

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
ARIZONA CODE OF JUDICIAL)	Administrative Order
ADMINISTRATION § 6-211:)	<u>No. 2004- 02</u>
INTERCOUNTY COURTESY)	
TRANSFERS)	
_____)	

The above captioned provision having come before the Arizona Judicial Council on December 11, 2003, and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution, A.R.S. § 12-254 and A.R.S. § 13-901,

IT IS ORDERED that the above captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration,

Dated this 7th day of January, 2004.

CHARLES E. JONES
Chief Justice

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

A. Definitions.

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

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

“Court” means the superior court.

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

“Family” means parents, grandparents, adult children, adult siblings, legal spouse, legal guardian or stepparent of the probationer.

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

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

“Probationer” means an individual placed on supervised probation by the Superior Court of Arizona for a violation of any criminal offense or by a limited jurisdiction court for a violation of A.R.S. §§13-3601.01 or 13-3601.02.

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

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

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

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

“Stable residence” means one that is verified by home ownership, rental lease agreement, business relationships or ownerships, children enrolled in school system, property or rental tax records, or utility bills.

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

“Verifiable offer of employment” means employment that is confirmed either by a current pay stub or written, telephonic or personal contact with the prospective employer.

“Visible means of support” means proof of federal supplemental income, worker’s compensation, social security benefits, financial support from family member, or employment pay stub.

B. Applicability. Article VI, Section 3 of the Arizona Constitution, A.R.S. § 12-254 and A.R.S. § 13-901, authorizes the Supreme Court to establish guidelines to govern the supervision of adult probationers.

C. Purpose. To provide uniform guidelines for the intercounty courtesy transfer and supervision of adult probationers within Arizona.

D. General Administration.

1. The AOC shall:

- a. Prepare written material setting forth various techniques, practices, guidelines and other recommendations regarding the intercounty courtesy transfer of adult probationers;
- b. Conduct educational sessions regarding intercounty courtesy transfers;
- c. Provide general assistance to departments on intercounty courtesy transfers; and
- d. Adopt other administrative practices and procedures, consistent with this section, as necessary for the expedient administration of intercounty courtesy transfers.

2. Each department shall designate one or more liaisons to oversee intercounty courtesy transfer matters. The liaison shall:

- a. Coordinate all incoming and outgoing transfers;
- b. Monitor departmental compliance with this section;
- c. Resolve all compliance issues in a timely manner; and
- d. Notify the chief probation officer or designee of all unresolved compliance issues for dispute resolution.

3. Each department shall provide ongoing training for all department staff involved in intercounty courtesy transfers.
4. Each department is authorized to transfer supervision data electronically from any compatible automated system.
5. Both departments involved in the intercounty courtesy transfer of a probationer shall transfer supervision data electronically within the Adult Probation Enterprise Tracking System (APETS) provided both are using APETS.
6. Each department shall comply with all confidentiality provisions adopted by the supreme court.

E. Eligibility **Requirements.**

1. In accordance with caseload capacities a department shall accept a probationer who intends to reside in the county for a minimum of 120 days and who has:
 - a. Stable residence in the county;
 - b. Family residing within the county;
 - c. A visible means of support; or
 - d. A verifiable offer of employment.
2. In accordance with caseload capacities a department may accept a probationer who:
 - a. Intends to reside in the county for a minimum of 120 days and does not meet eligibility requirements in subsection E(1) but whose transfer plan will assist in the probationer's rehabilitation and is in the best interest of public safety; or
 - b. Intends to reside in a residential treatment facility in the county for a minimum 120 days. If the intended stay in a residential treatment facility is less than 120 days, an agreement to provide supervision may be arranged by the liaisons from the counties involved in the intercounty courtesy transfer.
3. A department shall not accept a probationer who:
 - a. Has not been sentenced to supervised adult probation;
 - b. Has not satisfied all conditions such as electronic monitoring, jail, treatment (other than long-term residential treatment), and work release;

- c. Is subject to pending probation violation proceedings; or
 - d. Does not intend to reside in the county for a minimum of 120 days, unless qualified under subsection E(2)(b). These cases shall be handled pursuant to the department's policies and procedures for temporary travel.
4. The sending department shall contact the receiving department's liaison when it is impossible for a condition to be satisfied prior to the transfer request to determine if the department has the resources to allow the probationer to comply with the special condition.

F. Financial Requirements.

- 1. All transferred probationers shall continue to remit payment for court-ordered assessments to the clerk of the superior court in the county where the probationer was sentenced, pursuant to departmental policies and procedures.
- 2. All transferred probationers on intensive probation supervision (IPS) shall surrender their paychecks for payment of court-ordered assessments pursuant to the departmental policies and procedures of the sending and receiving departments.
- 3. The sending department shall suspend the probation service fee assessment of a transferred probationer if the probationer has also been sentenced to probation and ordered to pay a probation service fee assessment in the receiving county.
- 4. The department having responsibility over the first conviction shall collect the probation service fee assessment if the transferred probationer has been placed on supervised probation with two or more departments and does not reside in the jurisdiction of any of the departments.
- 5. Judges from the sending county are authorized to assess additional probation service fees totaling no more than \$150 for each transfer request.
- 6. Departments shall establish written policies and procedures regarding the assessment of any additional probation service fee for each transfer request.

G. Investigation Procedures for Intercounty Courtesy Transfer Requests.

- 1. Prior to requesting intercounty courtesy transfer of supervision and authorization for the probationer to relocate, each sending department shall:
 - a. Ensure the probationer meets eligibility requirements;
 - b. Verify the prospective residence and employment of the probationer; and

- c. Complete an intercounty courtesy transfer request and forward it to the receiving department.
2. Each intercounty courtesy transfer request shall include:
 - a. Intercounty Courtesy Transfer Request;
 - b. Intercounty Courtesy Transfer Agreement;
 - c. Copies of the sentencing court order;
 - d. Signed conditions of probation;
 - e. Pre-sentence Investigation (PSI). If the PSI has been waived by the court, the police report and criminal history shall be included;
 - f. Photograph;
 - g. Psychological or medical reports with all pertinent releases of information, if applicable;
 - h. Transfer summary, including status of all conditions of probation;
 - i. Current risk and needs assessment;
 - j. Copy of all drug, alcohol and sex offender screening instruments, if applicable and available;
 - k. DNA verification, if applicable;
 - l. Sex offender registration verification, if applicable; and
 - m. A current warrants check. All active warrants must be cleared prior to a transfer request.
3. The receiving department shall begin the investigation and contact the liaison in the sending department to request any documentation missing from the intercounty courtesy transfer request.
4. The receiving department shall conduct an investigation and submit a written reply to the sending department within 30 days of receipt of an intercounty courtesy transfer request. The investigation shall follow departmental policies and procedures and at a minimum include:

- a. Verbal or written confirmation from those living at the proposed residence that they are willing to have the probationer reside at that location and understand all of the court imposed conditions;
 - b. An on-site home visit of the proposed residence with a walk-through; and
 - c. Verification, either personal, written or telephonic, of the proposed employment or plan to secure employment including business name, address, telephone number, probationer's work hours, wages, and supervisor.
5. The receiving department shall mail, fax or email the reply to the intercounty courtesy transfer request to the sending department. The reply shall include the following:
- a. A statement addressing eligibility requirements;
 - b. The steps undertaken by the probation officer during the investigation to verify the stated reasons for the request;
 - c. Notification of any court-ordered conditions of probation that cannot be met; and
 - d. Whether the request is approved or denied.
6. The reply to an intercounty courtesy transfer request that has been approved shall also include:
- a. Name, county, and telephone number of the assigned supervising probation officer;
 - b. The conditions of probation under which the transferred probationer will be supervised, including any special supervision requirements; and
 - c. Instructions to the transferred probationer for reporting.
7. The receiving department shall immediately begin active supervision of the transferred probationer once the intercounty courtesy transfer request is approved. Supervision shall continue until maximum expiration, until permission to close supervision has been granted by the sending department, or until the receiving department returns the transferred probationer pursuant to subsection L(2)(c).
8. If the intercounty courtesy transfer request is denied and the probationer has already relocated, the receiving department shall direct the transferred probationer to immediately return to the sending county and report to the sending department.
9. If the probationer does not relocate within 30 days after the intercounty courtesy transfer request is approved, the receiving department shall immediately notify the liaison in the

sending department to determine the status of the probationer. The receiving department shall immediately notify the liaison in the sending department if the probationer is on IPS and has not relocated within 72 hours.

H. Reporting Instructions.

1. The sending department shall contact the liaison in the receiving department to request reporting instructions if the sending department verified the probationer's need to relocate prior to the completion of a transfer investigation. The sending department shall then provide the reporting instructions to the probationer if the reporting instructions are provided by the receiving department.
2. The sending department shall forward a copy of the probation conditions to the receiving department within 24 hours when reporting instructions are provided.
3. The sending department shall submit the intercounty courtesy transfer request to the receiving department within 15 days of receipt of reporting instructions.
4. The receiving department shall require the probationer to comply with the reporting instructions until the investigation is complete.
5. The receiving department shall immediately notify the liaison in the sending department to determine the status of the probationer if the probationer fails to comply with the reporting instructions and is unable to be contacted or located.
6. The receiving department liaison shall obtain the probationer's name, date of birth, county of conviction, and the name and telephone number of the probation officer if the receiving department is contacted by a probationer who did not receive reporting instructions. The receiving department liaison shall immediately contact the liaison in the sending department to discuss the matter.

I. Standards of Supervision.

1. Each receiving department shall supervise a transferred probationer in accordance with departmental policies and procedures and applicable sections of this code.
2. The receiving department shall comply with any special supervision requirements requested, provided that the receiving department uses the supervision technique or program for their own probationers.
3. The receiving department shall determine the level of supervision of the transferred probationer pursuant to departmental policies and procedures and applicable sections of this code.

4. The receiving department shall forward to the sending department all requests to change the level of supervision on a transferred probationer on IPS for determination.
5. The receiving department shall forward any supervision plan prepared pursuant to departmental policies and procedures and applicable sections of this code to the sending department.
6. The receiving department shall not approve out-of-state travel for a transferred probationer unless approved by the sending department as well.
7. A.R.S. §13-3822 (A) provides:

Within seventy-two hours, excluding weekends and legal holidays, after moving from the person's address within a county or after changing the person's name, a person required to register under the provisions of this article shall inform the sheriff in person and in writing of the person's new address or new name. If the person moves to a location which is not a residence and the person receives mail at a post office box, the person shall notify the sheriff of the location of the post office box and the post office box number....

8. A.R.S. §13-3822 (B) provides:

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

9. Each department shall comply with all provisions of the Victims' Bill of Rights.

J. Transfer of Supervision to a Second Department.

1. The receiving department shall assist with a second intercounty courtesy transfer request if the sending and receiving departments grant permission for a transferred probationer to relocate a second time. The original receiving department shall continue to supervise the transferred probationer until the second intercounty transfer request is approved.
2. The receiving department shall not grant permission for the transferred probationer to relocate a second time until the second intercounty transfer request is approved or reporting instructions are provided.

3. Each department involved in the transfer of supervision to a second department shall comply with all provisions set forth in this code.

K. Requests for Return to Sending Department.

1. The receiving department shall contact the liaison in the sending department when a transferred probationer requests to return to the sending county and provide the sending department with the transferred probationer's proposed address, telephone number and name of contact person(s).
2. The liaison in the sending department shall provide reporting instructions allowing the transferred probationer to return.
3. The receiving department shall provide the transferred probationer with the written reporting instructions.

L. Probation Violation Procedures.

1. Each department shall comply with departmental policies and procedures and applicable sections of this code governing all facets of probation violation procedures.
2. Violation Procedures for Non-Absconders:
 - a. The receiving department shall immediately notify the sending department of all alleged violations of the conditions of probation. Notification shall be via fax, mail or email and shall include:
 - (1) The facts and details of each alleged violation;
 - (2) Any supporting evidence such as police reports, drug testing results, progress reports from the treatment provider, or a search report from conducting a warrantless search;
 - (3) Any statements made by the transferred probationer relevant to the alleged violation(s);
 - (4) A history of supervision detailing changes in employment, residence or general attitude;
 - (5) The receiving department's efforts in assisting the transferred probationer in complying with the conditions of probation; and
 - (6) The receiving department's recommendation regarding continued supervision.
 - b. The sending department shall respond to the notification of alleged violation(s) via fax, mail or email within 5 working days of receipt of the notification.
 - c. If the receiving department's recommendation is revocation by the sending department and the sending department refuses to take action, the receiving department may order

the transferred probationer to return to the sending county with advance notice to the sending department.

- d. The receiving department shall continue to supervise the transferred probationer during any probation revocation process until the court disposes of the petition to revoke or the transferred probationer is returned to the sending county.
3. Violation Procedures for Absconders. The receiving department shall notify the sending department via fax, mail or email that the transferred probationer has absconded. Each department shall comply with departmental policies and procedures and applicable sections of this code concerning absconders.

M. Closing Supervision.

1. Receiving departments shall close supervision only on receipt of notice by the sending department under the following conditions:
 - a. Disposition of a petition to revoke;
 - b. Termination or expiration of the probation grant by the court;
 - c. The transferred probationer has been approved to relocate a second time;
 - d. The transferred probationer has absconded;
 - e. The sending department directs the return of the transferred probationer;
 - f. Notification of the death of a transferred probationer. The receiving department shall forward a death certificate to the sending department; or
 - g. Return of the transferred probationer to the sending department after violation, pursuant to subsection L(2)(c).
2. If the transferred probationer has reached the maximum discharge date and if permission to close supervision is not granted by the sending department, the receiving department shall close supervision and notify the sending department.