

IN THE SUPREME COURT OF THE STATE OF ARIZONA

FILED
NOV 9 2000
NOEL K. DESSAINT
CLERK SUPREME COURT
BY

In the Matter of:)
)
ARIZONA CODE OF JUDICIAL) Administrative Order
ADMINISTRATION § 6-204:) No. 2000- 78
INTERSTATE COMPACT PROBATION) (Replacing Administrative
Order No. 96-1)

The above captioned provision having come before the Arizona Judicial Council on October 19, 2000, and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Sections 3 and 11 of the Arizona Constitution, and Arizona Revised Statutes (A.R.S.) § 12-254 (A)(1) and (2),

IT IS ORDERED that the above captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration, replacing Administrative Order 96-1,

IT IS FURTHER ORDERED that the effective date of this code section shall be January 1, 2001.

Dated this 9th day of November, 2000.

THOMAS A. ZLAKET
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-204: Interstate Compact Probation

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

“Abscond” means a probationer has moved from the primary place of residence without permission of the probation officer and/or whose whereabouts are unknown.

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

“Alcohol and drug testing” means any method of determining the level or identifiable substances in the body including, but not limited to, breathalyzer tests, blood tests, and urine samples.

“AOC” means the Arizona Supreme Court, Administrative Office of the Courts.

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

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

“Community service” means unpaid labor or services provided to a not-for-profit private or governmental agency.

“Court” means superior court.

“Employment verification” means face-to-face communication, telephone contact, or obtaining pay stubs.

“Hand counts” means manual tabulation of all interstate compact probation case files in the county, conducted independently from any automated system.

“Long term residential treatment” means any type of treatment or counseling where the probationer resides at the facility for 31 days or more.

“Short term residential treatment” means any type of treatment or counseling where the probationer resides at the facility for 30 days or less.

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

“Standardized assessment” means a tool to indicate the individual’s propensity to re-offend and the treatment services needed to help prevent further illegal activities.”

“Visual contact” means face-to-face communication to discuss progress, issues of concern or other appropriate matters.

B. Applicability. Article VI, Section 3 of the Arizona Constitution and A.R.S. §§ 12-254(A) and 31-461 authorize the supreme court to establish guidelines to govern the administration and operation of interstate compact probation. The AOC shall administer interstate compact probation on behalf of the supreme court.

C. Purpose. Interstate compact probation establishes standards and procedures for the interstate transfer and effective community based supervision of adult probationers.

D. General Administration.

1. The AOC shall:

- a. Administer and direct interstate compact probation on behalf of the supreme court;
- b. Monitor interstate compact probation;
- c. Prepare written material setting forth various techniques, practices, guidelines and other recommendations regarding the management of interstate compact probation and distribute this material to judges and probation personnel;
- d. Inspect, audit, or have audited the records of any court receiving interstate compact probation funds;
- e. Prescribe and adopt procedures, forms and reports necessary for financial administration, program administration and management of interstate compact probation;
- f. Conduct seminars and educational sessions regarding the purpose and management of interstate compact probation;
- g. Establish performance measures and expectations in consultation with the court for determining compliance with each court’s program plan and budget request;
- h. Assist courts in developing their program plans and budget requests;
- i. Provide general assistance to courts on the administration and management of interstate compact probation services; and
- j. Adopt other administrative practices and procedures, consistent with this code, as necessary for the administration of interstate compact probation.

2. For purposes of uniform administration, each adult probation department receiving state interstate compact probation funds or supervising interstate compact probationers shall comply with this code.
3. The deputy compact administrator shall administer interstate compact probation on behalf of the AOC. The deputy compact administrator shall promote public safety in performing the following duties:
 - a. Execute and interpret all applicable compact laws, rules, policies and procedures;
 - b. Communicate with other compact or deputy compact administrators, and the parole and probation compact administrators' association as needed;
 - c. Coordinate and resolve state compact issues or concerns; and
 - d. Manage and maintain the interstate compact probation database for statistical and operational reports.
4. The adult probation departments shall investigate, supervise, and may pursue return or revocation of probation of interstate compact probationers for reasons including but not limited to, commission of a new crime, absconding, or noncompliance with the conditions of probation.

E. Budget Request Preparation.

1. The presiding judge wishing to operate an interstate compact probation program and receive state interstate compact probation funds shall submit a proposed plan and budget request for the subsequent fiscal years to the AOC. The administrative director shall establish the date for submission, as well as the forms to be used and the corresponding instructions.
2. The administrative director shall review each request, and may modify the request based upon appropriate statewide considerations. The AOC shall include the court's request or the modified request, in the supreme court's annual budget request. The administrative director shall allocate to the court the monies appropriated by the legislature for interstate compact probation programs based on the proposed plan, availability of funds, caseload population, past year use, county support and program effectiveness.
4. If a court does not agree with the allocations and requests further review, the chief justice shall make the final determination.
5. Each participating court shall support the budget request with written justification and explanation as required by the administrative director.

F. Program Plan and Financial Management.

1. Each participating court shall submit an expenditure plan to the administrative director. The expenditure plan shall outline how the requested state funds shall be used in operating an interstate compact probation program consistent with the average case supervision requirements prescribed in A.R.S. § 12-251(A), this code, the supreme court's budget request and with available monies appropriated by the legislature for interstate compact probation programs. The participating court shall submit the plan within the prescribed time frame and on forms required by the administrative director.
2. Each presiding judge shall submit, in writing, all requests to modify expenditure plans on a form approved by the administrative director.
3. In the event the administrative director disapproves a plan or plan modification submitted by a court, the presiding judge of the court may request that the administrative director submit the plan to the chief justice for consideration and final determination.
4. On approval of the plan as submitted or modified and the availability of funds, the administrative director shall enter into a written funding agreement with the submitting court for the distribution of funds. The administrative director may amend or terminate funding agreements due to lack of funds, lack of financial need, or the court's failure to comply with applicable statutes, the approved plan, funding agreement or this code.
5. The administrative director may reallocate funds during the year based on documented need, current use of funds and approved plan or budget modifications.
6. A.R.S. § 12-267(D) provides: "State monies expended from the adult probation services fund shall be used to supplement, not supplant, county appropriations for the superior court adult probation department." State funds shall not be used by the county for administrative overhead or to reduce the level of county funding available for adult probation services.
7. Pursuant to A.R.S. § 12-267(B), the county's chief fiscal officer shall deposit funds received by the court for interstate compact probation into a separate account within the adult probation services fund.
8. The participating court shall use allocated state funds and interest only for interstate compact probation.
9. On agreement with a participating court, the administrative director may withhold funds allocated to the court and may authorize direct expenditures for the benefit of the court. The administrative director may also reallocate these funds during the fiscal year.
10. The presiding judge of each participating court shall submit to the AOC, by January 31 of each year, a mid-year financial and program activity report related to the court's plan through December 31. Failure to submit the report in a timely manner may result in financial

sanctions.

11. The presiding judge of each participating court shall submit to the AOC, by August 31 of each year, a closing financial and program activity report related to the court's plan through June 30. Failure to submit the report in a timely manner may result in financial sanctions.
12. The presiding judge of each participating court shall return to the AOC, by August 31 of each year, all interstate compact probation funds distributed to the court which are unencumbered as of June 30 and unexpended as of July 31. Failure to revert the unencumbered funds in a timely manner may result in financial sanctions.
13. The administrative director shall determine how the funds are used in the event that a court experiences a decreased need for funds or declines to participate after the legislature has appropriated funds for interstate compact probation.
14. Each participating court and its probation department shall maintain and provide to the AOC data and statistics as may be required by the supreme court to administer interstate compact probation.
15. On request of the AOC, the chief probation officer shall conduct hand counts of the county's interstate compact probation population. The chief probation officer shall submit the results of the hand counts to the AOC.
16. Each participating court and its probation department shall retain all financial records, applicable program records, and data related to each approved plan for a period of at least 5 years from the close of each fiscal year.

G. Allocation and Management of Interstate Compact Probation Personnel Placements. The administrative director shall allocate state funded interstate compact probation personnel placements approved for interstate compact probation among courts. The administrative director may prepare and implement procedures for adjusting allocated placements and associated monies among courts.

H. Interstate Compact Probation Caseload Limit. Pursuant to A.R.S. § 12-251(A) probation officers funded by state interstate compact monies and engaged in case supervision shall supervise no more than an average of 60 interstate compact probationers who reside in the county. Only those interstate compact probationers on the probation officer's active caseload are included in determining the average caseload of 60 adults.

I. Active Case.

1. The interstate compact probation officer's active caseload shall include:
 - a. Probationers accepted for supervision who are residing in the officer's county and receiving supervision services, regardless of supervision level;

- b. Probationers in residential treatment in the officer's county; and
 - c. Probationers in short term residential treatment in another county.
2. The interstate compact probationer's active caseload shall not include:
- a. Probationers pending acceptance of supervision in the officer's county, regardless of where they may be residing;
 - b. Probationers in long term residential treatment in another county;
 - c. Probationers considered absconders with an active warrant; and
 - d. Probationers who have been retaken by the originating state.

J. Program Operations.

1. Each probation department shall:
- a. Have a written procedure regarding the alcohol and drug testing of persons on interstate compact probation. The procedure shall address the methods used to select probationers for testing, the frequency of testing, and the type of test to be administered;
 - b. Have a process by which accurate and timely records of the completion of community service hours are maintained for each probationer. Credit toward court-ordered community service requirements are awarded on the basis of actual hours completed unless otherwise authorized by the court.
 - c. Work with the office of the clerk of the court to establish a process by which supervising probation officers are provided with accurate and timely information concerning collections;
 - d. Ensure the collection of monthly assessments imposed pursuant to A.R.S. § 31-466(A) and monthly probation fees. Each probation department and supervising probation officer shall immediately address any arrearage. Each probation department and supervising officer shall also encourage the probationer's payment of other assessments, such as child support or traffic fines, ordered by any court;
 - e. Develop policies and procedures that ensure that probation officers providing interstate compact probation supervision reexamine and reassess the risk and needs of each probationer under their supervision and the factors associated with reducing, maintaining or increasing the probationer's level of supervision; and
 - f. Have a written policy concerning the monitoring of probationers' compliance with court-ordered or disclosed prescription medications for mental health or public health concerns.

This policy shall include protocols to ensure routine and timely communication between the supervising probation officer and physician regarding the probationer's compliance with dosage requirements.

2. A.R.S. § 12-253(1) provides that adult probation officers shall "Make and file a complete record of persons placed under suspended sentence by the court, and of all reports made to the officer in writing or in person, in accordance with the conditions imposed by the court." Adult probation officers shall immediately contact the law enforcement officer or agency involved on receipt of an arrest notification to ascertain the nature and circumstances surrounding the contact and obtain a copy of any corresponding incident report or citation. The supervising probation officer shall document in the case file all contacts and information received pertaining to the incident, as well as the action taken as a result of the incident.
3. A.R.S. § 12-253(2) provides that adult probation officers shall "Exercise general supervision and observation over persons under suspended sentence, subject to control and direction by the court."
 - a. Adult probation officers shall conduct a standardized assessment on every offender.
 - (1) Each probation officer providing interstate compact supervision shall conduct a standardized assessment of each new probationer within 30 days of a probationer's acceptance for supervision in Arizona. The supervising probation officer shall use the results of the assessment to establish a level of supervision for the probationer and formulate a supervision plan.
 - (2) Each probation officer providing interstate compact supervision shall examine and reassess the risk and needs of each probationer under their supervision every 180 days. The probation officer may increase or decrease a probationer's level of supervision based on standardized assessments and the probationer's compliance with conditions of probation.
 - b. Adult probation officers shall provide a written directive to the probationer referring the probationer to an appropriate service provider within 60 days of acceptance of supervision in Arizona or identification of the need if a need for treatment or counseling is identified through the use of a statewide standardized assessment or is ordered by the court. If more than one area of treatment or counseling is identified, the supervising probation officer shall prioritize the needs and address the one with highest priority within the prescribed time frame. The supervising probation officer shall then address the remaining treatment or counseling areas in descending order.
 - c. The supervising officer shall administer or cause to have administered alcohol and drug tests on a variable schedule, if appropriate. The frequency of testing shall be dependent upon the probationer's substance abuse history, unless otherwise directed by the court.
4. A.R.S. § 12-253(3) provides that adult probation officers shall "Serve warrants, make arrests and bring persons before the court who are under suspended sentences. The officer has the

authority of a peace officer in the performance of the officer's duties.”

5. A.R.S. § 12-253(5) provides that adult probation officers shall “Secure and keep a complete identification record of every person released under a suspended sentence and a written statement of the conditions of the suspension.” Each standard probation officer shall maintain verifiable records for each probationer supervised, including, but not limited to:
 - a. A written statement of the Arizona and sending state conditions of probation;
 - b. An individual case plan setting forth behavioral and program expectations;
 - c. Contact logs detailing the time, nature and location of each contact made with each person on interstate compact probation.
 - d. Request for transfer for supervision; and
 - e. Waiver for extradition.
6. In accordance with A.R.S. § 31-466(B) the clerk of the court shall forward all monies collected pursuant to A.R.S. § 31-466(A) to the state treasurer for deposit in the victim compensation and assistance fund established by A.R.S. § 41-2407.
7. The clerk of the court shall first apply any monies collected to satisfy the probationer's monthly victim compensation and assistance fund obligation and then to any monthly probation service fee obligation imposed by the Arizona court.

K. Eligibility and Acceptance Criteria.

1. Pursuant to A.R.S. § 31-461(1):

Arizona probation officials shall accept a person for interstate compact probation supervision if:

- (a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there.
- (b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person. A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the

commission of the offense for which he has been convicted.

2. The deputy compact administrator shall forward to the appropriate Arizona probation department all eligible requests by other states for transfer of supervision via the interstate compact.

L. Supervision Process, Length and Termination.

1. A probationer seeking interstate compact probation supervision in Arizona shall accept the sending state's terms and conditions of probation as a condition of acceptance for supervision in Arizona. The interstate compact probationer shall also accept the terms and conditions established by the Arizona adult probation department and court.
2. The Arizona probation department shall supervise an interstate compact probationer in accordance with all terms and conditions of probation and Arizona laws, rules, policies and procedures including the operational procedures developed by the supervising Arizona probation department.
3. An Arizona court or probation department shall not modify, extend or terminate early the length of probation supervision for an interstate compact probationer transferred to Arizona except as authorized by the appropriate jurisdiction of the sending state.

M. Violations and Probable Cause Hearings.

1. The state of Arizona shall promptly notify the sending state in writing of any violations of probation by an interstate compact probationer.
2. An interstate compact probationer who allegedly violates probation terms and conditions is entitled to an administrative hearing to determine whether there is probable cause to believe that a violation has been committed that may lead to revocation of probation. The presiding judge in each county shall appoint a neutral hearing officer who shall conduct hearings in accordance with A.R.S. §§ 31-462 through 31-464. The interstate compact probationer may waive this hearing.
3. Within 5 days of the interstate compact probationer's arrest, the supervising probation officer shall provide a written notice of the time, date and location of the probable cause hearing to the probationer, along with a written copy of the alleged violations.
4. The supervising probation officer shall notify the deputy compact administrator and sending state whenever consideration is being given to the retaking or reincarceration of the interstate compact probationer.
5. The supervising probation officer shall report the results of any interstate compact probation probable cause hearing to the deputy compact administrator, along with a copy of the hearing record. The deputy compact administrator shall report the results to the sending state, along

with a copy of the hearing record.

N. Warrants, Arrests and Release.

1. Arizona probation and surveillance officers may perform warrantless arrests and searches of interstate compact probationers in accordance with A.R.S. § 13-901, court rules and probation department procedures. The probation and surveillance officer may request the assistance of law enforcement agencies in the arrest and search of any alleged interstate compact probation violator.
2. The court shall issue arrest or search warrants involving interstate compact probationers pursuant to Rule 3, Rules of Criminal Procedure and A.R.S. § 13-901(C).
3. The court may place a detainer or hold on an interstate compact probationer arrested for a new offense pending a warrant or revocation by the sending state.
4. Pending a probable cause hearing pursuant to this code, the appropriate law enforcement officers of this state may take custody of and detain an interstate compact probationer for a period not to exceed 15 days prior to the hearing.
5. An interstate compact probationer arrested for an alleged probation violation is presumed to be a flight risk and the court shall order the probationer held without bond unless the court determines release is appropriate pursuant to Rule 7, Rules of Criminal Procedure.

O. Retaking and Extradition.

1. If the sending state has indicated that retaking or reincarceration is likely, the Arizona court may order that a probationer be held in custody after the hearing or waiver as may be necessary to arrange for the retaking or reincarceration.
2. No action by Arizona probation staff or a court is required to authorize a sending state to retake an interstate compact probationer when the probationer waived extradition rights before transfer.
3. The sending state's authority is limited as follows:

The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state, unless, at the time a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, in which case he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

A.R.S. § 31-461(3).

P. Minimum Supervision Requirements.

1. In accordance with A.R.S. § 12-253(2), the following supervision requirements are established as minimum thresholds. Each probation department may establish more rigorous supervision requirements for any supervision level. Each chief probation officer shall ensure that all established minimum supervision requirements are provided in writing to each supervising probation officer, along with appropriate training on adherence to those requirements.
2. The maximum probation supervision level shall include:
 - a. A minimum of two visual contacts per month with at least one of these contacts occurring at the probationer's residence, employment, treatment or community service placement. Visual contacts shall be varied and unscheduled;
 - b. Employment verification as necessary or employment search verification once per week;
 - c. Investigation of arrest notification;
 - d. Community service monitoring;
 - e. Alcohol and drug testing, as necessary; and
 - f. Treatment, counseling, or both, as necessary.
3. The medium probation supervision level shall include:
 - a. A minimum of one visual contact per month, which shall occur at the probationer's residence at least once every 90 days. Visual contacts shall be varied and unscheduled;
 - b. Employment verification as necessary or employment search verification weekly;
 - c. Investigation of arrest notification;
 - d. Community service monitoring;
 - e. Alcohol and drug testing, as necessary; and
 - f. Treatment, counseling, or both, as necessary.
4. The minimum probation supervision level shall include:
 - a. A minimum of one visual contact every 90 days which shall occur at the probationer's residence at least once every 6 months. Visual contacts shall be varied and unscheduled;

- b. Employment verification as necessary or employment search verification weekly;
 - c. Investigation of arrest notification;
 - d. Community service monitoring;
 - e. Alcohol and drug testing, as necessary; and
 - f. Treatment, counseling, or both, as necessary.
5. Waiver of Minimum Contact Requirements.
- a. Where exigent circumstances exist, the chief probation officer may waive minimum supervision requirements, in writing, for a specified period of time. The supervising probation officer shall place a copy of the written waiver of minimum supervision requirements in the case file of each probationer for whom a waiver has been granted.
 - b. Under no circumstances shall minimum supervision requirements be waived for probationers on the maximum supervision level, those convicted of a sex offense as defined by A.R.S. §§ 13-1402 through 13-1412, 13-1417 through 13-1419, 13-3552 through 13-3556, a domestic violence offense under A.R.S. §§ 13-3601 or 3601.02, or an offense involving driving under the influence under A.R.S. §§ 28-1381 through 28-1383, regardless of supervision level. The chief probation officer shall not waive minimum requirements when doing so would compromise public safety.

Q. Specialized Caseloads.

- 1. Any court establishing or maintaining specialized caseloads shall have a written description of the specialized caseload, including objectives and goals.
- 2. Any court establishing or maintaining specialized caseloads shall have written screening and assessment criteria for placement on the caseload, as well as criteria for exiting or graduating from the caseload.
- 3. Any court establishing or maintaining specialized caseloads shall have written minimum supervision standards specific to the needs and goals of the caseload.
- 4. Probation officers assigned to supervise specialized caseloads shall participate in continuing education/training on the specific needs of the specialized population.