitation or positive social contributions since the conviction occurred as offered by the applicant;

(i) The relationship of the conviction to the purpose of licensure;

(j) The relationship of the conviction to the practice of law or the delivery of legal services to be provided by the ABS;

(k) The applicant's candor during the application process;

(l) The significance of any omissions or misrepresentation during the application process; and

(m) The applicant's overall qualifications for licensure separate from the conviction.

(4) Upon the committee's decision to recommend denial of licensure, division staff shall notify each applicant of the reasons for the denial and the right of the applicant to a hearing, pursuant to subsection (E)(2)(d)(5). The division staff shall provide the notice in writing and shall send the notice within ten days after the committee's decision.

(5) An applicant is entitled to a hearing on the decision to recommend denial of licensure, if the disciplinary clerk receives a written request for a hearing within fifteen days after division staff mails the notice of the denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of ACJA § 7-201(H)(12) through (23) apply regarding procedures for the hearing and appeal.

(6) An applicant denied licensure by a final decision of the supreme court, whether or not a hearing was requested and held, may reapply for licensure, pursuant to subsection (E), under the following circumstances:
   (a) It has been twelve months since the final decision by the supreme court;
   (b) The applicant shall present new documentation to address the original issues resulting in denial including all of the following:
      (i) Demonstration of acceptance of responsibility for the conduct leading to the denial by the committee; and
      (ii) Establishes purpose of business meets the regulatory objective of Supreme Court Rule 33.1(b)(1) and subsection (E)(2)(a)(1).
   (c) In determining whether the applicant has established that the purpose of business meets the regulatory objective of Supreme Court Rule 33.1(b)(1) and subsection (E)(2)(a), the committee shall conduct an informal interview with the applicant no later than 60 days after the applicant has submitted a completed application.

3. Time Frames for Licensure.

   a. The director shall develop time frames for the processing of applications by division staff, pursuant to subsection (D)(3)(a)(5).

   b. An applicant shall respond timely to requests for information from division staff pertaining to the applicant's application. Unless the applicant can show good cause as to why the committee should grant additional time, the committee shall not approve any applicant unless the applicant successfully completes all requirements within 90 days from the date division staff received the original initial application for licensure.

   c. If an applicant needs additional time to comply with division staff requests or to complete the application process within the time frames specified in this subsection, the applicant shall file a written request for an extension with division staff. The request shall state the reasons for additional time to comply with time frames and licensure requirements. The applicant shall file the request for additional time to complete the initial application at a minimum, ten days prior to the 90-day deadline, unless the applicant makes a showing of good cause. Failure to complete the application process or file a written request for an extension of time within this time period shall nullify and void the original application and supporting documents, including fingerprints and fees.

   d. Division staff shall forward the written request for an extension of time to the committee at the next scheduled committee meeting.

   e. If the applicant fails to meet the 90-day deadline or is not granted additional time by the committee to complete the initial licensure process, the applicant is considered a new applicant. The applicant shall submit a new application including a fingerprint card and fees.

4. Records of Applicants for Licensure and License Holders shall remain confidential except as provided by Supreme Court Rule 33.1(e). Division staff shall retain applicant and license holder records for a period of five years from the last activity in the record. Division staff shall take appropriate methods to ensure the confidentiality of any destroyed records.

5. Unlawful Use of Designation or Abbreviation.

   a. An ABS who has received a license is authorized to utilize the designation of "Arizona licensed" in connection with their title or name and may use any appropriate abbreviation connected with this licensure. No other business shall assume or use the title, designation, or abbreviation, or any other title, designation, sign or card, the use of which is reasonably likely to induce others to believe the business holds a valid ABS license issued by the Arizona Supreme Court. The license holder shall not sell, transfer, or assign its license to any other business.

   b. The committee, upon completion of an investigation may issue a cease and desist order. A hearing officer or a superior court judge, upon petition by the committee, may enter an order for an individual or business to immediately cease and desist conduct constituting engagement as an ABS without the required license.

6. Voluntary Surrender. A license holder in good standing may surrender its license to the committee. However, the surrender is not valid until accepted by the committee. The committee or division staff may require additional information reasonably necessary to determine if the license holder has violated any provision of the statutes, court rules, and this section. The surrender does not prevent the commencement of subsequent discipline proceedings for any conduct of the surrendered license holder occurring prior to the surrender.

   a. Division staff shall present the surrendered license to the committee at the next available committee meeting after receiving notice of the surrender. Upon the committee's acceptance of the voluntary surrender, division staff shall designate the license of the license holder as a "surrendered license holder in good standing." Division staff shall notify the license holder in writing within ten days after the committee's acceptance of the surrender.

   b. The committee shall not accept the surrender if there is a complaint pending against the license holder.

   c. The committee shall, within 90 days of the receipt of the surrendered license by division staff, either accept the surrender or, based upon the recommendations of division staff, await the outcome of the pending disciplinary proceedings. If the supreme court, hearing panel or presiding disciplinary judge subsequently imposes a sanction upon the license of the surrendered license holder, division staff shall change the status of the license holder from "surrendered license holder in good standing" to that of an ABS so disciplined.

d. An ABS who is granted voluntary surrender must comply with the requirements of subsections (H)(4)-(6).

F. Renewal of Licensure.

1. Expiration Date. Licenses expire on February 1 of each year, except as otherwise provided in this section. All licenses shall continue in force until expired, voluntarily surrendered, suspended, or revoked.

2. Application. A license holder is responsible for applying for a renewal license. The license holder shall apply for renewal of licensure on the form provided by division staff. The committee shall set a renewal application deadline, in advance of the expiration date, to allow a reasonable time frame for processing the renewal application.

   a. When a license holder has filed a timely and complete renewal application, the existing license does not expire until the administrative process for review of the renewal application has been completed.

   b. When a license holder requests to file an untimely renewal application, the division director may process the untimely application and recommend to the committee to renew a license if the untimely renewal applicant demonstrates to the director good cause for the untimely filing. In addition, the following shall apply:

      (1) The applicant shall submit a complete renewal application and applicable fees, and any other documentation requested by division staff to verify the grounds for the good cause exception requested.
      (2) The applicant shall not provide legal services:
         (a) Until the director decides in writing based on good cause to process the application; or
         (b) If the director decides not to process the untimely application, until an initial application is processed, and the applicant is granted a license renewal pursuant to this section.

   c. When a timely renewal application is denied, the existing licensure does not expire until the last day for seeking a hearing on the denial decision pursuant to subsection (E)(2)(d)(5); or if a hearing is requested, until the final decision is made on an appeal of the denial by the committee pursuant to ACJA § 7-201(H)(25).

   d. The committee may request an informal interview with the applicant for renewal, pursuant to subsection (D)(5)(c)(2)(b), to establish if additional information or an explanation of the information provided by the applicant is needed to determine if the applicant continues to meet the qualifications for licensure in this section.

   e. The license of a license holder who does not supply a complete renewal application and payment of the renewal fee in the specified time and manner to division staff shall expire as of the expiration date. Division staff shall treat any renewal application

received after the expiration date as a new application, except when the license holder requests to file an untimely renewal application pursuant to subsection (F)(2)(b).

3. Additional Information. Before renewal of licensure, division staff may require additional information reasonably necessary to determine if the applicant continues to meet the qualifications specified in this section, which may include:

   a. Background information, pursuant to subsection (E)(1)(a); and

   b. Fingerprinting pursuant to subsection (E)(1)(c).

4. Decision Regarding Renewal.

   a. The committee may renew a license if the license holder:

      (1) meets all requirements for renewal as specified in this section;
      (2) submits a completed renewal application;
      (3) pays the renewal fees on or before the expiration date as specified by this section; and
      (4) meets the regulatory objectives and governance structures and policies of section (E)(2)(a).

   b. Division staff shall promptly notify the applicant in writing of the committee's decision to renew the applicant's license. Each renewed applicant shall receive a document evidencing renewal of licensure, stating the applicant's name, date of licensure, license number and expiration date.

   c. The committee may deny renewal of licensure for any of the reasons stated in subsection (E)(2)(d). Division staff shall promptly notify the applicant, in writing, within ten days of the committee's decision to deny renewal of licensure. The notice shall include the committee's reasons for the denial of renewal of licensure and the right of the applicant to a hearing, pursuant to subsection (F)(4)(d).

   d. An applicant is entitled to a hearing, on the decision to deny renewal of licensure if the disciplinary clerk receives a written request for a hearing within fifteen days after the date of the notice of denial. The applicant is the moving party at the hearing and has the burden of proof. The provisions of ACJA § 7-201(H)(12) through (23) and (H)(25) through (27) apply regarding procedures for hearing and appeal.

G. Role and Responsibilities of Licensed Alternative Business Structures and Designated Compliance Lawyers.

1. Initial Licensure. In addition to the requirements of subsection (E)(1), each applicant for licensure as an ABS must meet the following requirements:

a. Submit completed applications for the alternative business structure and each authorized person.

b. Submit a prescribed indemnification statement and conflict of interest statement signed by each authorized person.

c. Fully disclose all relationships to any parent company or organization, and currently paid or unpaid officers, directors, owners, and boards of directors, and any and all company subsidiary dba's operating in any state.

d. Declare a statutory agent in Arizona.

e. Obtain any necessary federal and state tax identification numbers as required by law.

f. Designate a principal with whom division staff may communicate on any administrative, procedural, or operational issues.

g. Submit articles of incorporation and letters of good standing from the Arizona Corporation Commission or otherwise demonstrate authorization to do business in the State of Arizona.

h. Demonstrate the business meets objectives identified in Supreme Court Rule 33.1(b) and subsection (E)(2)(a) herein.

i. Submit the prescribed acknowledgement form that the ABS and its members are subject to the regulatory and discipline authority as set forth in the supreme court rules and this section.

j. Insurance Disclosure

(1) Each ABS shall certify to the state bar on an annual form prescribed by the state bar on or before February 1 of each year whether the ABS is currently covered by professional liability insurance. Each ABS who reports being covered by professional liability insurance shall notify the state bar in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason. An ABS who acquires professional liability insurance after February 1 shall advise the state bar of the change of status in coverage.

(2) The state bar shall make the information submitted by ABSs pursuant to this rule available to the public on its website as soon as practicable after receiving the information.

(3) Any ABS who fails to comply with this section in a timely fashion may be summarily suspended by the Committee on Alternative Business Structures. Supplying false information in complying with the requirements of this section shall subject the ABS to appropriate disciplinary action.

2. Roles and Responsibilities of ABSs. Each ABS shall:

a. Adhere to the Rules of Arizona Supreme Court and the standards in the code of conduct in subsection (K) herein.

b. Maintain a statutory agent in Arizona.

c. Notify division staff of any change in the telephone number, business address, mailing address, or home address of principals, compliance lawyers, and authorized persons, or any other required database information within three business days of the change. The designated principal of the ABS shall notify division staff of changes through the ABS regulation email system or in writing, utilizing the form provided by division staff.

d. Maintain the confidentiality of all records regarding any person receiving legal services.

e. Notify division staff in writing within 30 days of a change in designated principal or compliance attorney.

f. Any ABS that ceases doing business must adhere to the requirements of subsections (H)(4) through (6).

g. Any ABS subject of an acquisition or merger with another business entity, regardless of whether the other business entity is also an ABS, must prior to merger or acquisition:

(1) Submit on the form prescribed notice of impending merger or acquisition; and
(2) Comply with the requirements of subsections (G)(1)(a) through (c), and (j).

3. Compliance lawyer. Each ABS must designate a compliance lawyer whose qualifications and responsibilities are as follows:

a. Qualifications. The compliance lawyer shall:

(1) Meet the requirements of Supreme Court Rule 31(a) and (b);
(2) Be a manager or employee of the ABS;
(3) Consent to the designation;
(4) Not have been subject to discipline by the State Bar of Arizona or any similar agency in any other jurisdiction during the past ten years; and
(5) Possess credentials and experience in the legal field to ensure that ethical obligations, protection of the public, and standards of professionalism are adhered to.

b. Responsibilities. The compliance lawyer shall take all reasonable steps to:

(1) Ensure compliance with the ethical and professional responsibilities of lawyers in the ABS providing legal services;
(2) Ensure compliance by the ABS's authorized persons;

(3) Ensure the ABS's authorized persons and others employed, associated with, or engaged by the ABS do not cause or substantially contribute to a breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers;
(4) Ensure that a prompt report is made to the state bar of any facts or matters reasonably believed to be a substantial breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers;
(5) Ensure that the state bar is promptly informed of any fact or matter that reasonably should be brought to its attention in order that the state bar may investigate whether a breach of regulatory or ethical requirements has occurred; and
(6) Notify the AOC and the state bar in writing when the compliance lawyer has ceased to be the compliance lawyer for the ABS.

c. Violations. Any compliance attorney who fails to comply with this section, including any failure to report any facts or matters reasonably believed to amount to a substantial breach of the regulatory requirements of this code or the ethical and professional obligations of lawyers, in addition to other possible sanctions, may be suspended on an interim basis pursuant to Rule 61, Rules of Supreme Court.

H. Discipline.

1. Rules. The supreme court rules governing complaints, investigations, and disciplinary proceedings against Arizona licensed attorneys are applicable to alternative business structures and its members under this section, except as otherwise stated in this section.

2. Sanctions. Misconduct by an ABS or its members shall be grounds for imposition of one or more of the following types of sanctions:

   a. Revocation. Revocation of an ABS's license may be imposed by judgment and order entered by the supreme court, a hearing panel, or the presiding disciplinary judge. Any order of revocation must state a fixed period of time a license is revoked before an ABS can seek re-licensure.

   b. Suspension. Suspension of an ABS may by imposed by judgment and order entered by the supreme court, a hearing panel, or the presiding disciplinary judge for an appropriate fixed period of time not to exceed three (3) years. Suspension of an ABS license prohibits the ABS from accepting new legal services clients and requires notification pursuant to subsection (H)(4). An order of the supreme court, a hearing panel, or the presiding disciplinary judge may specify additional restrictions on the activities of an ABS during the term of suspension. An ABS whose activities are suspended shall remain suspended until the court enters an order reinstating the ABS to its full business capacity in Arizona or upon order of the presiding disciplinary judge pursuant to subsection (E)(8)(b).

   c. Reprimand. A reprimand may be imposed by judgment and order entered by the supreme court, a hearing panel, or the presiding disciplinary judge.

d. Admonition. An admonition may be imposed by judgment and order entered by the supreme court, a hearing panel, the presiding disciplinary judge, or the Attorney Discipline Probable Cause Committee.

e. Probation. Probation may be imposed by judgment and order entered by the supreme court, a hearing panel, the presiding disciplinary judge, or the Attorney Discipline Probable Cause Committee as follows:

(1) Probation shall be imposed for a specified period not in excess of one year but may be renewed for an additional one-year period.
(2) Probation may be imposed only in those cases in which there is little likelihood that the respondent ABS or its members will harm the public during the period of probation and the conditions of probation can be adequately supervised. The conditions of probation shall be stated in writing, shall be specific, understandable and enforceable, and may include restitution, disgorgement, and assessment of costs and expenses.
(3) The presiding disciplinary judge may appoint a monitor to supervise the ABS during a period of probation. The cost of the monitor shall be paid by the ABS.
(4) The monitor shall report to the state bar, which shall be responsible for supervising the respondent ABS during the probationary period. Bar counsel shall report material violations of the terms of probation to the presiding disciplinary judge by filing a notice of noncompliance with the disciplinary clerk and serving respondent with a copy of the notice. The notice of noncompliance shall include verification or separate affidavit upon personal knowledge stating sufficient facts to support the allegations of material violations of the terms of probation. Respondent shall have ten days after service of the notice to file a response. Upon filing the notice of noncompliance, the presiding disciplinary judge may (a) issue an order declining to proceed with the notice; (b) issue an order setting the matter for status conference; or (c) issue an order setting a hearing within 30 days to determine if the terms of probation have been violated and if an additional sanction should be imposed. In a probation violation hearing, the state bar must prove a violation by preponderance of the evidence. At the end of the probation term, bar counsel shall prepare and forward a notice to the presiding disciplinary judge regarding the respondent's completion or non-completion of the imposed terms.

f. Monetary Penalties. The supreme court, a hearing panel, or the presiding disciplinary judge may order the license holder to pay any of the following monetary obligations:

(1) Restitution or refund (disgorgement) may be ordered to persons financially injured, including reimbursement to the State Bar Client Protection Fund. Restitution or refund and the amount thereof must be proven by a preponderance of the evidence;
(2) A civil fine in an amount not to exceed $1,000,000. Civil fines collected pursuant to this section shall be deposited in the Alternative Business Structure Fund.

g. Assessment of Costs and Expenses. An assessment of costs and expenses related to disciplinary proceedings shall be imposed upon an ABS pursuant to Supreme Court Rule 60(d).

3. Enforcement. Execution and other post-judgment remedies shall be governed by Supreme Court Rule 60(d).

4. Notice to Clients and Adverse Parties. Within ten days after the date of an order or judgment issued by the presiding disciplinary judge, a hearing panel, or the supreme court imposing discipline and sanctions, or the date of surrender of license, an ABS whose license was revoked or suspended or who has surrendered its license, shall notify the following persons by registered or certified mail, return receipt requested, of the order of judgment or surrender, and of the fact that the ABS is disqualified from providing legal services after the effective date of same:

   a. All legal services clients represented by ABS legal service providers in pending matters;

   b. Any co-counsel in pending matters;

   c. Any opposing counsel in pending matters, or in the absence of such counsel, the adverse parties; and

   d. Each court or tribunal in which the ABS's legal service providers have any pending matter, whether the matter is active or inactive.

5. Duty to Withdraw. In the case of a suspension for longer than 90 days, or a suspension of 90 days or less when any client does not consent to the association of counsel, and in all cases of revocation of licensure, it shall be the responsibility of the assigned attorney in the ABS to move in the court or agency in which any proceeding is pending for leave to withdraw in the event the client does not obtain substitute counsel before the effective date of the suspension or revocation.

6. Return of Client Property. Respondent shall deliver to all clients being represented in pending legal matters any papers or other property to which they are entitled and shall notify them, and any counsel representing them, of a suitable time and place where the papers and other property may be obtained, calling attention to any urgency for obtaining the papers or other property. The respondent shall deliver all files and records in pending legal matters to the client, notwithstanding any claim of outstanding payment for services.

7. Effective Date of Order; Pending Matters. Judgments imposing suspension or revocation shall be effective 30 days after entry, unless the presiding disciplinary judge, hearing panel, or the supreme court specifies an earlier date. Judgments and orders imposing other sanctions are effective immediately upon entry. Respondent, after entry of a judgment of revocation or suspension, shall not provide legal services, except that during the period between entry and the effective date of the order, respondent may complete on behalf of

any client all matters that were pending on the entry date. If a judgment or order permits the ABS to provide legal services under supervision of the state bar, respondent may only provide those services allowed by the judgment or order. Respondent shall refund any part of fees paid in advance which have not been earned.

8. Affidavit Filed with Presiding Disciplinary Judge and Court. Within ten days after the effective date of the judgment of revocation or suspension, respondent shall file with the disciplinary clerk and with the supreme court an affidavit showing:

   a. Respondent has fully complied with the provisions of the order and with this section;

   b. An agent of record and other addresses where communications may thereafter be directed; and

   c. Respondent has served a copy of such affidavit upon bar counsel.

9. Duty to Maintain Records. An ABS whose license has been revoked or suspended shall keep and maintain records constituting proof of compliance with this section. Proof of compliance, which shall include copies of the notice sent pursuant to subsection (H)(4) and signed returned receipts, shall be provided to chief bar counsel. Proof of compliance is a condition precedent to any application for reinstatement or licensing.

10. Contempt. Failure to comply with the provisions of this section may be punishable by contempt.

I. **Reinstatement after Suspension or Revocation.** An alternative business structure license holder whose license was suspended or revoked by the supreme court may apply for reinstatement under the following conditions:

1. If an ABS's license has been revoked the ABS may, after a period of three (3) years, apply for reinstatement of licensure in accordance with the requirements for initial licensure herein. In addition, an applicant is subject to the requirements of subsection (3) below and shall pay the initial licensure and reinstatement fees.

2. An ABS whose license has been suspended 90 days or less may apply for reinstatement no sooner than ten days before the expiration of the period of suspension by filing with the disciplinary clerk and serving on the state bar an affidavit for reinstatement. The affidavit shall include an avowal that the ABS has fully complied with the requirements of the suspension judgment or order, and has paid all required fees, costs, expenses, and fines. If an affidavit is not filed within 60 days after expiration of the period of suspension, the reinstatement procedure set forth in subsection (3) below shall apply.

3. An ABS whose license has been suspended for more than 90 days may apply for reinstatement no sooner than 90 days prior to the expiration of the period of suspension set forth in the judgment but may not be reinstated until the full period of suspension has been served. An applicant for reinstatement shall file a written application for reinstatement

with the disciplinary clerk, which shall be verified by the applicant, and accompanied by the appropriate fees and proofs of payment required by subsection (4) below of this section. The applicant shall file with the application for reinstatement a written release or authorization for the state bar to obtain documents or information in the possession of any third party. The application shall contain the following information and be accompanied by the following documents:

a. A copy of the final order of suspension;

b. An affidavit from the state bar stating whether any further investigations or formal proceedings alleging misconduct have been filed or are pending against the ABS, any authorized person, and any lawyer the ABS will employ, associate with, or engage to provide legal services;

c. A statement of the offense or misconduct upon which the suspension was based, together with the dates of suspension;

d. The names and addresses of all complaining witnesses in discipline proceedings that resulted in suspension and the names of the hearing officer or presiding judge before whom the discipline proceedings were heard;

e. A concise statement of facts claimed to support reinstatement of licensure. An ABS must show by clear and convincing evidence that the basis for suspension has been overcome;

f. A detailed description of any ABS activities during the period of suspension, if allowed by the judgment or order of suspension;

g. A description of the occupation and income, during the period of suspension, for all authorized persons and any lawyers the ABS will employ, associate with, or engage to provide legal services;

h. A statement covering the period of suspension showing the dates, general nature and final disposition of every civil action against the ABS or in which any authorized person and any lawyer the ABS will employ, associate with, or engage to provide legal services, was either a plaintiff or defendant;

i. A statement covering the period of suspension showing dates, general nature and ultimate disposition of every matter involving the arrest or prosecution of any authorized person and any lawyer the ABS will employ, associate with, or engage to provide legal services;

j. A statement showing whether or not any applications were made by any authorized person and any lawyer the ABS will employ, associate with, or engage to provide legal services, requiring proof of good moral character for its procurement, and as to each application, the dates, the name and address of the authority to whom it was addressed and the disposition thereof;

k. A statement covering the period of suspension setting forth any procedure or inquiry concerning the standing as a member of any profession or organization, or any holder of any license or office, which involved the reprimand, removal, suspension, revocation of any authorized person, and any lawyer the ABS will employ, associate with, or

engage to provide legal services, together with the dates, facts and disposition thereof, and the name and address of the authority in possession of the record thereof;

l. A statement of any charges of fraud made or claimed against the ABS, or any authorized person, and any lawyer the ABS will employ, associate with, or engage to provide legal services, whether formal or informal, together with the dates, names, and addresses of persons making such chargers;

m. Copies of all prior applications for reinstatement, including all findings, decisions or orders entered;

n. A list of all authorized persons, the designated principal, and compliance attorney. Any changes to who is an authorized person, principal, or compliance attorney must be noted. The following documentation shall accompany the list:

(1) application form for any newly identified authorized persons;
(2) form designating a principal for any newly identified principal; and
(3) form designating a compliance attorney for any newly identified compliance attorney; and

o. Any further information or documents as requested by the state bar.

4. Application Fee. As a prerequisite to filing and before investigation of the application, every applicant for reinstatement shall pay to the records manager of the state bar an application fee, as set forth in section (J) herein, along with the state bar's estimate of the costs of its investigation and the costs and expenses of all related proceedings before the presiding disciplinary judge, a hearing panel, or the supreme court. The state bar may contract with an outside agency to perform all or part of the investigation. If the applicant's payment is less than the actual cost of investigation and subsequent proceedings, the applicant shall be required to satisfy such deficiency before the application is reviewed by the court. Any excess costs advanced shall be promptly refunded to the applicant at the conclusion of proceedings. Any subsequent costs or expenses incurred shall be paid by the applicant before the ABS's license is reinstated.

5. Costs and Expenses of Disciplinary Proceedings. Prior to filing the application for reinstatement, the applicant shall pay all outstanding costs and expenses of any disciplinary proceeding. Verification of such payment in the form of an affidavit from the records manager of the state bar must accompany the application.

6. Amounts Owing to the Client Protection Fund. Prior to filing an application for reinstatement, the applicant shall cause all state bar members to pay sums owed to the client protection fund due prior to reinstatement proceedings. Verification of such payment in the form of an affidavit from the Administrator of the Client Protection Fund must accompany the application.

7. Annual or Other Licensure Fees. No reinstatement shall become effective until payment of all licensing fees and other charges accruing after the application for reinstatement has been granted.

8. Successive Applications. No application for reinstatement shall be filed within one (1) year following the denial of a request for reinstatement.

9. Withdrawal of Application. An applicant may withdraw an application at any time before the filing of the hearing panel report.

10. Reinstatement Proceedings. Reinstatement hearings shall be governed by Supreme Court Rule 65(b).

J. Fee Schedule.

1. Definitions. The following definitions apply to this schedule:

   a. "International" means the ABS has one or more physical locations outside the United States.

   b. "Large – Non-law Firm" means an ABS that has 100 or more full- or part-time employees and is not a traditional law firm as that term is defined herein.

   c. "Small – Non-law Firm" mean an ABS that has fewer than 100 full- or part-time employees and is not a traditional law firm as that term is defined herein.

   d. "Non-profit - Not Arizona" mean an ABS that is a nonprofit corporation in good standing that is not incorporated in Arizona.

   e. "Non-profit – Arizona" is an ABS that is a nonprofit corporation in good standing that is incorporated in Arizona.

   f. "Traditional Law Firm" is an ABS whose primary business is provision of legal services with nonlawyer economic interest holders.

2. Initial Licensure

a. International	$12,000
b. Large – Non-law Firm	$10,000
c. Small – Non-law Firm	$ 6,000
d. Non-profit - Not Arizona	$ 5,000
e. Non-profit – Arizona	$ 2,000
f. Traditional Law Firm	$ 6,000

3. Renewal Licensure

a. International	$ 6,000
b. Large - Non-law Firm	$ 5,000
c. Small – Non-law Firm	$ 3,000
d. Non-profit - Not Arizona	$ 2,500
e. Non-profit – Arizona	$ 1,000
f. Traditional Law Firm	$ 3,000

4. Miscellaneous Fees.

a. Replacement of License or Name Change.	$25
b. Merger or Acquisition Fee	
(1) International	$12,000
(2) Large – Non-law Firm	$10,000
(3) Small – Non-law Firm	$ 6,000
(4) Non-profit – Not Arizona	$ 5,000
(5) Non-profit – Arizona	$ 2,000
(6) Traditional Law Firm	$ 6,000
c. Public Record Request Per Page Copy	$ .50
d. Certificate of Correctness of Copy of Record	$18
e. Reinstatement Application (after suspension or revocation)	
(1) International	$12,000
(2) Large – Non-law Firm	$10,000
(3) Small – Non-law Firm	$ 6,000
(4) Non-profit - Not Arizona	$ 5,000
(5) Non-profit – Arizona	$ 2,000
(6) Traditional Law Firm	$ 6,000
f. Extraordinary investigation assessment (see section (E)(1)(b) herein)	based on actual costs;

K. Code of Conduct. The following code of conduct describes the expectations and standards that an ABS is expected to maintain as a provider of legal services. A failure to meet these standards or a breach of regulatory requirements are grounds for disciplinary action against an

ABS itself, or its non-lawyer members, who each have the same responsibility for ensuring ethical legal services for clients. Members of an ABS who are members of the state bar bear the responsibility of the ethical and professional obligations of the profession as well as the standards stated herein. An individual failure or breach may warrant action itself or as a pattern of conduct.

1. Code of Conduct for ABS's. In addition to the requirements of subsection (G)(2), each ABS and its authorized persons must adhere to the following minimum standards of conduct.

   a. Shall not allow the legal representation of clients, if the representation involves a conflict of interest as governed by Supreme Court Rule 42, ERs 1.7, 1.8, 1.9, 1.10, 1.11, 1.13 and 1.18.

   b. Shall not take any action or engage in activity that interferes with the professional independence of lawyers or others authorized to provide legal services.

   c. Shall ensure that legal services are delivered with reasonable diligence and promptness.

   d. Shall not take an action or engage in any activity that misleads or attempts to mislead a client, a court, or others, either by the ABS's own acts or omissions, or those of its members or employees, or by allowing or being complicit in the acts or omissions of others.

   e. Shall maintain effective governance structures, arrangements, systems, and controls to ensure:

      (1) Compliance with the requirements of supreme court rules and this section; and
      (2) Managers, economic interest holders, decision-makers, employees, or anyone employed, associated with, or engaged do not cause or substantially contribute to a breach of the ethical rules of Supreme Court Rule 42 or this section.

   f. Must maintain records to demonstrate compliance with its obligations under the supreme court rules and this section.

   g. Must monitor financial stability and business viability. When an ABS becomes aware it will cease to operate, it must affect an orderly wind-down of business activities and comply with the requirements for surrender of an ABS license in this section.

   h. Must monitor and manage all material risks to the business, including those which arise from connected businesses or connected services.

   i. Must hold property of legal services clients separate from the property of the ABS. The requirements of Supreme Court Rules 42, ER 1.15 and Rule 43 are applicable to all legal services-related client property.

j. An ABS, its members and employees must cooperate with the Administrative Office of Courts, Committee on Alternative Business Structures, the State Bar of Arizona, the presiding disciplinary judge, and any court who oversees and investigates concerns related to its delivery of legal services.

k. Must respond promptly to the Administrative Office of Courts, Committee on Alternative Business Structures, the state bar, the presiding disciplinary judge, and the supreme court and provide full and accurate information and documentation in response to any request or investigation.

l. Shall not attempt to prevent any person from providing information or documents in response to any request or investigation.

m. Must act promptly to take any remedial action requested by the state bar, the Administrative Office of Courts, the presiding disciplinary judge, and the supreme court.

n. Shall assure that all authorized persons and employees, in matters pertaining to legal services, perform all duties and functions in the manner ethically required of a lawyer pursuant to Supreme Court Rule 42.

2. Code of Conduct for Authorized Persons, Managers, Economic Interest Holders, and Decision-Makers. An authorized person, including any manager, economic interest holder, or decision-maker in an ABS is individually responsible for compliance by the ABS with this code of conduct. Failures or breaches of this responsibility may subject any authorized person, including any manager, economic interest holder, or decision-maker of an ABS to discipline.

3. Code of Conduct for Compliance Lawyers. In addition to the requirements of subsection (G)(3)(b) and Supreme Court Rule 42, a designated compliance lawyer is responsible individually for compliance by the ABS and authorized persons, including any managers, economic interest holders, or decision-makers of the ABS, with this code of conduct. Failures or breaches of this responsibility may subject a compliance lawyer to discipline.

4. As to matters involving legal services, in the event of a conflict between this code of conduct, Supreme Court Rule 42, and other professional codes of conduct (e.g., AICPA Code of Professional Conduct), this code of conduct and Rule 42 shall govern.

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
October 22, 2020	X Formal Action/Request __ Information Only __ Other	Powers and Duties of Officers Evidence-based Practices 6-105.01, Juvenile Standard Probation Evidence-based practices 6-301.01, Juvenile Intensive Probation Supervision Evidence-based practices 6-302.01

FROM:

Joseph Kelroy

DISCUSSION:

Incorporated language specific to risk-based supervision and the recommendation matrix, approved by the Committee on Probation (COP) and the Committee on Juvenile Courts (COJC).

RECOMMENDED ACTION:

To approve codes as presented for implementation on January 1, 2021.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet
Part 6: Probation
Chapter 1: General Administration
Section 6-105.01: Powers and Duties of Officers Evidence Based Practices

1. Effect of the proposal:
Revisions are to enable juvenile standard probation officers and juvenile intensive probation officers to use the Recommendation Matrix to provide a proposed disposition to the court.

2. Significant new or changed provisions:
A. Definitions
Added the following new definitions:

- Juvenile court consequences
- Juvenile intensive probation
- Juvenile short-term standard probation
- Juvenile standard probation
- Recommendation matrix

E. Duties of [Juvenile]Probation Officers
(3)(f)(4): changed 72 hours to 14 days

3. Committee actions and comments:
Committee on Probation, August 14, 2020, members of the committee made additional revisions to ACJA 6-105.01; Committee on Juvenile Courts, August 20, 2020, approved.

4. Controversial issues:

None

5. Recommendation: Recommend approval.

Comments and Responses to ACJA Section 6-105.01 Powers and Duties of Officers Evidence-Based Practices
(See attached for full versions.)

PARAGRAPH	COMMENT	RESPONSE
A. Definition: Child	Comment: "Child," "youth" or "juvenile" definition should be updated to reflect new statutory language of extended jurisdiction. Suggested Language: "Child" "youth" or "juvenile" means "an individual who is under the age of eighteen years," as provided in A.R.S. § 8-201(6) OR UNTIL THE JUVENILE IS NINETEEN IF JURISDICTION IS RETAINED PURSUANT TO A.R.S.§ 8-202, SUBSECTION H.	Not incorporated. Definition for "Child" remains the same as it is statutory.
E. Duties of Probation Officers	Comment: E(3)(h) Juveniles can generate multiple referrals in a short time-span. This can be the result of law enforcement clearance or submission practices which may not reflect the timing of the offending and can create a clustering of new referrals. This can result in the over-assessing of the juvenile. The current language suggests that a new assessment should be completed after every referral. It is recommended that assessments only be completed after adjudication per the disposition tool instructions. In addition, variation in re-offense rates exist among counties due to a variety of factors. Optimally, assessment instruments should be validated at the local level when it is feasible. Further, the use and application of any assessment instrument should take into consideration risk dispersion and the impact on system resources and both formal and informal decision-making. Risk impacts many key decision points in the system. The proposed ACJA changes result in a shift of staffing resources for Maricopa County as a result of projected increase toward the	Not incorporated. Reassessment for each subsequent referral is required by statute 8-246 C Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.

	moderate and high-risk categories. This shift is the result of recently modified cutoff scores in the AZYAS. The shift in cutoffs was guided by the results of the recent validation study and the shifts in cutoffs result in lower re-offense rates particularly among low risk youth, 27% versus 21%. A recent review by the Department using more recent risk and re-offense data indicates that the current re-offense rates are comparable to the newly projected. Last, the reduction in high re-offense rates does not necessarily justify the shifting of a significant number of moderate risk youth to high risk, 52% to 50%, for Maricopa County. The validation study was a valuable and necessary study to be completed and Maricopa agrees that some adjustment in risk cutoffs is necessary. However, local jurisdictions should have the ability to refine such adjustments when appropriately considering local data, local resources, and operational plans. Suggested Language: E.3(h) Conduct a youth assessment for each juvenile who is ADJUDICATED DELINQUENT IN the juvenile court and update the assessment on each subsequent ADJUDICATION EXCLUDING ADJUDICATIONS FOR VIOLATIONS OF PROBATION. The court shall use the assessment to determine the appropriate disposition of the juvenile. The results of the assessment shall be used by the probation officer to recommend a level of supervision and to formulate a case plan for the juvenile. THE JUVENILE PRESIDING JUDGE MAY APPROVE THE USE OF ALTERNATIVE RISK ASSESSMENT SCORE AND RISK CATEGORIZATION STRATEGIES AFTER CONSIDERING LOCAL REOFFENSE RATES, RESOURCE ALLOCATIONS, AND A	

	CONTINUED ADHEREANCE TO EVIDENCED BASED PRACTICES AND PRINCIPLES.	
E. Duties of Probation Officers	Comment: E(3)(h)(2) Consider removing detailed disposition choices within ACJA as it prevents changes if updates need to be made in the future. The matrix is new and being piloted. Including this language in Code at this time is unnecessary. Suggested Language: E.3(h)(2) The disposition tool of the youth assessment shall be completed ~~post adjudication / pre-disposition~~ following the adjudication and prior to the disposition. The probation officer shall use ~~results of the assessment~~ the Recommendation Matrix to ~~recommend level of placement and supervision~~ GUIDE a disposition RECOMMENDATION. ~~of Court Consequence, Short-term Standard Probation, Standard Probation, Juvenile Intensive Probation Supervision or commitment to the Arizona Department of Juvenile Corrections.~~	Not incorporated Remain with "propose" a disposition to the court and not use "guide" a disposition recommendation.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 1: General Administration
Section 6-105.01: Powers and Duties of Officers Evidence-Based Practices

Courts shall be governed by section 6-105, except and until approved by the Administrative Director to be governed by section 6-105.01.

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

"Absconder" 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."

"Alcohol and drug testing" means any validated or verified method of determining the level of identifiable substances in the body including, but not limited to, breath, blood, oral fluid urine, hair, and sweat testing.

"Arrest notification" means notice, by any means, that the probationer has been arrested, cited or had official contact with a law enforcement officer.

"Case plan" means the documented behavior change plan and supervision strategy developed by the supervising probation officer in collaboration with the juvenile and family or adult probationer which clearly identifies the risk factors and needs of the probationer and how they will be addressed.

"Case record" means any record pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

"Child," "youth," or "juvenile" means "an individual who is under the age of eighteen years" as provided in A.R.S. § 8-201(6).

"Community restitution" means unpaid labor or services provided to a not-for-profit or governmental agency.

"Complaint" means "a written statement of the essential facts constituting a public offense ..." as provided in A.R.S. § 8-201(7).

"Court" means superior court.

"Criminogenic need" means any issues of concern which are directly linked to criminal or delinquent behavior that when addressed and changed affect a probationer's risk for recidivism, which include, but are not limited to criminal personality, antisocial attitudes, values, beliefs, low self control, criminal peers, substance abuse, dysfunctional family, unemployment, and lack of education.

"Default" means has not met obligations of supervision as outlined in terms of probation.

"Delinquent act" means "an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense" as provided in A.R.S. § 8-201~~(10)~~(12).

"Delinquent juvenile" means "a child who is adjudicated to have committed a delinquent act," as provided in A.R.S. § 8-201~~(11)~~(13).

"Dependent child" means "(a) a child who is adjudicated to be: (i) In need of proper and effective parental care and control and who has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control. (ii) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care. (iii) A child whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, a guardian or any other person having custody or care of the child. (iv) Under eight years of age and who is found to have committed an act that would result in adjudication as a delinquent juvenile or incorrigible child if committed by an older juvenile or child. (v) Incompetent or not restorable to competency and who is alleged to have committed a serious offense as defined in section 13-706. (b) Does not include a child who in good faith is being furnished Christian Science treatment by a duly accredited practitioner if none of the circumstances described in subdivision (a) of this paragraph exists," as provided in A.R.S. § 8-201~~(13)~~(15).

"Evidence-based practice" means strategies that have been shown, through current, scientific research to lead to a reduction in recidivism.

"Incorrigible child" means "a child who:

(a) Is adjudicated as a child who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian and who is beyond the control of that person.
(b) Is habitually truant from school as defined in section 15-803, subsection C.
(c) Is a runaway from the child's home or parent, guardian or custodian.
(d) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others.
(e) Commits any act constituting an offense that can only be committed by a minor and that is not designated a delinquent act.
(f) Fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action." as provided in A.R.S. § 8-201~~(16)~~(19).

"Juvenile court" means "the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility" as provided in A.R.S. § 8-201~~(18)~~(21).

"Juvenile court consequence" means a consequence imposed by the court after an adjudication that does not include a term of probation. Court consequences may include but are not limited to community restitution, fines, and curfews with parental responsibility for oversight. Court consequences do not include treatment or family counseling services.

"Juvenile intensive probation" means "a program…of highly structured and closely supervised juvenile probation and which emphasizes surveillance, treatment, work, education and home detention" as provided in A.R.S. § 8-351.

"Juvenile short-term standard probation" means a period of formal supervision granted by the juvenile court to an adjudicated juvenile pursuant to A.R.S. § 8-341 and upon review of the court, the juvenile may be released after six months or sooner if specified conditions have been completed.

"Juvenile standard probation" means a period of formal supervision granted by the juvenile court to an adjudicated juvenile contingent on compliance with specified conditions.

"Petition" means "a written statement of the essential facts that allege delinquency, incorrigibility or dependency" as provided in A.R.S. § 8-201~~(24)~~(27).

"Recommendation Matrix" means the approved tool utilized by a probation officer or surveillance officer who meet the required training as established by the AOC to provide a proposed disposition to the court.

"Referral" means "a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act" as provided in A.R.S. § 8-201~~(27)~~(31).

"Standardized assessment" means the state-approved tool to determine the offender's needs related to criminal behavior and propensity to re-offend.

"Standardized reassessment" means the state-approved tool designed to measure changes in an offender's needs related to criminal behavior and propensity to re-offend.

"Target interventions" means supervision related services determined by the probationer's risk, criminogenic needs, and other factors such as temperament, learning style, motivation, gender and culture.

"Youth assessment" means the ~~state~~ approved system of actuarial tools designed to assess risk, need, and responsivity factors of youth at various stages of the juvenile justice system.

B.-D. [No Change]

E. Duties of Probation Officers.

1. and 2. [No Change]

3. Juvenile probation officers shall also:

a.- e. [No Change]

f. Exercise general supervision and observation over juveniles on probation, enforcing all court orders and emphasizing accountability, and notify the court when juvenile conduct displays an inability or unwillingness to comply with the conditions of probation and all court orders.

(1) Juvenile probation officers shall make documented efforts to locate a juvenile they believe to have defaulted.
(2) A supervising officer shall consider the following factors in determining the time frame necessary to file a petition to revoke probation and request that the court issue a warrant once an officer has reason to believe that a juvenile has defaulted:
(a) Juvenile's general history;
(b) History of violence, including weapons use;
(c) History of drug or alcohol abuse;
(d) History of mental illness;
(e) Offense history;
(f) Supervision history;
(g) Illegal use of drugs or alcohol;
(h) Failure to participate in or complete treatment;
(i) Current or recent patterns of avoiding officer contact;
(j) Emotional or mental instability or distress on the part of the juvenile_or the family unit, including evidence of domestic violence; or
(k) Current or recent unstable pattern of education, employment, residence, or associations.
(3) If the defaulted juvenile is on standard probation supervision and is not located within 90 days, the supervising probation officer shall file a petition to revoke probation and request that the court issue a warrant. The supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.
(4) If the defaulted juvenile is on intensive probation supervision and is not located within ~~72 hours~~ 14 days, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.
(5) Probation officers shall make documented efforts to locate the defaulted juvenile until the juvenile is found pursuant to local departmental policy.

g. [No Change]

h. Conduct a youth assessment for each juvenile who is referred to the juvenile court and update the assessment on each subsequent referral. The court shall use the assessment to determine the appropriate disposition of the juvenile. The results of the assessment shall be used by the probation officer to recommend a level of supervision and to formulate a case plan for the juvenile.

(1) Unless an offense does not warrant diversion, the diversion tool shall be completed at initial contact with the juvenile justice system and be used to assist decisions of diversions.

(2) The disposition tool of the youth assessment shall be completed ~~post-adjudication / pre-disposition~~ following the adjudication and prior to the disposition. The probation officer shall use ~~results of the assessment~~ the Recommendation Matrix to ~~recommend level of placement and supervision~~ propose a disposition of Court Consequence, Short-term Standard Probation, Standard Probation, Juvenile Intensive Probation Supervision or commitment to the Arizona Department of Juvenile Corrections.

i. - m. [No Change]

F. [No Change]

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet
Part 6: Probation
Chapter 3: Juvenile Services
Section 6-301.01: Juvenile Standard Probation Evidence-Based Practices

1. **Effect of the proposal:** Revisions are to enable standard probation officers to use the Recommendation Matrix to provide a proposed disposition to the court, and to base supervision for juveniles on standard probation on the juvenile's risk level.

2. **Significant new or changed provisions:**

A. Definitions

Added the following new definitions

- Collateral
- Out-of-Home Care (to mean only juveniles placed at a 24-hour licensed facility providing treatment or behavioral modification)
- Parent
- Recommendation Matrix
- Short-term standard probation
- Standard probation

Modify "visual contact" to include AOC approved technology
Remove "Out-of-home placement", replaced by out-of-home care

C. Purpose

Modify the section to include juvenile's nineteen years of age if jurisdiction is retained pursuant to § 8-202.
Modify the section to include the option of short-term standard probation

J. Program Operations

(1)(f): Require standard probation officers to complete a youth assessment on all juvenile prior to disposition or within 30 days of placement on standard probation
(1)(g)(new): Require standard probation officers to use the Recommendation Matrix when providing a proposed disposition to the court.
(3)(a): Require standard probation officers to complete a case plan within 30 days of disposition for every juvenile who is placed on standard probation.

K. Minimum Supervision Requirements

Section modified to require juvenile probation departments to develop policies and procedures to ensure visual contacts and supervision strategies be proportionate to the level of risk and needs of the juvenile based on results of the youth assessment, Recommendation Matrix and other significant case information. Supervision levels are divided into low, moderate and high risk. Supervision requirements have also been established for juveniles placed in out-of-home care.

3. **Committee actions and comments:**

Committee on Probation, August 14, 2020, members of the committee made additional revisions to ACJA 6-301.01; Committee on Juvenile Courts, August 20, 2020, approved.

I. Active Cases

(1)(b) Added "<u>including foster care, kinship care or temporary shelter services"</u> to clarify juveniles

placed in foster care, kinship care or temporary shelter services are considered as active cases
Upon further consideration AOC-JJSD staff determined the clarification of juvenile's in placement would be better communicated if added to (1)(a), and added "those who are in" to read "Juveniles residing in county including those who are in foster care, kinship care or temporary shelter services and receiving standard probation services

K. Minimum Supervision Requirements

(2)(a-d) 30 days was replaced with "month", due the complexity of having to track specific days for contacts with the juvenile, parent and collateral parties.

4. Controversial issues:

None

5. Recommendation: Recommend approval.

Comments and Responses to ACJA Section 6-301.01 Juvenile Standard Probation Evidence-Based Practices
(See attached for full versions.)

PARAGRAPH	COMMENT	RESPONSE
A. Definitions: Child	Comment: "Child," "youth" or "juvenile" definition should be updated to reflect new statutory language of extended jurisdiction. Suggested Language: "Child" "youth" or "juvenile" means "an individual who is under the age of eighteen years," as provided in A.R.S. § 8-201(6) OR UNTIL THE JUVENILE IS NINETEEN IF JURISDICTION IS RETAINED PURSUANT TO A.R.S.§ 8-202, SUBSECTION H.	Not incorporated. Definition for "Child" remains the same as it is statutory.
A. Definitions: Out of Home Placement	Comment: Keep definition of out of home placement to reference continued supervision mandates for youth in group homes and shelter as active cases. Suggested language: "Out-of-home placement" means "the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian …" as provided in A.R.S. § 8-501(8)(9). THIS CATEGORY INCLUDES FOSTER CARE, KINSHIP CARE, OR TEMPORARY SHELTER SERVICES.	Not incorporated. 8-501(8)(9) applies to child welfare/dependent children. Juveniles on probation and placed in foster care, kinship care and temporary shelter services are considered active cases and should be supervised based on risk.

A. Definitions	Comment: Add the term "specialized team" to amplify the meaning of the staff associated with specialized caseloads (ex. Crossover Youth Practice Model (CYPM)). Suggested Language: "SPECIALIZED TEAM" MEANS A PROBATION OFFICER AND SURVEILLANCE OFFICER OR OTHER DESIGNATED STAFF SUPERVISING A SPECIALIZED CASELOAD.	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.
H. Standard Probation Caseload Limit	Comment: Research supports lower ratios for high risk caseloads/cases and higher ratios for low risk caseloads/cases, less supervision. The proposed ACJA changes will now require increased resources for higher risk juveniles. While the Department acknowledges that contact standards and methods have been altered to accommodate this shift, the full impact of such change has not been analyzed beyond our local projection of a monthly cumulative increase of new high-risk cases. Further, the current method used in calculating probation caseloads does not include consideration of pre-disposition cases. Suggested Language: A.R.S. § 8 203(B) provides: "A juvenile probation officer performing field supervision shall not supervise more than an average of thirty-five juveniles on probation at one time." TO BE DETERMINED.	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.
I. Active Cases	Comment: I.1.b Addition to active cases list. Cases That have not been dispositioned and are assigned to a Probation Officer require juvenile and parent contacts in order to gain information to make informed dispositional recommendations. Additionally, these types of cases require certain types of assessments. They are	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.

	currently not counted as active cases. Suggested Language: I.1.b JUVENILES RESIDING IN COUNTY AND ASSIGNED TO AN OFFICER PRIOR TO DISPOSITION	
I. Active Cases	Comment: I.1.c: Keep definition of out of home placement to reference continued supervision mandates for youth in group homes and shelter as active cases. Suggested Language: I.1.~~b~~c. Juveniles in out-of-home care OR OUT OF HOME PLACEMENT ~~placement~~;	Not incorporated.
I. Active Cases	Comment: I(2)(a)(1), (2), and (3) Juveniles who are currently living out of county should be supervised by the receiving county through courtesy supervision or interstate transfer. Other inactive status' should include juveniles who are hospitalized and juveniles pending adult court action currently held in juvenile detention facilities. Juveniles assigned an officer prior to disposition require assessments, court reports, disposition matrix recommendations, and supervision of release or detain conditions and should be considered active cases. 2c should be stricken and 1B added. Suggested Language: I.(2)(a)(1), (2), and (3) 1) Juveniles traveling for more than 30 days out of state, COUNTY, or country with the approval of the juvenile probation department; 2) Juveniles direct filed to adult court and currently held in adult jail OR JUVENILE DETENTION FACILITIES pending the adult court action; or 3) Juveniles residing for more than 30 days out of state, COUNTY, or country, but the department has retained jurisdiction of the	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.

	juvenile.	
J. Program Operations	Comment: J(1)(f) Departments should have increased flexibility to determine who administers the various assessments as long as they are done properly. Consider allowing surveillance officers or other designated assessment trained staff to complete the AZYAS or any other assessment including trauma, substance use, or sex trafficking assessments. Suggested Language: J(1)(f) Which require ~~standard~~ probation officers, SURVEILLANCE OFFICERS, OR DESIGNATED ASSESSMENT TRAINED STAFF (SPECIALIZED TEAMS) to administer a youth assessment for each adjudicated juvenile ~~supervised~~, prior to disposition or within 30 days of placement on ~~standard~~ probation, if not completed during the pre-dispositional process. Probation Officers shall consider assessment results, family feedback, other agencies involved, as well as any other relevant information, when developing a case plan;	Not incorporated. Surveillance Officer was included as approved to complete the Matrix in the definition of the "Recommendation Matrix"
J. Program Operations	Comments: J(1)(h) Consider allowing Surveillance Officers or designated assessment trained staff to update the youth assessment. Update referral to ADJUDICATION to align with other suggested Code changes. Suggested Language: J(1)(h) Which require the juvenile probation officer, SURVEILLANCE OFFICER, OR DESIGNATED ASSESSMENT TRAINED STAFF to update the youth assessment, upon each subsequent ADJUDICATION EXCLUDING VIOLATIONS OF PROBATION and once every six months, at a minimum. Upon each re-administration, juvenile officers shall review the previous case plan evaluating and updating noted strategies to reflect	Not incorporated. Surveillance Officer was included as approved to complete the Matrix in the definition of the "Recommendation Matrix"

	identified risks and needs;	
J. Program Operations	Comment: J(1)(i) This would be a proposed new letter "i". Departments should be able to use a screening instrument or brief tool to determine initial risk. This practice is supported within the field as a "…means to 'screen out' the youth who are low risk. Youth who are low risk but were already adjudicated should be considered for the least restrictive disposition and lowest level of supervision and service intensity".[1] This is particular relevant to large agency with high volumes of adjudication. Thus, staff time is further reserved for the more comprehensive risk assessment for potentially moderate to high risk youth. Further, low risk juveniles do not generally involve treatment case planning given low criminogenic risk factors resulting in the reasonable use of limited case plan primarily focused on goals of very limited contact, completion of conditions, and release similar to the Recommendation Matrix model proposed.[2] Suggested Language: J(1)(new i) WHICH REQUIRE JUVENILE PROBATION OFFICERS OR SURVEILLANCE OFFICERS, OR DESIGNATED ASSESSMENT TRAINED STAFF (SPECIALIZED TEAMS) TO ADMINISTER REASSESSMENTS FOR JUVENILES THAT ASSESS AS LOW RISK ON THE INITIAL STANDARDIZED ASSESSEMENT UPON THE DISCOVERY OF NEW BEHAVIORS THAT INCREASE RISK SUCH AS CONTINUED DELINQUENT CONDUCT OR PATTERNS OF ONGOING SUBSTANCE USE.	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.
J. Program Operations	Comment: J(1)(new j) This would be a proposed new	Not incorporated.

[1] Risk Assessment in Juvenile Justice: A Guidebook for Implementation, Models for Change System Reform in Juvenile Justice, November 2012

	letter "j". Departments should have increased flexibility to determine who administers the various assessments as long as they are certified. Consider allowing surveillance officers or other designated assessment trained staff to complete the AZYAS or any other assessment including trauma, substance use, or sex trafficking assessments. Consider calling them "Specialized Teams". To be consistent with the Recommendation Matrix, violations of probation should not be included in the list of subsequent adjudications. Suggested Language: J(1)(new j) WHICH REQUIRE JUVENILE PROBATION OFFICERS OR SPECIALIZED TEAMS TO DEVELOP A CASE PLAN FOR JUVENILES WHO ASSESS AS MODERATE OR HIGH RISK A MINIMUM OF ONCE EVERY SIX MONTHS FROM THE COMPLETION OF THE LAST CASE PLAN. THE CASE PLAN SHALL REFERENCE THE MOST RECENT COMPLETED ASSESSEMENT AND SHALL BE UPDATED MORE FEQUENTLY UPON GOAL COMPLETION OR NEEDED GOAL ADJUSTMENTS.	Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.
J. Program Operations	Comment: J(1)(new k) This would be a proposed new letter "k". Departments should be able to use a screening or brief instrument to determine initial risk. This practice is supported within the field as a "…means to 'screen out' the youth who are low risk. Youth who are low risk but were already adjudicated should be considered for the least restrictive disposition and lowest level of supervision and service intensity".[3] This is particular relevant to large agency with high volumes of adjudication. Thus, staff time is further reserved for the more comprehensive risk	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision

[3] Risk Assessment in Juvenile Justice: A Guidebook for Implementation, Models for Change System Reform in Juvenile Justice, November 2012

	assessment for potentially moderate to high risk youth. Further, low risk juveniles do not generally involve treatment case planning given low criminogenic risk factors resulting in the reasonable use of limited case plan primarily focused on the goals of very limited contact, completion of conditions, and release from probation similar to the Recommendation Matrix model proposed. Suggested Language: J(1)(new k) WHICH REQUIRE PROBATION OFFICERS OR SPECIALIZED TEAMS TO DEVELOP A LOW RISK CASE PLAN FOR JUVENILES THAT ASSESS AS LOW RISK.	
J. Program Operations	Comment: J(1)(new l) This would be a proposed new letter "l", formerly "I". Departments should have increased flexibility to determine who administers graduated incentives and/or responses. When dealing with specialized teams, Probation Officers, Surveillance Officers, and trained staff may all have the ability to work with the juvenile and families towards successful outcomes. Suggested Language: J(1)(new l) That require Probation Officers OR SPECIALIZED TEAMS to utilize graduated responses to promote positive behavioral change through incentives, consequences, and supervision to address violations;	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.
J. Program Operations	Comment: J(1)(new m) This would be a proposed new letter "m", formerly "j". Departments should have increased flexibility to determine who administers the various assessments as long as they are done properly. Consider allowing surveillance officers or other designated assessment trained staff to complete the AZYAS or any other assessment including trauma, substance use, or sex trafficking	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision

	assessments. Consider calling them "Specialized Teams". Suggested Language: J(1)(new m) That ensure probation officers, SURVEILLANCE OFFICERS, OR DESIGNATED ASSESSMENT TRAINED STAFF providing standard supervision shall re-examine and reassess the risk and needs of each juvenile under their supervision and the factors associated with reducing, maintaining or increasing the juvenile's level of supervision; and	
J. Program Operations	Comment; J(3)(a) It is not always possible to obtain a parent signature within the required time frame. It is expected the probation officer will include the parent in the development of a case plan and provide a copy of the case plan to the parent/guardian. The goal is the building of the relationship. A signature of the parent shall not be mandatory. We are recommending differentiating the type of case plan used based on the assessed risk of the juvenile. Suggested Language: J(3)(a) The juvenile probation officer OR SPECIALIZED TEAM shall: ~~For every juvenile placed on standard probation,~~ Develop a LOW OR MODERATE/HIGH RISK case plan ~~must be developed~~ within 30 days of disposition for every juvenile who is placed on standard probation. The probation officer OR SPECIALIZED TEAM shall ensure the case plan includes objectives that are measurable and signatures of the probation officer AND juvenile. INPUT FROM THE JUVENILE AND PARENT/GUARDIAN WILL BE INCLUDED AS THE CASE PLAN IS DEVELOPED AND UPDATED. THE PROBATION OFFICER SHALL PROVIDE A COPY OF THE CASE	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision

	PLAN TO THE JUVENILE AND PARENT/GUARDIAN.	
K. Minimum Supervisions Requirements	Comment: Recommending changing the following sections be considered for change as juvenile probation does not have a case management system to tracks contacts per days, probation does have quality assurance reviews to ensure contacts are made and are addressing needs. Contacts should be based monthly not daily. Section K (a)(1). Change to monthly, strike 30 days for juvenile contact, first contact can remain at 30 days then monthly, considering bimonthly as the juvenile is low risk and considering our new AZYAS cutoffs. (2). Every other month iii. Bimonthly. (b)(1) 30 days first visual contact should remain, (2) change to every month, remove every 30 days. (3) remove every 30 days and change to monthly. (c)(1). Keep the first contact within 15 days, remove 2 contacts every 30 days and change to 2 contacts every month. (2) Keep 15 day requirement for parent, once per month thereafter. (3) Change to monthly. (d)(1) Change to monthly contacts, (3) Change to monthly contacts.	Not incorporated, but not opposed to the use of "month" versus "every 30 days" in visual contact standards. Seek position from COP so as to include or not in the next revisions.
K. Minimum Supervisions Requirements	Comment: K.(2)(a)(1, 2, 3) Research (Dr. LaTessa) indicates risk assessments and collateral information should all be considered when assigning a level of supervision to a youth placed on probation. Suggested Language: K.(2)(a)(1, 2, 3) <u>2. Visual contacts and supervision strategies shall be proportionate to the level of risk, needs of the juvenile based on results of the youth assessment,</u>	Not Incorporated. "Significant case information" includes referral history, recent compliance/non-compliance, with conditions of probation. Both the AZYAS and Matrix has an override option. Departments can meet or exceed established contact standards but not go below.

	SEVERITY OF OFFENSE, REFERRAL HISTORY, RECENT COMPLIANCE/NON-COMPLIANCE WITH CONDITIONS OF PROBATION, THE Recommendation Matrix and other significant case information: ~~Visual contacts with the juvenile.~~Visual contacts shall be varied, scheduled, and unscheduled. ~~Visual contacts and supervision strategies shall be proportionate to the level of risk and needs of the juvenile based on results of the youth assessment and other significant case information.~~ DEPARTMENTS SHOULD BE EXPECTED TO DETERMINE THEIR OWN VISUAL CONTACT STANDARDS FOR JUVENILES HOSPITALIZED OR DETAINED. a. The low risk supervision level shall include: (1) Visual contact with the juvenile within 30 days of disposition and one visual contact every MONTH thereafter; (2) Contact with the parent within 30 days of disposition and every MONTH thereafter; (3) Collateral contact every OTHER MONTH as determined by the conditions of probation and the case plan.	
K. Minimum Supervisions Requirements	Comment: K.(2)(b)(1, 2, 3) Research (Dr. LaTessa) indicates risk assessments and collateral information should all be considered when assigning a level of supervision to a youth placed on probation.	Not incorporated, but not opposed to the use of "month" versus "every 30 days" in visual contact standards. Seek position from COP so as to include or not in the next revisions.

	Suggested Language: K.(2)(b)(1, 2, 3) b. The moderate risk supervision level shall include: (1) Visual contact with the juvenile within 30 days of disposition and one visual contact every MONTH NOT TO EXCEED 45 DAYS BETWEEN CONTACTS thereafter; (2) Contact with the parent within 30 days of disposition and every MONTH AND NOT TO EXCEED 45 DAYS BETWEEN CONTACTS thereafter; (3) Collateral contact every MONTH as determined by the conditions of probation and the case plan.	
K. Minimum Supervisions Requirements	Comment: K.(2)(c)(1, 2, 3) Research (Dr. LaTessa) indicates risk assessments and collateral information should all be considered when assigning a level of supervision to a youth placed on probation. Suggested Language: K.(2)(c)(1, 2, 3) c. The high risk supervision level shall include: (1) Visual contact with the juvenile within 15 days of disposition and TWO visual contacts every MONTH AND NOT TO EXCEED 25 DAYS IN BETWEEN CONTACTS thereafter; (2) Contact with the parent within	Not incorporated

	15 days of disposition and every MONTH NOT TO EXCEED 45 DAYS IN BETWEEN CONTACTS thereafter; (3) Collateral contact every MONTH as determined by the conditions of probation and the case plan.	
K. Minimum Supervisions Requirements	Comment: K.(new 5) K(5) Proposed new 5. Juveniles who have completed all behavioral changes but owe large amounts of restitution should not continue with visual supervision. Many times this financial burden will follow the juvenile well into adulthood with a restitution order but victim rights may not allow a juvenile to be completely released from probation. Recommend a compliance monitoring type case load for these cases. Suggested Language: K.(new 5). RESTITUTION SUPERVISION LEVEL- IF A JUVENILE HAS COMPLETED ALL CASE GOALS AND CONDITIONS OF PROBATION EXCEPT RESTITUTION, THE JUVENILE CAN BE SUPERVISED WITH ONE CONTACT EVERY OTHER MONTH.	Not incorporated
K. Minimum Supervisions Requirements	Comment: K.(current 5, new 6)(1, 2, 3) Thirty day requirements changed to monthly requirements to be in contact with juvenile, parent, and out of home provider. Suggested Language: K.(current 5, new 6) (1, 2, 3) 5. Out-of-home care supervision level shall include:	Not incorporated

	(1) Visual contact with the juvenile every MONTH AND NOT TO EXCEED 45 DAYS IN BETWEEN CONTACTS ; (2) Contact with the parent every MONTH AND NOT TO EXCEED 45 DAYS IN BETWEEN CONTACTS to discuss the juvenile's progress and behavior with the out-of-home care provider, and shall make documented efforts to involve the parents or guardians in the juvenile's treatment and rehabilitation; (3) Contact with the out-of-home care provider every MONTH AND NOT TO EXCEED 45 DAYS IN BETWEEN CONTACTS;	

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 3: Juvenile Services
Section 6-301.01: Juvenile Standard Probation Evidence-Based Practices

Courts shall be governed by section 6-301, except and until approved by the Administrative Director to be governed by section 6-301.01.

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

"Administrative director" means both the administrative director of the Administrative Office of the Courts and the director's designee.

"Administrative status" means a juvenile is not currently receiving active supervision or contact requirements have been suspended by the juvenile probation department.

"Alcohol and drug testing" means any validated or verified method of determining the level of identifiable substances in the body including, but not limited to, breath, blood, oral fluid, urine, hair and sweat testing.

"Average caseload" means the total active cases divided by total number of supervising probation officers.

"Case plan" means the documented behavior change plan and supervision strategy developed by the supervising probation officer in collaboration with the juvenile and family or adult probationer which clearly identifies the risk factors and needs of the probationer and how they will be addressed.

"Case record" means any record pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

"Child" "youth" or "juvenile" means "an individual who is under the age of eighteen years," as provided in A.R.S. § 8-201(6).

"Collateral" means any individual or agency that has a relationship to a particular juvenile that serves as a source of information or point of contact, including but not limited to family members, school personnel, law enforcement, victims, community members, and treatment providers.

"Community restitution" means unpaid labor or services provided to a private not-for-profit or governmental agency.

"Court" means the superior court.

"Criminogenic need" means any issues of concern which are directly linked to criminal or delinquent behavior that when addressed and changed affect a probationer's risk for

recidivism, which include, but are not limited to criminal personality, antisocial attitudes, values, beliefs, low self control, criminal peers, substance abuse, dysfunctional family, unemployment, and lack of education.

"Default" means a juvenile has not met obligations of supervision as outlined in terms of probation.

"Delinquent act" means "an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense" as provided in A.R.S.§ 8-201~~(10)~~(12).

"Delinquent juvenile" means "a child who is adjudicated to have committed a delinquent act," as provided in A.R.S. § 8-201~~(11)~~(13).

"Delinquency risk" means measurable factors that have been correlated to the probability of recidivism that are gathered informally through routine interactions and observations with juveniles and by formal assessment guided by instruments.

"Director" means the director of the juvenile court or chief probation officer in combined departments.

"Evidence-based practice" means strategies that have been shown, through current, scientific research to lead to a reduction in recidivism.

"Hand count" means manual tabulation of all probation case files, conducted independently from any automated system.

"Out-of-home care" means the juvenile resides at a licensed facility that provides treatment or behavioral modification services under 24-hour structured supervision. This category of care does not include foster care, kinship care, or temporary shelter services.

~~"Out-of-home placement" means "the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian ..." as provided in A.R.S. § 8-501(8)(9).~~

"Parent" means the juvenile's biological, adoptive, or legal mother or father whose rights have not been terminated.

"Petition" means "a written statement of the essential facts that allege delinquency, incorrigibility or dependency" as provided in A.R.S. § 8-201~~(24)~~(27).

"Recommendation Matrix" means the approved tool utilized by a probation officer or surveillance officer who meet the required training as established by the AOC to provide a proposed disposition to the court.

"Referral" means "a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act" as provided in A.R.S. § 8-201(~~27~~)(31).

"Short-term standard probation" means a period of formal supervision granted by the juvenile court to an adjudicated juvenile pursuant to A.R.S. § 8-341 and upon review of the court, the juvenile may be released after six months or sooner if specified conditions have been completed.

"Specialized caseload" means a group of juveniles with similar presenting problems or needs who are supervised by a probation officer focusing on addressing the problem or need.

"Target interventions" means supervision related services determined by the juvenile's risk, criminogenic needs, and other factors such as temperament, learning style, motivation, gender and culture.

"Standard probation" means a period of formal supervision granted by the juvenile court to an adjudicated juvenile contingent on compliance with specified conditions.

"Visual contact" means face-to-face communication or visual contacts conducted via AOC approved technology with the juvenile at any place, including, but not limited to, the probation department, the juvenile's residence, place of employment, treatment location or community restitution placement to discuss progress, issues of concern or other appropriate matters.

"Youth assessment" means the ~~state~~-approved system of actuarial tools designed to assess risk, need, and responsivity factors of youth at various stages of the juvenile justice system.

B. [No Change]

C. Purpose.

1. The purpose of juvenile standard probation in Arizona is to provide the highest quality service to the court, community, juveniles being supervised and their families. This is accomplished by promoting public safety through effective community based supervision and enforcement of court orders, offering accurate and reliable information and affording juveniles opportunities to be accountable and initiate positive changes.

2. A.R.S. § 8-341(B) provides the standard probation term length:

> B. If a juvenile is placed on probation pursuant to this section, the period of probation may continue until the juvenile's eighteenth birthday or

until the juvenile's nineteenth birthday if jurisdiction is retained pursuant to § 8-202, subsection H, except that the term of probation shall not exceed one year if all of the following apply:

1. The juvenile is not charged with a subsequent offense.
2. The juvenile has not been found in violation of a condition of probation.
3. The court has not made a determination that it is in the best interests of the juvenile or the public to require continued supervision. The court shall state by minute entry or written order its reasons for finding that continued supervision is required.
4. The offense for which the juvenile is placed on probation does not involve a dangerous offense as defined in section 13-105.
5. The offense for which the juvenile is placed on probation does not involve a violation of title 13, chapter 14 or 35.1.
6. Restitution ordered pursuant to section 8-344 has been made.
7. The juvenile's parents have not requested that the court continue the juvenile's probation for more than one year.

3. Short-term Standard Probation is available to implement an evidence-based approach as part of the Recommendation Matrix.

D.-H. [No Change]

I. Active Cases.

1. A juvenile standard probation officer's active caseload shall include:

   a. Juveniles residing in county including those who are in foster care, kinship care or temporary shelter services and receiving standard probation services;

   b. Juveniles in out-of-home ~~placement~~ care;

   c. Juveniles placed in detention; and

   d. Juveniles on warrant status for less than 90 days.

2. A juvenile standard probation officer's active caseload shall not include:

   a. Juveniles on administrative status for one of the following reasons:
      (1) Juveniles traveling for more than 30 days out of state or country with the approval of the juvenile probation department;
      (2) Juveniles direct filed to adult court and currently held in adult jail pending

the adult court action; or

(3) Juveniles residing for more than 30 days out of state or country, but the department has retained jurisdiction of the juvenile.

b. Juveniles on warrant status for 90 days or more, and

c. Juveniles not yet dispositioned to standard probation, nor protective supervision by the court.

J. Program Operations.

1. Each probation department shall develop policies, procedures, and protocols:

a.-e. [No Change]

f. Which require standard probation officers to administer a youth assessment for each adjudicated juvenile ~~supervised~~, prior to disposition or within 30 days of placement on standard probation, if not completed during the pre-dispositional process. Probation officers shall consider assessment results, family feedback, other agencies involved, as well as any other relevant information, when developing a case plan;

g. Which require probation officers to utilize the Recommendation Matrix.

~~g.~~h. Which require the supervising juvenile probation officer to update the youth assessment, upon each subsequent referral and once every six months, at a minimum. Upon each re-administration, juvenile officers shall review the previous case plan evaluating and updating noted strategies to reflect identified risks and needs;

~~h.~~i. That require probation officers to utilize graduated responses to promote positive behavioral change through incentives, consequences, and supervision to address violations;

~~i.~~j. That ensure probation officers providing standard supervision shall re-examine and reassess the risk and needs of each juvenile under their supervision and the factors associated with reducing, maintaining or increasing the juvenile's level of supervision; and

2. [No Change]

3. The juvenile probation officer shall:

a. ~~For every juvenile placed on standard probation,~~ Develop a case plan ~~must be developed~~ within 30 days of disposition for every juvenile who is placed on standard probation. The probation officer shall ensure the case plan includes objectives that are measurable and signatures of the probation officer, juvenile, and the juvenile's parent or guardian.

b.-m. [No Change]

4. A.R.S. § 8-396(A) provides:

   A. On request of a victim who has provided an address or other contact information, the ~~court~~ probation department shall notify the victim of any of the following:

      1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of the delinquent who committed the delinquent act against the victim.
      2. Any hearing on a proposed modification of the terms of probation or intensive probation.
      3. The arrest of a delinquent pursuant to a warrant issued for a probation violation.

K. Minimum Supervision Requirements. Each ~~juvenile court~~ probation department shall develop policies and procedures that ensure minimum levels of supervision for juveniles placed on standard probation. These policies and procedures shall include ~~minimum contacts once every 30 days for~~:

1. ~~Visual contacts with the juvenile.~~Visual contacts shall be varied, scheduled, and unscheduled. ~~Visual contacts and supervision strategies shall be proportionate to the level of risk and needs of the juvenile based on results of the youth assessment and other significant case information.~~ Visual contacts with the juvenile shall continue when in ~~out of home placement or~~ detention~~;~~.

~~2. Parental contacts;~~

3. Visual contacts and supervision strategies shall be proportionate to the level of risk and needs of the juvenile based on results of the youth assessment, Recommendation Matrix and other significant case information:

   a. The low risk supervision level shall include:

      (1) Visual contact with the juvenile within 30 days of disposition and one visual contact every month thereafter;
      (2) Contact with the parent within 30 days of disposition and every month thereafter;
      (3) Collateral contact every other month as determined by the conditions of probation and the case plan.

~~3. Treatment providers, as appropriate;~~

b. The moderate risk supervision level shall include:

(1) Visual contact with the juvenile within 30 days of disposition and two visual contacts every month thereafter;
(2) Contact with the parent within 30 days of disposition and every month thereafter;
(3) Collateral contact every month as determined by the conditions of probation and the case plan.

~~4. Employment contacts and verification if necessary; and~~

c. The high risk supervision level shall include:

(1) Visual contact with the juvenile within 15 days of disposition and three visual contacts every month thereafter;
(2) Contact with the parent within 15 days of disposition and every month thereafter;
(3) Collateral contact every month as determined by the conditions of probation and the case plan.

~~5. School contacts and verification.~~

d. Out-of-home care supervision level shall include:

(1) Visual contact with the juvenile every month;
(2) Contact with the parent every month to discuss the juvenile's progress and behavior with the out-of-home care provider, and shall make documented efforts to involve the parents or guardians in the juvenile's treatment and rehabilitation;
(3) Contact with the out-of-home care provider every month;
(4) Upon discharge from the out-of-home care, the juvenile shall be placed on the appropriate standard probation supervision level based on the results of the youth assessment, the juvenile's treatment discharge plan, and any other relevant factors.

L. Specialized Populations.

1. Any juvenile court establishing or maintaining specialized caseloads shall have a written description of the specialized caseload, including objectives and goals.

2. Any juvenile court establishing or maintaining specialized caseloads shall have research-based written screening and assessment criteria for placement on the caseload, as well as standardized criteria for exiting or graduating from the caseload.

3. Any juvenile court establishing or maintaining specialized caseloads shall have research-based written policies and procedures for minimum ~~contact standards~~ supervision requirements specific to the needs and goals of the identified caseload and shall include minimum monthly contacts standards. ~~for:~~

~~a. Visual contact with juvenile;~~

~~b. Parental contact;~~

~~c. Employment contacts and verification as necessary, if juvenile is authorized to work in the United States;~~

~~d. School contacts and verification; and~~

~~e. Treatment providers as appropriate.~~

4. Probation officers assigned to supervise specialized caseloads shall participate in continuing education and training on the specific needs of the specialized population.

M. [No Changes]

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet
Part 6: Probation
Chapter 3: Juvenile Probation
Section 6-302.01: Juvenile Intensive Probation Supervision Evidence-Based Practices

1. **Effect of the proposal:**
   Revisions are to enable juvenile intensive probation officers to use the Recommendation Matrix to provide a proposed disposition to the court.

2. **Significant new or changed provisions:**
   A. Definitions

Added the following new definitions:

- Collateral
- Juvenile intensive probation
- Out-of-home care (to mean only juveniles placed at a 24-hour licensed facility providing treatment or behavioral modification)
- Parent
- Recommendation Matrix (Definition authorizes surveillance officer who meet the required training to use the approved tool.)

Modify "visual contact" to include AOC approved technology
Removed "Out-of-home placement", replaced by out-of-home care

M. Program Operations
(1)(e): Require juvenile intensive probation officers to complete a youth assessment on all juvenile prior to disposition or within 30 days of placement on juvenile intensive probation supervision.
(1)(f)(new): Require juvenile intensive probation officers to use the Recommendation Matrix when providing a proposed disposition to the court.

3. **Committee actions and comments:**

Committee on Probation, August 14, 2020, members of the committee made additional revisions to ACJA 6-302.01; Committee on Juvenile Courts, August 20, 2020, approved.

K. Active Cases
(1)(b) Added "including foster care, kinship care or temporary shelter services" to clarify juveniles placed in foster care, kinship care or temporary shelter services are considered as active cases.

Upon further consideration AOC-JJSD staff determined the clarification of a juvenile in placement would be better communicated if added to (1)(a), and added "those who are in" to read "Juveniles residing in county including those who are in foster care, kinship care or temporary shelter services and receiving intensive probation".

4. **Controversial issues:**

None

5. **Recommendation:** Recommend approval.

Comments and Responses to ACJA Section 6-302.01 Juvenile Intensive Probation Supervision Evidence-Based Practices
(See attached for full versions.)

PARAGRAPH	COMMENT	RESPONSE
A. Definition: Child	Comment: "Child," "youth" or "juvenile" definition should be updated to reflect new statutory language of extended jurisdiction. Suggested Language: "Child" "youth" or "juvenile" means "an individual who is under the age of eighteen years," as provided in A.R.S. § 8-201(6) OR UNTIL THE JUVENILE IS NINETEEN IF JURISDICTION IS RETAINED PURSUANT TO A.R.S.§ 8-202, SUBSECTION H.	Not incorporated. Definition for "Child" remains the same as it is statutory.
A. Definitions: Out-of-Home Placement	Comment: I(1)(b) Keep definition of out of home placement to reference continued supervision mandates for youth in group homes and shelter as active cases. Suggested language: "Out-of-home placement" means "the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian …" as provided in A.R.S. § 8-501(8)(9). THIS CATEGORY INCLUDES FOSTER CARE, KINSHIP CARE, OR TEMPORARY SHELTER SERVICES.	Not incorporated. 8-501(8)(9) applies to child welfare/dependent children. Juveniles on probation and placed in foster care, kinship care and temporary shelter services are considered active cases and should be supervised based on risk.
K. Active Cases	Comment: K(1)(b) Keep definition of out of home placement to reference continued supervision mandates for youth in group homes and shelter as active cases. Suggested Language: K.1.b. Juveniles in out-of-home ~~placement~~ care for less than thirty (30) days OR OUT OF HOME PLACEMENT;	Not incorporated.

K. Active Cases	Comment: K(2) Juveniles who are currently living out of county should be supervised by the receiving county through courtesy supervision or interstate transfer. Other inactive status' should include juveniles pending adult court action currently held in juvenile detention facilities. Suggested Language: K.2. A JIPS team's active caseload shall not include: a. Juveniles on administrative status for one of the following reasons: (1) Juveniles traveling for more than 30 days out of state, COUNTY, or country with the approval of the juvenile probation department; (2) Juveniles direct filed to adult court and currently held in adult jail OR JUVENILE DETENTION FACILITIES pending the adult court action; or (3) Juveniles residing for more than 30 days out of state, COUNTY, or country, and the department has retained jurisdiction of the juvenile. b. Juveniles on warrant status for 90 days or more; and c. Juveniles not yet dispositioned to JIPS.	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.

M. Program Operations	Comment: M.1(e) Code should allow a designee of the JIPS team which includes surveillance officers the ability to administer assessments. Persons other than the probation officer can be trained and certified to properly administer assessments. Suggested Language: M.1(e) Policies and procedures which require A DESIGNEE OF THE JIPS TEAM to administer a youth assessment for each adjudicated juvenile ~~supervised~~, prior to disposition or within 30 days, if not completed during the pre-dispositional process. Officers shall consider assessment results, family feedback other agencies involved, as well and any other relevant information, when developing a case plan;	Not incorporated. Surveillance Officer was included as approved to complete the Matrix in the definition of the "Recommendation Matrix"
M. Program Operations	Comment: M.1(f) Code should allow a designee of THE JIPS TEAM which includes surveillance officers the ability to utilize the Recommendation Matrix and provide this information to the JPO for inclusion in the court report. Suggested Language: M.1(f) Policies and procedures which require A DESIGNEE OF THE JIPS TEAM to utilize the Recommendation Matrix;	Not incorporated. Surveillance Officer was included as approved to complete the Matrix in the definition of the "Recommendation Matrix"
M. Program Operations	Comment: M.1(g) Code should allow a designee of THE JIPS TEAM which includes surveillance officers the ability to help develop case plans. Suggested Language: M.1(g) Policies and procedures which require A DESIGNEE OF THE JIPS TEAM to develop a case plan within 30 days of disposition. The officer shall ensure the case plan includes objectives that are SPECIFIC AND measurable, INCLUDING signatures of the	Not incorporated. Surveillance Officer was included as approved to complete the Matrix in the definition of the "Recommendation Matrix"

	probation officer AND juvenile. ~~and t~~ The CASE PLAN WILL INCLUDE INPUT FROM THE juvenile's parent or guardian;	
M. Program Operations	Comment: M.1(h) Code should allow a designee of THE JIPS TEAM, which includes surveillance officers, the ability to administer assessments. Update referral to ADJUDICATION to align with other suggested Code changes. Suggested Language: M.1(h) Policies and procedures which require A DESIGNEE OF THE JIPS TEAM to update the youth assessment, upon each subsequent ADJUDICATION EXCLUDING VIOLATIONS OF PROBATION and once every six months, at a minimum. Upon each re-administration, juvenile officers shall review the previous case plan evaluating and updating noted strategies to reflect identified risk and needs;	Not incorporated. Surveillance Officer was included as approved to complete the Matrix in the definition of the "Recommendation Matrix"

M. Program Operations	Comment: M.1(i) Every opportunity by Department staff should be used to reinforce desired thinking, choices, and behavior. Code should allow a designee of THE JIPS TEAM which includes surveillance officers the ability to administer graduated incentives and responses. Suggested Language: M.1(i) Policies and procedures that require A DESIGNEE OF THE JIPS TEAM to utilize graduated responses to promote positive behavioral change through incentives, consequences, and supervision to address violations;	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.
O. Minimum Supervision Requirements	Comment: O.3(a) Juveniles who are detained, hospitalized or in out of home care under 30 days are in a safe and supervised environment. Regardless of the Supervision Level, JIPS youth that are detained, hospitalized, or in out of home care are in need of regular contact however it should not be based upon their supervision level. This is also a critical time for further relationship rapport development and continued reentry planning for those juveniles who are detained or in out of home care under 30 days. Departments should be expected to determine their own contact standards not to be less than one visual contact per week. Suggested Language: Visual contacts. The JIPS team shall have a minimum of four visual contacts with each juvenile per week. Home contacts are required on a random and varied basis. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contacts shall be varied and unscheduled, and include evenings, weekends, and holidays. DEPARTMENTS SHALL DEVELOP CONTACT STANDARDS FOR JUVENILE DETAINED.	Not incorporated Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.

	HOSPITALIZED, OR IN OUT OF HOME CARE UNDER 30 DAYS THAT MINIMALLY REQUIRE AT LEAST ONE VISUAL CONTACT PER WEEK. ~~Visual contacts with the juvenile shall continue when in out of home placement care or detention;~~	
O. Minimum Supervision Requirements	Comment: O(4)(a) Juveniles who are detained, hospitalized or in out of home care under 30 days are in a safe and supervised environment. Regardless of the Supervision Level, JIPS youth that are detained, hospitalized, or in out of home care are in need of regular contact however it should not be based upon their supervision level. This is also a critical time for further relationship rapport development and continued reentry planning for those juveniles who are detained or in out of home care under 30 days. Departments should be expected to determine their own contact standards not to be less than one visual contact per week. Suggested Language: Visual contacts. The JIPS team shall have a minimum of two visual contacts with each juvenile per week, with at least at least one contact occurring at the juvenile's residence. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contact shall be varied and unscheduled, and include evenings, weekends, and holidays. DEPARTMENTS SHALL DEVELOP CONTACT STANDARDS FOR JUVENILE DETAINED, HOSPITALIZED, OR IN OUT OF HOME CARE UNDER 30 DAYS THAT MINIMALLY REQUIRE AT LEAST ONE VISUAL CONTACT PER WEEK. ~~Visual contacts with the juvenile shall continue when in out of home placement care or detention;~~ and	Not incorporated. Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.

O. Minimum Supervision Requirements	Comment: O(5)(a) Juveniles who are detained, hospitalized or in out of home care under 30 days are in a safe and supervised environment. Regardless of the Supervision Level, JIPS youth that are detained, hospitalized, or in out of home care are in need of regular contact however it should not be based upon their supervision level. This is also a critical time for further relationship rapport development and continued reentry planning for those juveniles who are detained or in out of home care under 30 days. Departments should be expected to determine their own contact standards not to be less than one visual contact per week. Suggested Language: Visual contacts. The JIPS team shall have a minimum of one visual contact with each juvenile per week, with at least one visit occurring at the juvenile's residence every other week. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contact shall be varied and unscheduled, and include evenings, weekends, and holidays. DEPARTMENTS SHALL DEVELOP CONTACT STANDARDS FOR JUVENILE DETAINED, HOSPITALIZED, OR IN OUT OF HOME CARE UNDER 30 DAYS THAT MINIMALLY REQUIRE AT LEAST ONE VISUAL CONTACT PER WEEK. ~~Visual contacts with the juvenile shall continue when in out-of-home placement care or detention~~	Not incorporated Outside the scope of the proposed changes to incorporate the Recommendation Matrix and risk-based supervision.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 3: Juvenile Services
Section 6-302.01: Juvenile Intensive Probation Supervision Evidence-Based Practices

Courts shall be governed by section 6-302, except and until approved by the Administrative Director to be governed by section 6-302.01.

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

"Administrative director" means both the administrative director of the Administrative Office of the Courts and the director's designee.

"Administrative status" means a juvenile who is not currently receiving active supervision or if contact requirements have been suspended by the juvenile probation department.

"Alcohol and drug testing" means any validated or verified method of determining the level of identifiable substances in the body including, but not limited to, breath, blood, oral fluid urine, hair and sweat testing.

"Case plan" means the documented behavior change plan and supervision strategy developed by the supervising probation officer in collaboration with the juvenile and family or adult probationer which clearly identifies the risk factors and needs of the probationer and how they will be addressed.

"Case record" means any record pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

"Child", "youth" or "juvenile", means "an individual who is under the age of eighteen years" as provided in A.R.S. § 8-201(6).

"Collateral" means any individual or agency that has a relationship to a particular juvenile that serves as a source of information or point of contact, including but not limited to family members, school personnel, law enforcement, victims, community members, and treatment providers.

"Community restitution" means unpaid labor or services provided to a private not-for-profit or governmental agency.

"Court" means superior court.

"Criminogenic need" means any issues of concern which are directly linked to criminal or delinquent behavior that when addressed and changed affect a probationer's risk for recidivism, which include, but are not limited to criminal personality, antisocial attitudes, values, beliefs, low self control, criminal peers, substance abuse, dysfunctional family, unemployment, and lack of education.

"Custodian" means "a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court" as provided in A.R.S. § 8-201(8).

"Default" means a juvenile has not met obligations of supervision as outlined in terms of probation.

"Delinquent act" means "an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense" as provided in A.R.S. § 8-201(~~10~~)(12).

"Delinquent juvenile" means "a child who is adjudicated to have committed a delinquent act" as provided in A.R.S. § 8-201(~~11~~)(13).

"Delinquency risk" means measurable factors that have been correlated to the probability of recidivism that are gathered informally through routine interactions and observations with juveniles and by formal assessment guided by instruments.

"Director" means the director of the juvenile court or chief probation officer in combined departments.

"Evidence-based practice" means strategies that have been shown, through current, scientific research to lead to a reduction in recidivism.

"Hand count" means manual tabulation of all probation case files, conducted independently from any automated system.

"JIPS team" means one probation officer and one surveillance officer, or one probation officer and two surveillance officers, or two probation officers and one surveillance officer, or one probation officer if a waiver of standards is granted.

"Juvenile intensive probation" means "a program...of highly structured and closely supervised juvenile probation and which emphasizes surveillance, treatment, work, education and home detention" as provided in A.R.S. § 8-351.

"Law enforcement officer" means "a peace officer, sheriff, deputy sheriff, municipal police officer or constable" as provided in A.R.S. § 8-201(~~19~~)(22).

"Out-of-home care" means the juvenile resides at a licensed facility that provides treatment or behavioral modification services under 24-hour structured supervision. This category of

care does not include foster care, kinship care, or temporary shelter services.

~~"Out-of-home placement" means "the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian …." as provided in A.R.S. § 8-501(8).~~

"Parent" means the juvenile's biological, adoptive, or legal mother or father whose rights have not been terminated.

"Petition" means "a written statement of the essential facts that allege delinquency, incorrigibility or dependency" as provided in A.R.S. § 8-201(~~24~~)(27).

"Recommendation Matrix" means the approved tool utilized by a probation officer or surveillance officer who meet the required training as established by the AOC to provide a proposed disposition to the court.

"Referral" means "a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act" as provided in A.R.S. § 8-201(~~27~~)(31).

"Target interventions" means supervision related services determined by the juvenile's risk, criminogenic needs, and other factors such as temperament, learning style, motivation, gender and culture.

"Visual contact" means face-to-face communication ~~with the juvenile at any place, including but not limited to, the probation department and the juvenile's residence, place of employment, treatment location or community restitution placement to discuss progress, issues of concern or other appropriate matters. Contacts with juveniles are not ends in themselves but are opportunities for officers to achieve specific objectives. These objectives include establishing rapport with the juvenile, assessing the juvenile's criminogenic factors and triggers, developing and, when needed, modifying a case plan, and using both subtle and overt incentives and sanctions to guide the juvenile toward positive change.~~ or visual contacts conducted via AOC approved technology with the juvenile at any place, including, but not limited to, the probation department and the juvenile's residence, place of employment, treatment location or community restitution placement to discuss progress, issues of concern or other appropriate matters.

"Youth assessment" means the ~~state~~ approved system of actuarial tools designed to assess risk, need, and responsivity factors of youth at various stages of the juvenile justice system.

B. [No Changes]

C. Purpose. JIPS is, as A.R.S. § 8-351 provides "a program which is established pursuant to this article of highly structured and closely supervised juvenile probation and which emphasizes surveillance, treatment, work, education and home detention." The purpose of JIPS programs is to reduce commitments to the state department of juvenile corrections and

other institutional or out-of-home ~~placements~~ care.

D.-G. [No Changes]

H. Eligibility Requirements for JIPS.

1.-5. [No Changes]

6. The court shall not grant intensive probation to juveniles placed in an out-of-home ~~placement~~ care for more than 30 days. The court shall reduce the juvenile to standard probation if the juvenile is currently on JIPS and requires placement over 30 days.

7. A juvenile probation officer who recommends intensive probation shall state the reasons for the recommendation in the disposition summary report. The officer shall recommend and the court may order JIPS for:

   a. Juveniles who would otherwise have been recommended for commitment to the state department of juvenile corrections;

   b. Juveniles who would otherwise have been recommended for ~~an~~ out-of-home ~~placement~~ care;

   c. Juveniles who meet the requirements set forth in A.R.S. § 8-352(B) and (H)(2) of this section; or

   d. Juveniles who are repeat felony offenders.

8.-10. [No Changes]

I.-J. [No Changes]

K. Active Cases.

1. A JIPS team's active caseload shall include:

   a. Juveniles residing in county, including those who are in foster care, kinship care or temporary shelter services, and receiving intensive probation;

   b. Juveniles in out-of-home ~~placement~~ care for less than thirty (30) days;

   c. Juveniles placed in detention; and

   d. Juveniles on warrant status for less than 90 days.

2. [No Changes]

L. [No Changes]

M. Program Operations.

1. Each juvenile probation department shall develop:

   a. Policies and procedures that aim to reduce juvenile risk and the likelihood of future delinquent acts that are consistent with the principles of evidence-based practices. The policies and procedures shall be interdependent, applied in developmental order and shall notably assess delinquent risk and criminogenic need, enhance intrinsic motivation, target interventions, provide skill training with directed practice, increase positive reinforcement, engage ongoing support in natural communities, measure relevant processes and practices, and provide measurable feedback;

   b. Policies and procedures regarding alcohol and drug testing of juveniles on intensive probation. The procedure shall address the methods used to select juveniles for testing, the frequency of testing, and the type of test to be administered;

   c. Protocols for working with the office of the clerk of the superior court to establish a process by which supervising probation officers are provided with accurate and timely information concerning collections;

   d. Policies and procedures to ensure the collection of monies owed as a condition of JIPS. Each probation department and JIPS team shall immediately address any arrearage. Each probation department and JIPS team shall also encourage the JIPS juvenile's payment of other assessments ordered by any court;

   e. Policies and procedures which require intensive probation officers to administer a youth assessment for each adjudicated juvenile ~~supervised~~, prior to disposition or within 30 days, if not completed during the pre-dispositional process. Officers shall consider assessment results, family feedback other agencies involved, as well and any other relevant information, when developing a case plan;

   f. Policies and procedures which require intensive probation officers to utilize the Recommendation Matrix;

   ~~f.~~g. Policies and procedures which require intensive officers to develop a case plan within 30 days of disposition. The officer shall ensure the case plan includes objectives that are measurable, signatures of the probation officer juvenile and the juvenile's parent or guardian;

   ~~g.~~h. Policies and procedures which require the supervising probation officer to update the youth assessment, upon each subsequent referral and once every six months, at a minimum. Upon each re-administration, juvenile officers shall review the previous case plan evaluating and updating noted strategies to reflect identified risk and needs;

~~h.~~i. Policies and procedures that require probation officers to utilize graduated responses to promote positive behavioral change through incentives, consequences, and supervision to address violations;

~~i.~~j. Policies and procedures by which accurate and timely records of the completion of community restitution hours are maintained for each intensive juvenile probationer. Credit toward court-ordered community restitution requirements are awarded on the basis of actual hours completed unless authorized by the court.

2. Each JIPS team shall:

   a. Develop and implement supervision strategies that match youth assessment results and address criminogenic needs in addition to the juvenile's delinquency risk, and strengths that promote case plan goals and provide effective supervision that is individualized, proportional and purposeful. Surveillance and other intervention shall be proportionately matched to emerging or decreasing risk factors;

   b. As provided by A.R.S. § 8-353(C)(2) "Exercise close supervision and observation over juveniles who are ordered to participate in the intensive probation program . . . .";

   c. Evaluate and update the case plan on an on-going basis to identify progress towards goals and conditions of probation;

   d. As provided by A.R.S. § 8-355:

      > The juvenile intensive probation team shall ensure that each juvenile under its supervision is participating in one or more of the following~~.~~ ,~~I~~if approved by the court or probation officer, for not less than thirty-two hours each week~~.~~, ~~T~~throughout the term of the intensive probation:
      > 1. School.
      > 2. A treatment program.
      > 3. Employment.
      > 4. A community restitution program.
      > 5. An activity that improves the juvenile's prosocial skill development, including enhancing the juvenile's relationship with the juvenile's family.

      This shall be accomplished by:

      (1) Assisting juveniles seeking employment and closely monitoring employment of juveniles if the juveniles are authorized to work in the United States;
      (2) Closely monitoring participation in treatment programs, involving the parent or guardian in the rehabilitation and treatment of the juvenile, monitoring school attendance; and
      (3) Providing or arranging for appropriate supervision of juveniles performing

community restitution work.

e.-q. [No Changes]

r. Require each active case under the JIPS team's supervision to submit a schedule of activities for approval. Juveniles who are detained or participating in out-of-home ~~placement~~ care are exempt from this requirement. The intensive probation team shall monitor and enforce the approved schedule.

3.-5. [No Changes]

6. Victim notification. A.R.S. § 8-396(A)(B)(C) provides:

A. On request of a victim who has provided an address or other contact information, the ~~court~~ probation department shall notify the victim of any of the following:

1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of the delinquent who committed the delinquent act against the victim.
2. Any hearing on a proposed modification of the terms of probation or intensive probation.
3. The arrest of a delinquent pursuant to a warrant issued for a probation violation.

B. [No Changes]

C. If a victim has requested post adjudication notice and probation is revoked and the juvenile is committed to the department of juvenile corrections, the ~~court~~ probation department shall notify the department of juvenile corrections of the victim's request.

N. JIPS Placement: [No Changes]

O. Minimum Supervision Requirements.

1.-2. [No Changes]

3. Supervision Level I shall include:

a. Visual contacts. The JIPS team shall have a minimum of four visual contacts with each juvenile per week. Home contacts are required on a random and varied basis. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contacts shall be varied and unscheduled, and include evenings, weekends, and holidays. Visual contacts with the juvenile shall continue when in out-of-home ~~placement~~ care or detention;

b.-p. [No Changes]

4. Supervision Level II shall include all conditions of Level I in addition to the following:

   a. Visual contacts. The JIPS team shall have a minimum of two visual contacts with each juvenile per week, with at least at least one contact occurring at the juvenile's residence. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contact shall be varied and unscheduled, and include evenings, weekends, and holidays. Visual contacts with the juvenile shall continue when in out-of-home ~~placement~~ care or detention; and

   b. [No Changes]

5. Supervision Level III shall include all conditions of Level I in addition to the following:

   Visual contacts. The JIPS team shall have a minimum of one visual contact with each juvenile per week, with at least one visit occurring at the juvenile's residence every other week. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contact shall be varied and unscheduled, and include evenings, weekends, and holidays. Visual contacts with the juvenile shall continue when in out-of-home ~~placement~~ care or detention.

P.-Q. [No Changes]

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	**Type of Action Requested:**	**Subject:**
October 22, 2020	_X_ Formal Action/Request __ Information Only __ Other	ACJA 6-105.01 Powers and Duties of Officers

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FROM:

Dori Littler, Adult Probation Services Division

DISCUSSION:

Proposal to revise the abscond warrant timeframe for adult persons on intensive probation supervision (IPS) from 72 hours to 30 days. This recommendation stems from a statewide workgroup on IPS and will allow officers more time to locate and reengage with probationers prior to requesting a warrant. It should be noted that 30 days is still more restrictive than the statutory definition of abscond under ARS 13-105, which is currently 90 days.

RECOMMENDED COUNCIL ACTION:

Approve

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet
Part 6: Probation
Chapter 1: General Administration
Section 6-105.01: Powers and Duties of Officers Evidence-Based Practices

1. **Effect of the proposal: Would change timeframe to obtain abscond warrants for adult intensive probationers from 72 hours to 30 days.**

2. **Significant new or changed provisions: Allows officers more time to locate and reengage intensive probationers whose whereabouts are unknown.**

3. **Committee actions and comments: Approved by COP (8/14/2020) and COSC (9/11/2020)/no formal comments received during posting**

4. **Controversial issues: None**

5. **Recommendation:** Recommend approval.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 1: General Administration
Section 6-105.01: Powers and Duties of Officers Evidence-Based Practices

Courts shall be governed by section 6-105, except and until approved by the Administrative Director to be governed by section 6-105.01.

A. – D. [No Changes]

E. Duties of Probation Officers.

1. [No Changes]

2. a. – f. [No Changes]

g. (1) – (3) [No Changes]

(4) If the probationer is on intensive probation supervision and is not located within ~~72 hours~~30 days, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The supervising officer shall file the petition to revoke sooner, when required by local departmental policies, the circumstances surrounding the case or the need for community protection.

(5) – (6) [No Changes]

h. – i. [No Changes]

3. [No Changes]

F. [No Changes]

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
October 22, 2020	_X_ Formal Action/Request __ Information Only __ Other	ACJA 6-202.01 Adult Intensive Probation Evidence-Based Practices

FROM:

Dori Littler, Adult Probation Services Division

DISCUSSION:

Proposal to revise the abscond warrant timeframe for adult persons on intensive probation supervision (IPS) from 72 hours to 30 days. This recommendation stems from a statewide workgroup on IPS and will allow officers more time to locate and reengage with probationers prior to requesting a warrant. It should be noted that 30 days is still more restrictive than the statutory definition of abscond under ARS 13-105, which is currently 90 days.

RECOMMENDED COUNCIL ACTION:

Approve

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet
Part 6: Probation
Chapter 2: Adult Probation
Section 6-202.01: Adult Intensive Probation Evidence-Based Practices

1. **Effect of the proposal: Would change timeframe to obtain abscond warrants for adult intensive probationers from 72 hours to 30 days.**

2. **Significant new or changed provisions: Allows officers more time to locate and reengage intensive probationers whose whereabouts are unknown.**

3. **Committee actions and comments: Approved by COP (8/14/2020) and COSC (9/11/2020)/no formal comments received during posting**

4. **Controversial issues: None**

5. **Recommendation:** Recommend approval.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-202.01: Adult Intensive Probation Evidence-Based Practices

A. - K. [No Changes]

L. Program Operations.

1. [No Changes]

2. a. - s. [No Changes]

   t. Document efforts to locate and reengage the intensive probationer. If the intensive probationer is not located within ~~72 hours~~ 30 days, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The intensive probation officer may file the petition to revoke sooner based on the circumstances surrounding the case and the need for community protection. The probation department's efforts to locate the intensive probationer shall continue until the intensive probationer is apprehended; and

   u. [No Changes]

3. – 11. [No Changes]

M. – P. [No Changes]