

## COMMITTEE ON SUPERIOR COURT

<b>Date Action Required:</b>  February 5, 2010	<b>Type of Action Required:</b>  <input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	<b>Subject:</b>  ACJA 6-207: UNIFORM CONDITIONS OF SUPERVISED PROBATION
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FROM: Kathy Waters, Adult Probation Services Division, AOC

PRESENTER(S): Kathy Waters and Sharon Yates

DISCUSSION: Proposed revisions aligns the language in the Uniform Conditions of Supervised Probation with evidence-based principles.

RECOMMENDED MOTION: Approve code section as written.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 2: Adult Services**  
**Section 6-207: Uniform Conditions of Supervised Probation**

**Sections A and B – No changes**

**C. Purpose.** The attached uniform conditions of supervised probation form is adopted and incorporated as Appendix A in order to ensure consistency among courts and probation departments. ~~The uniform conditions of supervised probation form may be used when a court sentences a probationer to unsupervised probation.~~

**D. General Administration.**

1. The presiding judge shall ensure all judges within their jurisdiction use the uniform conditions of supervised probation form for cases assigned to the superior court probation department for supervision.
2. Courts shall impose the uniform conditions of supervised probation on the following:
  - a. Probationers sentenced by the superior court to supervised probation using the attached adopted form, which may be amended pursuant to subsection D(3)(a).
  - b. Probationers referred by a limited jurisdiction court to the superior court probation department for supervision.
  - c. Probationers accepted for supervision in Arizona through the Interstate Compact for Adult Offender Supervision.
3. The forms shall be duplicated and used by courts as follows:
  - a. Each superior court shall duplicate the uniform conditions of supervised probation form as adopted, except that formatting changes are permitted. If a court changes a condition, the change shall be documented on the form. When special conditions are imposed in addition to those specified, they shall be listed under condition ~~26~~ 22, or attached in a separate document.
  - b. Probation departments ~~A limited jurisdiction court~~ shall duplicate forms that include, at a minimum, conditions 1 through ~~15~~ 14 and provide to the limited jurisdiction court for cases referred by a limited jurisdiction court to the superior court probation department for supervision. The limited jurisdiction court, in conjunction with the probation department, may add additional conditions.
  - c. Probation departments shall duplicate forms that include, at a minimum, conditions 1 through ~~15~~ 14 for probationers accepted for supervision in Arizona through the Interstate Compact. Probation departments may add additional conditions.

4. A superior court shall use only the currently approved uniform conditions form when continuing probation.

**Section 6-207: Uniform Conditions of Supervised Probation  
Appendix A  
Uniform Conditions of Supervised Probation Form**

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
UNIFORM CONDITIONS OF SUPERVISED PROBATION**

STATE OF ARIZONA

COUNTY/DIVISION: \_\_\_\_\_ / \_\_\_\_\_

VS.

CR: \_\_\_\_\_

§13-901.01 Offense:  1<sup>st</sup>  2<sup>nd</sup>  Ineligible

PID#: \_\_\_\_\_

OFFENSE(S): \_\_\_\_\_

*# The Court is ~~ordered~~ suspending imposition/execution of sentence and, under the supervision of the Adult Probation Department (APD),*

- PLACING** the defendant on probation for a period of \_\_\_\_\_  year(s)  month(s)  days  lifetime
  - to begin \_\_\_\_/\_\_\_\_/\_\_\_\_ or
  - upon absolute discharge from prison for a separate offense or
  - upon release from prison for felony DUI (\_\_\_\_ months; \_\_\_\_ days credit for time served)
- upon release from prison pursuant to A.R.S. § 13-603(K)
- CONTINUING Reinstating** the defendant on probation for a period of \_\_\_\_\_  days  year(s)  month(s)  lifetime
  - for a modified term
  - to begin \_\_\_\_/\_\_\_\_/\_\_\_\_ with a revised expiration date of \_\_\_\_/\_\_\_\_/\_\_\_\_
  - with credit for \_\_\_\_\_ days with a revised expiration date of \_\_\_\_/\_\_\_\_/\_\_\_\_

**I AGREE TO THE FOLLOWING: (Conditions Checked Also Apply)**

**LAW ABIDING BEHAVIOR**

1. I will maintain a crime-free lifestyle, obey all laws, and not engage or participate in any criminal activity.
2. I will not possess or control any stun guns, tasers, firearms, ammunition, deadly or prohibited weapons as defined in A.R.S. §13-3101.
3. I will report any contact I have with law enforcement to the APD within 72 (or \_\_\_\_ ) hours.
4. I will submit to search and seizure of person and property by the APD without a search warrant.
5. If deported or processed through voluntary departure, I will not return to the United States without legal authorization during the \_\_\_\_ term of my probation. If I am deported, all conditions but \_\_\_\_ are suspended.

**REPORTING TO APD**

6. I will report to the APD within 72 (or \_\_\_\_ ) hours of sentencing, absolute discharge from prison, release from incarceration, or residential treatment and continue to report as directed. I will also keep APD advised of progress toward case plan goals and comply with any written directive of the APD to enforce compliance with the conditions of probation.

**RESIDENCE**

7. I will provide the APD safe, unrestricted access to my residence and receive prior approval of the APD before changing my residence. I will reside in a residence approved by the APD.
8. I will request and obtain written permission of the APD prior to leaving the state ( county).
9. I may apply for Interstate Compact supervision in the state of \_\_\_\_\_ and will not proceed to that state until reporting instructions are received and the APD issues a written travel permit.
10. I may apply for an Inter-County transfer and will not proceed to that County until APD issues written

authorization.

**UNIFORM CONDITIONS OF SUPERVISED PROBATION – PAGE 2 OF 2**

**STATE OF ARIZONA** COUNTY/DIVISION: \_\_\_\_\_ / \_\_\_\_\_

**VS.** \_\_\_\_\_ **CR:** \_\_\_\_\_

**TREATMENT/BEHAVIOR CHANGE/PRO-SOCIAL ACTIVITIES**

- 11. I will actively participate and cooperate in any program of counseling or assistance as determined by APD given assessment results and/or my behavior. I will sign any release or consent required by the APD so the APD can exchange information in relation to my behavior and activities in treatment.
- 12. I will not possess or use illegal drugs or controlled substances and will submit to drug and alcohol testing as directed by the APD.
- 13. I will obtain written approval of the APD prior to associating with anyone I know who has a criminal record. I will not knowingly associate with any person engaged in criminal behaviors.
- 14. I will seek, obtain, and maintain employment, if legally permitted to do so, and/or attend school. I will inform the APD of any changes within 72 hours.
- 15. I will be financially responsible by paying all restitution, fines, and fees in my case as imposed by the Court. I understand, if I do not pay restitution in full, the Court may extend my probation.
- 16. I will not consume or possess any substances containing alcohol.

**SPECIAL REQUIREMENTS**

- 17. I will complete a total of \_\_\_\_\_ hours of community restitution. I will complete a set number of hours per month as directed in writing by my probation officer. I will complete these hours at a site approved by the APD.
- 18. I will serve \_\_\_\_\_  days  month(s), in the county jail beginning \_\_\_\_ / \_\_\_\_ / \_\_\_\_ with credit for \_\_\_\_\_ days served,  not to be released until \_\_\_\_ / \_\_\_\_ / \_\_\_\_ . I will report to the APD within 72 (or \_\_\_\_\_ ) hours of my release from jail. I will comply with all program rules.
  - Be screened for or  shall participate in Work Furlough, if eligible or  Work Release, if eligible
- 19. I will not have any contact with the victim(s) in any form, unless approved in writing by the APD.
- 20. I will comply with the following sanctions based on my behavior:
  - Up to \_\_\_\_\_ community restitution hours (in addition to any ordered under condition #17), as directed by the APD.
  - Up to \_\_\_\_\_ days in the county jail (in addition to any ordered under condition #18), at the discretion of the Court, upon recommendation from the APD.
- 21. I will abide by the attached special conditions of probation:
 

<input type="checkbox"/> Intensive Probation	<input type="checkbox"/> Sex Offender	<input type="checkbox"/> Gang
<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Drug Court	<input type="checkbox"/>
<input type="checkbox"/> Mental Health	<input type="checkbox"/> DUI Court/Program	
- 22. \_\_\_\_\_

**Based upon the defendant's agreement to abide by the Conditions of Supervision set forth, above, as well as my review and approval of such conditions, I hereby impose and order that these conditions are in effect.**

\_\_\_\_\_  
**Judge of the Superior Court**                      **Date**

**RECEIPT AND ACKNOWLEDGMENT:** *I acknowledge receipt of the conditions of probation and any attachments added. I understand that by not abiding by the conditions of probation my probation could be revoked and the Court may sentence me in accordance with the law. In addition, I waive extradition for any probation revocation proceedings in this matter.*

Defendant \_\_\_\_\_ Date \_\_\_\_\_

Defendant's Address \_\_\_\_\_ Apt. \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

***THE DEFENDANT SHALL: (Conditions Checked Also Apply)***

- ~~1. Obey all laws.~~
- ~~2. Not knowingly associate with any person engaged in criminal activity or who has a criminal record without the prior written approval of the APD.~~
- ~~3. Report to the APD within 72 (or \_\_\_\_\_) hours of sentencing, absolute discharge from prison, release from incarceration or residential treatment, and continue to report as directed.~~
- ~~4. Reside at an address approved by the APD, provide safe access, and obtain prior approval before changing residence.~~
- ~~5. Submit to search and seizure of your person or property by the APD without a search warrant.~~
- ~~6. Not possess or control any firearms, ammunition, or prohibited weapons as defined in A.R.S. ' 13-3101.~~
- ~~7. Not possess or use illegal drugs, toxic vapors, or controlled substances, or use or possess any prescription drugs without a valid prescription.~~
- ~~8. Report any law enforcement contact to the APD within 72 (or \_\_\_\_\_) hours.~~
- ~~9. Submit to drug and alcohol testing as directed by the APD and/or court.~~
- ~~10. Participate and cooperate in any program of counseling or assistance as directed by the APD and/or court.~~
- ~~11. Seek, obtain and maintain employment, if legally permitted to do so, and/or attend school as directed by the APD and advise of any change.~~
- ~~12. Not leave the state (  county) without prior permission of the APD.~~
- ~~13. Sign and submit any release, authorization, or consent required for the APD/court to exchange protected healthcare information related to the conditions of probation.~~
- ~~14. Provide a sample for DNA testing if required by law.~~
- ~~15. Comply with any written directive of the APD to enforce compliance with the conditions of probation.~~
- ~~16. Abide by the Judgment and Orders of Restitution, Fines and Fees in this case.~~

**UNIFORM CONDITIONS OF SUPERVISED PROBATION — PAGE 2 OF 2**

STATE OF ARIZONA \_\_\_\_\_ COUNTY/DIVISION: \_\_\_\_\_ / \_\_\_\_\_

VS. \_\_\_\_\_ CR: \_\_\_\_\_

- 17. Not consume or drink any substance containing alcohol.
- 18. Not have any contact with the victim(s) whatsoever, unless approved in writing by the APD.
- 19. Complete \_\_\_\_\_ hours of approved community restitution at a minimum rate of \_\_\_\_\_ hours per month beginning  upon sentencing or  as directed in writing by the APD.
- 20. Not remain in or return to the United States illegally if deported or processed through voluntary departure.
- 21. Be incarcerated in the county jail for \_\_\_\_\_  days  month(s), beginning \_\_\_\_/\_\_\_\_/\_\_\_\_ with credit for \_\_\_\_\_ days served,  not to be released until \_\_\_\_/\_\_\_\_/\_\_\_\_. Report to the APD within 72 (or \_\_\_\_\_) hours of release from jail. Comply with all program rules.
  - Be screened for or  shall participate in Work Furlough.
  - Eligible for Work Release.
- 22. Register as a Sex Offender if required by law.
- 23. Be permitted to apply for Interstate Compact supervision in the state of \_\_\_\_\_.  
Do not proceed until reporting instructions are received and the APD issues a written travel permit.
- 24. Participate and cooperate in any counseling or assistance as directed by the APD pertaining to:
  - Substance Abuse \_\_\_\_\_  Mental Health \_\_\_\_\_
  - ABE/GED \_\_\_\_\_  Budgeting/Financial \_\_\_\_\_
  - Domestic Violence \_\_\_\_\_  Parenting \_\_\_\_\_

- Cognitive Skills
- Anger Management
- 25. Abide by the attached special conditions of probation:
- Intensive Probation
- Domestic Violence
- Mental Health
- Sex Offender
- Sex Offender
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- Drug Court
- DUI Court
- Gang
- 

26. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Comments and Responses to ACJA Section 6-207: Uniform Conditions of Supervised Probation**

PARAGRAPH	COMMENT	RESPONSE
<b>Section D. General Administration</b>	I suggest adding the full title of the compact "Interstate Compact for Adult Offender Supervision" to sub-section D.2.c. to differentiate it from other interstate compacts.	Change incorporated.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	Near the top of the page, I would allow the court to suspend the imposition or execution of sentence, since the statute allows for either.	Change incorporated.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	On conditions of probation under Placing the defendant on probation ... We need another choice which the judges in Pima County use frequently: __ Waive community supervision and place the defendant on probation immediately after release from prison	Change not incorporated as requested but check box added citing statute.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	I would suggest that the checkbox for "days" be moved to follow "months" for the lines beginning "PLACING the defendant..." and "REINSTATING the defendant..." to keep the unit values in descending order (apart from lifetime, which doesn't require a unit designation) OR to switch "Years" with "Months" to make the values ascending.  Either is acceptable, just going for consistency and ease of use.	Change incorporated.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	I would strike the word "illegally" from condition number 5. The probation officer can prove a deported probationer returned to the U.S. but the officer is not prepared on short notice to prove the reentry was "illegal". Probationers admit nothing so we fail to meet our burden of proof. In the alternative, you could keep the term "illegally" but add the additional requirement of written approval from the APD.	Change incorporated.

<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	Condition 15: There are extra spaces between the two sentences.	Change incorporated.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	Condition 17: ...."per month per..." is awkward wording. You might consider "hours per month as directed in writing by my probation officer."	Change incorporated.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	Condition 14: Recommended to read "I will seek, obtain, and maintain employment, if legally permitted to do so, and/or attend school. I will inform the APD of any changes within 72 hours of that change."	First sentence incorporated. Second sentence already in proposed code.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	Condition 11: If it is believed "according to my case plan" should be deleted from condition #14 noted above, a similar change should be considered for condition #11 for the same reasons. Suggested verbiage: "I will actively participate and cooperate in any program of counseling or assistance as determined by APD given assessment results and/or my behavior."	Change incorporated.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	Condition 20: Add the word "complete" in front of "up to" that occurs after each box.	Change not incorporated.
<b>Appendix A Uniform Conditions of Supervised Probation Form</b>	Condition 2: The comma before the word deadly should be deleted. It should read "...firearms, ammunition, deadly or prohibited weapons..."	Change incorporated.