

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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|----------------------------------|---|---------------------------|
| In the Matter of: |) | |
| |) | |
| AMENDING ARIZONA CODE OF |) | Administrative Order |
| JUDICIAL ADMINISTRATION § 6-203: |) | <u>No. 2006- 15</u> |
| COMMUNITY PUNISHMENT |) | (Affecting Administrative |
| PROGRAM |) | Order No. 2001-64) |
| _____ |) | |

An amendment to the above captioned section of the Arizona Code of Judicial Administration having come before the Arizona Judicial Council on December 14, 2005, and having been approved and recommended for adoption,

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

IT IS ORDERED that Arizona Code of Judicial Administration § 6-203 is amended as indicated on the attached document. All other provisions of § 6-203, as originally adopted, remain unchanged and in effect.

Dated this 1st day of February, 2006.

RUTH V. MCGREGOR
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-203: Community Punishment Program

[Added text is shown underlined, deleted text by ~~strikethrough~~.]

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

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

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

“Advisory committee” means ~~the same as provided by A.R.S. § 12-299(1), that is:~~ “a local community punishment advisory committee appointed by the presiding judge of the superior court.” as provided by A.R.S. § 12-299(1).

“Application process and procedures” means ~~the same as provided by A.R.S. § 12-299(2), that is:~~ “...criteria and guidelines developed by the supreme court for establishing community punishment plans, granting monies for programs authorized by this article and monitoring and reviewing programs funded under this article.” as provided by A.R.S. § 12-299(2).

“Community punishment” means ~~the same as provided by A.R.S. § 12-299(3), that is:~~

...programs for persons placed on supervised probation or intensive probation which are established pursuant to this article and provide for increased conditions of probation and community based programs and services that emphasize supervision, surveillance, control, public protection, community work service, restitution, and victims’ rights and that provide opportunities for rehabilitation and treatment.

as provided by A.R.S. § 12-299(3).

“Community punishment plan” means ~~the same as provided by A.R.S. § 12-299(4), that is:~~ “a document which is prepared by the presiding judge of the superior court and submitted to the supreme court pursuant to the requirements set forth in the application process and procedures.” as provided by A.R.S. § 12-299(4).

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

“Court” means the superior court.

“Hand count” means the manual tabulation of all case files in the county probation department, 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.~~

“Private human services agency” means ~~the same as provided by A.R.S. § 12-299(5), that is:~~ “a nonprofit or for profit organization which provides treatment, housing, or other services to individuals, families or groups:” as provided by A.R.S. § 12-299(5).

“Residing temporarily” means living at a location for 30 days or less.

“Residential treatment” means any type of licensed treatment or counseling where the probationer resides at the facility. “Short term residential treatment” is 30 days or less. “Long term residential treatment” is 31 days or more. Halfway houses are not considered residential treatment.

~~“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.

B. Applicability. ~~Article VI, Section 3 of the Arizona Constitution~~ Az. Const. Art. 6, § 3 and A.R.S. § 12-299.01 authorizes the supreme court to administer state funding for the establishment and operation of community punishment programs.

C. Purpose. To establish requirements for the implementation of programs for persons placed on supervised probation or intensive probation to provide for increased conditions of probation and community-based programs and services which emphasize supervision, surveillance, control, public protection, community ~~service~~ restitution, restitution and victims’ rights, and opportunities for rehabilitation and treatment in accordance with A.R.S. §§ 12-299 through 12-299.05.

D. General Administration.

1. A.R.S. § 12-299.03 provides:

A. The supreme court shall:

1. Implement and administer the community punishment program.
2. Adopt necessary guidelines, rules, standards and policies to implement this article.

3. Facilitate the development of local plans.
4. Develop and implement an application process and procedures.
5. Review and approve plans and budgets.
6. Allocate funding.
7. Provide statewide training and technical assistance to the superior court, adult probation departments and advisory committees regarding community punishment.
8. Conduct an evaluation of all programs on a periodic basis to ensure program accountability. The evaluation report shall include information for the superior court in each participating county on the number of offenders serving suspended sentences on probation and intensive probation, the average cost per offender, the amount of restitution, fines and fees paid, the number of community ~~service~~ restitution hours contributed by offenders and the number of offenders who have successfully completed terms of probation. The report shall be submitted to the governor, the speaker of the house of representatives and the president of the senate. The supreme court may contract with a private consultant to prepare this report.

B. The supreme court may contract directly with private human service agencies to develop, implement and operate community punishment programs.

2. The AOC shall:

- a. Prepare written material setting forth various techniques, practices, guidelines and other recommendations regarding the operation and management of community punishment programs and distribute this material to judges and probation personnel;
- b. Inspect, audit, or have audited the records of any court operating a community punishment program;
- c. Prescribe and adopt procedures, forms and reports necessary for financial administration, program administration, operation and management of community punishment programs;
- d. Establish performance measures and expectations in consultation with the court for determining compliance with each court's community punishment plan and budget request;

- e. Assist courts in developing their community punishment plans and budgets; and
 - f. Adopt other administrative practices and procedures, consistent with this ~~code~~ section, necessary for the administration of the community punishment program.
3. ~~For purposes of~~ To promote uniform administration, each adult probation department ~~receiving state~~ operating a community punishment program ~~funds~~ shall comply with this section.

E. Budget Request Preparation.

1. A.R.S. § 12-299.04 provides:

The presiding judge of the superior court shall annually submit a proposed budget for the following fiscal year for the community punishment program to the supreme court. The supreme court shall review and analyze each county budget and include the requests in its annual budget request along with ~~the~~ costs necessary for the supreme court to administer the program.

- 2. The administrative director shall establish a date for submitting the budget request, as well as the forms used and the corresponding instructions.
- 3. The administrative director shall review each request, and may modify the request based on appropriate statewide considerations. The AOC shall include the original, or 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 community punishment programs based on the proposed plan, availability of funds, caseload population, past year use 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 requesting state community punishment program funding 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 requesting state funding shall submit an expenditure plan to the administrative director. The expenditure plan and any plan modification shall be consistent with A.R.S. §§ 12-299 through 12-299.05, this ~~code~~ section, the supreme court’s budget request and with available monies appropriated by the legislature for community punishment 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 that 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. Pursuant to A.R.S. §§ 12-263 and 12-299.01, 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~~ section.
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. Pursuant to A.R.S. § 12-267(B), the county's chief fiscal officer shall deposit funds received by the court pursuant to A.R.S. § 12-299.01 into a separate account within the adult probation services fund.
7. The ~~participating~~ participating court receiving state community punishment program funds shall use allocated ~~state~~ funds and interest only for the support and operation of approved community punishment programs.
8. 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.
9. Pursuant to A.R.S. § 12-299.01(C), "...All monies provided shall be used to supplement monies currently used for community based sentencing and adult probation programs and services."
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 community punishment program 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 community punishment programs.
14. Each ~~participating~~ court and its probation department operating a community punishment program shall maintain and provide to the AOC data and statistics as may be required by the supreme court to administer community punishment programs.
15. On request of the AOC, the chief probation officer shall conduct hand counts of the ~~county's~~ department's community punishment program population. The chief probation officer shall submit the results of the hand counts to the AOC.
16. Each ~~participating~~ court and its probation department operating a community punishment program shall retain all financial records, applicable program records, and data related to each approved plan for a period of at least 5 five years from the close of each fiscal year.

G. Allocation and Management of Community Punishment Program Personnel Placements. [no change]

H. Eligibility Requirements. [no change]

I. Active Case. [no change]

J. Program Operations. [no change]

K. Specialized Populations 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 requirements specific to the needs and goals of the caseload and consistent with the minimum supervision requirements set forth in either ACJA § 6-201 or § 6-202 as applicable.
4. Probation officers assigned to supervise specialized caseloads shall participate in continuing education and training on the specific needs of the population.

L. Advisory Committee. [no change]