

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
AMENDING ARIZONA CODE OF)	Administrative Order
JUDICIAL ADMINISTRATION)	<u>No. 2010 - 25</u>
§ 6-201.01: STANDARD PROBATION)	(Affecting Administrative
EVIDENCE BASED PRACTICE)	Order Nos. 2008-104 and
<hr/>)	2009-54)

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

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 6-201.01 is amended as indicated on the attached document. All other provisions of § 6-201.01 as adopted, remain unchanged and in effect.

Dated this 24th day of February, 2010.

REBECCA WHITE BERCH
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-201.01: Standard Probation Evidence Based Practice

Courts shall be governed by section 6-201, except and until approved by the Administrative Director to be governed by section 6-201.01.

Sections A through I - No changes

J. Program Operations.

1. Each probation department shall develop:
 - a. Policies and procedures that aim to reduce offender risk and the likelihood of future criminal behavior that are consistent with the principles of evidence-based practices;
 - b. Policies and procedures which require probation officers providing standard supervision to use the results of the standardized assessment, as well as any other relevant information, when developing a case plan;
 - c. Policies and procedures which require the administration of standardized reassessments upon the discovery of significant changes in criminogenic risk and needs or continued criminal conduct, including arrests for new criminal offenses for probationers that assess as low on the initial standardized assessment;
 - d. Policies and procedures that require probation officers to utilize graduated responses of consequences and incentives to address violation behavior and promote positive behavioral change;
 - e. Policies and procedures that identify the criteria for the recommendation of early termination for eligible probationers. This policy shall include requirements for officers to review case file to determine eligibility;
 - f. Policies and procedures regarding the alcohol and drug testing of persons on standard 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;
 - g. Policies and procedures concerning the monitoring of probationers' compliance with court-ordered or disclosed prescription medications for mental health or public health concerns. This policy shall include requirements to ensure routine and timely communication between the supervising probation officer and physician regarding the probationer's compliance with dosage requirements;
 - h. Policies and procedures requiring officers to maintain accurate and timely records of the completion of community restitution hours for each probationer. Credit toward

court-ordered community restitution requirements are awarded on the basis of actual hours completed unless otherwise authorized by the court;

- i. Protocols to work with the office of the clerk of court to establish policies and procedures by which supervising probation officers are provided with accurate and timely information concerning collections;
 - j. Policies and procedures to ensure the collection of monies owed as a condition of probation. Each probation department and supervising probation officer shall address any arrearage per departmental policy. Each probation department and supervising officer shall also encourage the probationer's payment of other assessment, such as child support or traffic fines as ordered by any court;
 - k. Policies and procedures requiring an officer to administer a standardized reassessment and develop a new case plan for medium and high risk probationers once every 180 days; and
 - l. Policies and procedures requiring the supervising officer to develop a new case plan for probationers that assess as low risk on the standardized assessment or reassessment if an intervention to criminogenic risk or needs area is required. The officer shall document in the file that no case plan was completed if no intervention is required.
2. A.R.S. § 12-253(4) provides that adult probation officers shall:
- Investigate cases referred to the officer for investigation by the court in which the officer is serving and report to the court. In an investigation for a presentence report, the adult probation officer shall promptly inquire into the circumstances of the offense, the convicted person's history of delinquency or criminality, social history, employment history, family situation, economic status, including the ability to contribute to reimbursement for the costs of person's legal defense pursuant to § 11-584, education and personal habits. The presentence report shall contain a recommendation by the officer regarding contribution by the convicted person toward the cost of legal defense pursuant to § 11-584. The officer shall also promptly inquire into the physical, emotional and financial impact of the offense on the victim and the emotional and financial impact of the offense on the immediate family of the victim and shall notify the victim or the immediate family of the victim of the right to appear personally or by counsel at any aggravation or mitigation proceeding.
3. For all probation eligible cases, presentence reports shall also contain case information related to criminogenic risk and needs as documented by the standardized risk assessment and other file and collateral information. The report shall also contain the officer's recommendation for supervision and treatment services based upon the convicted person's documented criminogenic risk and needs when authorized.

4. 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 agencies 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 record all contacts, information received pertaining to the incident, and actions taken as a result of the incident. Probations officers shall also document information, including but not limited to, violation behavior, positive progress and behavioral changes.
5. 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:
 - (1) Administer the standardized assessment within 30 days of a probationer’s placement on probation or initial release from custody if an assessment was not completed prior to sentencing;
 - (2) Re-evaluate the adequacy of the court-ordered conditions of probation as part of the ongoing assessment and planning process and, if applicable, petition the court for modifications;
 - (3) Utilize the results of the standardized assessment to establish a level of supervision and address needs for behavioral changes;
 - (4) Develop a case plan for all probationers that assess as medium or high risk on the standardized assessment within 60 days of a probationer’s placement on probation or initial release from custody. The officer shall ensure the case plan includes signatures of the officer and probationer and objectives in the case plan are measurable.
 - (5) Develop and implement supervision strategies that are matched by standardized assessment results and criminogenic factors with the probationer’s risks, needs and strengths that promote supervision goals and to provide effective supervision that is individualized, proportional and purposeful;
 - (6) Target interventions to higher-risk cases to promote public safety;
 - (7) Administer the standardized reassessment every 180 days from the last assessment for probationers that assess as medium or high risk to measure behavior changes until later assessments indicate a decrease in risk factors which assess the probationer as low risk.
 - (8) Review the assessment and the previous case plan during the development of a new case plan to determine if a change in strategies is required to promote behavioral changes. Strategies shall be re-evaluated if there has been regress or no change in behavior;
 - (9) Reassess probationers that assess as low risk upon discovery of new criminal conduct, if the current assessment is more than 180 days old;

- (10) Complete a case plan if a probationer assessed as low risk has criminogenic risks and needs that require intervention.
 - (11) Document in the case record that a case plan is not needed for an assessed low risk probationer if no intervention is required;
 - (12) Conduct documented case file reviews for probationers assessed as low risk every year. Case file reviews shall include, but are not limited to, case notes, collateral information and investigation of any arrest notification. Actions shall be taken in response to indicators of changes in criminogenic risk and needs or involvement in criminal conduct. Probationers that are eligible and in compliance with court-ordered conditions of probation shall be recommended for early termination. The officer shall recommend that any outstanding financial obligations be reduced to a criminal restitution order. Probationers with outstanding restitution are not eligible for early termination;
 - (13) Respond to emerging risk indicators with graduated increases in the level of supervision, pursuant to probation departmental policy.
 - (14) Reduce the level of supervision, up to and including recommendation for early termination of supervision, as risk issues are addressed and probationers meet their objectives.
 - (15) Provide probationers with feedback on the results of an assessment or reassessment and progress with the established behavioral goals and conditions of probation and provide positive reinforcement to encourage behavioral changes; and
 - (16) Consider the suitability of early termination for all eligible cases.
- b. Adult probation officers shall provide a written directive to the probationer referring the probationer to an appropriate service provider within 60 days of sentencing, release from custody, or identification of the need if a need for treatment, education 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, when appropriate. The frequency of testing shall be dependent upon the probationer's substance abuse history, unless otherwise directed by the court, and shall be documented in the case record.
6. 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."
 7. 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 case records for each probationer supervised, including, but not limited to:

- a. A written statement of the ordered conditions of probation;
 - b. An individual case plan setting forth behavioral expectations for probationers that assess as medium or high risk on the standardized assessment;
 - c. Contact logs detailing the time, nature and location of each contact made with each person on standard probation.
8. A.R.S. § 12-253(6) provides that adult probation officers shall “Obtain and assemble information concerning the conduct of persons placed under suspended sentence and report the information to the court.” Reports shall contain case information, including but not limited to, violation behavior, positive progress and behavioral changes while under supervision. Adult probation officers shall petition the court to terminate the period of probation based on the use of standardized assessments and an evaluation of the probationer’s compliance with the conditions of probation.
9. A.R.S. § 12-253(7) provides that adult probation officers shall “Bring defaulting probationers into court when in his judgment the conduct of the probationer justifies the court to revoke suspension of the sentence.”
- a. Adult probation officers shall make a documented effort to locate an absconder. If the probationer is not located within 90 days, the supervising probation officers shall file a petition to revoke probation and request that the court issue a warrant. The supervising probation officer may file the petition to revoke sooner based on the circumstances surrounding the case and the need for community protection.
 - b. The probation department’s efforts to locate the probationer shall continue until the probationer is apprehended.
10. Probation officers, surveillance officers and absconder or warrant officers shall follow the minimum requirements for probationers on warrant status for less than 90 days:
- a. Send a certified letter to last known physical address if any, except for probationers incarcerated or in residential treatment;
 - b. Physically check last known address and place of employment. Ask sources, such as neighbors, apartment managers and former employers, for information;
 - c. Contact collaterals who may know the absconder’s whereabouts including former associates, relatives and friends;
 - d. Run a criminal history check;

- e. Validate obtained information with agencies and companies such as law enforcement and utility companies.
- f. Provide information that can be used for flyers and wanted posters for dissemination to local law enforcement that has jurisdiction.
- g. Follow up on these requirements at least once every 30 days, if necessary; and
- h. Maintain a complete record of activities in case notes.

11. Pursuant to A.R.S. § 13-4415(A):

On request of a victim who has provided an address or other contact information, the court 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 a person who is convicted of committing a criminal offense against the victim.
2. Any hearing on a proposed modification of the terms of probation or intensive probation.
3. The arrest of a person who is on supervised probation and who is arrested pursuant to a warrant issued for a probation violation.

12. Notify the court having jurisdiction upon finding that the probationer has become in arrears in an amount totaling two full court ordered monthly payments of restitution. This notification shall consist of a petition to modify, petition to revoke, or memorandum to the court outlining the reasons for the delinquencies and expected duration thereof. A copy of the memorandum shall be provided to the victim, if the victim has requested notice of restitution modifications.

Sections K through L – No changes