
THE ADMINISTRATIVE OFFICE OF THE COURTS

Protocols for Identity and Legal Status Determinations of Adult Probationers

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INTRODUCTION

On January 1, 2008, the enactment of A.R.S. §23-212 will directly impact the probation programs in the State of Arizona. A.R.S. §23-212 places sanctions on Arizona employers who knowingly employ undocumented alien workers. In order to act consistently with A.R.S. §23-212 and federal law, any requirement concerning employment must be limited to those who are legally authorized to work in the United States. These protocols were developed to ensure probation departments respond with due diligence to the enactment of A.R.S. §23-212.

Instructions for Use

The AOC has attempted to design an easy to use electronic manual for probation officers reference. The manual is divided by Type of Defendant/Probationer. The manual also contains an Appendix that includes reference materials and Hyperlinks to Internet resources that will assist officers with completing the protocols.

To access a specific section of this manual, control click on the following for the desired Hyperlink. At the end of each section, the reader can utilize hyperlinks to return to the Instruction Page.

[Pre-Trial Investigations](#)

[Pre-Sentence Investigations](#)

[Direct Supervision IPS](#)

[Direct Supervision SPS](#)

[Inter-county Transfers](#)

[Deported Probationers](#)

To access the reference material in this manual, control click on the following number for the desired Hyperlink:

[Definitions of Terms](#)

[Authorized Identification Documents](#)

[Verification Questionnaire](#)

[Notice of Employment Restriction](#)

[Helpful Websites](#)

Definition of Terms

Term	Definition
ACJIS:	Arizona Criminal Justice Information System
Alien	A foreign-born resident who has not been naturalized and is still a subject or citizen of a foreign country. One who owes allegiance to another country or government.
Alien Registration Number	Identification number assigned to immigrants/non-US citizens that provides information about the status of the immigrant while in the United States borders.
Deportation	Federal legal proceeding that can result in an alien's removal from the United States.
Deported Probationers	Those probationers who have been ordered by a Federal judge to return to their country of origin and not return to the United States unless authorized by law to do so.
Direct Supervision	The number of probationers sentenced in a Superior Court and/or is accepted for supervision through the Interstate Compact Agreement, residing in your County for whom you are providing direct supervision at a Minimum, Medium, or Maximum level. Include §13-3601.01 cases sentenced in a Limited Jurisdiction Court.
Foreign Born Probationers	Probationers born in a country other than the United States
ICE	Immigration and Customs Enforcement Agency
Identification	Evidence of Identity
Identification Card	A card bearing identifying data (as age or organizational membership) about the individual whose name appears thereon. Primary Identification Cards are those with a picture of the holder. Secondary Identification Cards are those cards with identifying information but do

	not include a picture of the holder.
Immigrant Violators Database	A database accessible through ACJIS that holds immigration information about foreign born individuals.
Indirect Supervision	The number of probationers sentenced in a Superior Court, and who are under supervision, but who do not physically reside in your County. Include §13-3601.01 cases sentenced in a Limited Jurisdiction Court
Original Jurisdiction:	The county of sentencing.
Receiving Jurisdiction:	The county completing probation case management duties and monitoring compliance with probation conditions ordered by the sentencing judge.
Undocumented Immigration	Entering a country of which one is not a native for permanent residence by methods not authorized by law and/or official rules
Verify	To confirm or substantiate in law by oath; to establish the truth, accuracy or reality.

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Pre-Trial Protocols

These protocols were designed for probation departments that conduct Pre-Trial Release Investigations for their respective courts. These protocols do not require that probation departments complete Pre-Trial Release Investigations.

Probation departments completing Pre-Trial Investigations for the Superior Court shall review local policies to ensure the following procedures are addressed:

1. Methods utilized to verify the identity of defendants.
 - a. Use of the Authorized Document List
 - b. Forms of identity verification allowed by local courts
 - c. Actions required by Investigator when defendant does not possess identification documentation
 - d. Instructions for reporting to appropriate law enforcement agencies and the court any defendant in possession of falsified documentation
 - e. Verification methods do not include self-reported information from the defendant. The investigator shall verify identification information through independent sources.
2. Coordination efforts between probation department and ICE to determine the legal status of the defendant.
 - a. ACJIS check, including Violator's Database
 - b. Local Coordination efforts between the probation department and ICE.
3. Required recommendations to the court to include the following
 - a. Information regarding the identity verification and legal status of the defendant.
 - b. Authorized sentencing recommendations considering the identity and legal status findings of the investigator.
4. Consider whether the offense prohibits bond under Article 2, Section 22(4) which reads:

Article II, Section 22(A):

All persons charged with crime shall be bailable by sufficient sureties, except:

“For serious felony offenses as prescribed by the legislature if the person charged has entered or remained in the United States illegally and if the proof is evident or the presumption great as to the present charge.

For Serious Offense definition see [A.R.S §13-604\(W\)\(4\)](#)

If the offense is not covered in #4, considerations for recommendations shall include the effect legal status has on the defendant's ability to comply with conditions of release, public safety risk, employability and potential legal processing by ICE officials. The pre-release investigator shall summarize the above information and submit the recommendation to the court in the pre-release recommendation section of the report.

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Pre-Sentence Protocols

Probation departments completing Pre-Sentence Investigations for the Superior Court shall review local policies to ensure the following are addressed:

1. Methods utilized to verify the identity of defendants.
 - a. Use of the Authorized Document List
 - b. Forms of identity verification allowed by local courts
 - c. Actions required by Investigator when defendant does not possess identification documentation
 - d. Instructions for reporting to appropriate law enforcement agencies and the court any defendant in possession of falsified documentation
 - e. Verification methods do not include self-reported information from the defendant. The investigator shall verify identification information through independent sources.
2. Coordination efforts between probation department and ICE to determine the legal status of the defendant.
 - a. ACJIS check, including Violator's Database
 - b. Local Coordination efforts between the probation department and ICE.
3. Required recommendations to the court to include the following:
 - a. Information regarding the identity verification and legal status of the defendant.
 - b. Authorized sentencing recommendations considering the identity and legal status findings of the investigator.

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Direct Probationers Protocols

Intensive Probation Supervision Protocols

1. Require all existing probationers on direct supervision to provide [Authorized Identification Documentation](#) if the system does not have a current SID number
2. Verify the authenticity of the documentation. Verification methods do not include self-reported information from the defendant. The investigator shall verify identification information through independent sources.
3. When the probationer's identity is verified, the probation officer shall complete the following:
 - a. Access the probationer's ACJIS profile and note the following:
 - i. The probationer is on an active probation term and note the term date.
 - ii. Request law enforcement officials notify the probation office upon arrest.
4. The probation officers shall report any probationer who submits falsified documentation to verify his/her identity to appropriate law enforcement officials for legal processing.
5. Inform the Court about any defendant unable to provide identification documentation.
 - a. When a defendant is unable to submit documentation verifying identity, the probation departments shall utilize the information contained on the example [Verification Questionnaire](#) to gain information needed to complete a background check utilizing the ACJIS system or TransUnion Social Security Number verification system.
 - b. Maintain information utilized to verify the probationer's identity in the client file.

Foreign Born Probationers

1. If documents/lack of documents indicate the probationer was not born in the United States OR the probationer states he/she was not born in the United States:
 - a. Complete an ACJIS background check and access the Immigrant Violators database held in the ACJIS system utilizing the Violator's Database Code.

- i. Enter the Defendant's name or Alien Registration Number to request a search of the Immigrant Violators database. (Results may take from 2 hours to a week for processing)
 - ii. If the Immigration Violators database indicates that ICE must interview the defendant prior to a determination, forward identification verification findings to ICE via Facsimile for employment and legal status determination.
 - b. Contact ICE periodically for updates on the employment and legal status determination.
2. If ICE determines the probationer is not in the United States legally AND/OR is not authorized to obtain employment, the probation officer shall:
- a. Determine if the probationer is or will be attending school as a full time student.

If yes, the probationer satisfies the statutory requirements to remain on Intensive Probation Supervision.

If no, review the case file and risk/needs assessment to determine whether probation should continue. If it should continue;

- a. File a petition to modify the sentencing terms from IPS to a lawful sentencing option.
- b. Request that the court order the new Uniform Conditions of Probation adopted in AO No. 2007-95 on November 29, 2007 and corrected on December 13, 2007.
- c. Inform the probationer of the ICE determination that the probationer is ineligible for lawful employment and that if the probationer does become employed, the probation officer shall inform the employer of the probationer's legal status.
- d. Update the probationer's status in APETS including the following:
 - 1. Update the chronological records to note the probationer is ineligible to work legally in the United States.
 - 2. Update the conditions
 - 3. Ensure the appropriate Special Client Attribute is checked.
 - 4. Employment status field is completed.
 - 5. Complete an intake with the probationer if on active supervision.

6. Review the assessment and case plan to determine if changes are necessary.
- e. If it is discovered the offender was previously deported, refer to the [Deported Probationer](#) section in this manual.

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Probationers on Standard Probation Supervision

Require all existing probationers on Standard Probation Supervision to provide [Authorized Identification Documentation](#) if the system does not have a current SID number.

1. Verify authenticity of the documentation Verification methods do not include self-reported information from the defendant. The investigator shall verify identification information through independent sources.
2. When a defendant is unable to submit documentation verifying their identity, the probation departments shall utilize the information contained on the example [Verification Questionnaire](#) to gain information needed to complete a background check utilizing the ACJIS system or TransUnion Social Security Number Check.

Foreign Born Probationers

1. If documents/lack of documents indicate the probationer was not born in the United States OR the probationer states he/she was not born in the United States, complete the following:
 - a. Complete an Arizona Criminal Justice Information System (ACJIS) background check and access the Immigrant Violators database held in the ACJIS system
 - i. Enter the Defendant's name or Alien Registration Number to request a search of the Immigrant Violators database. (Results may take from 2 hours to a week for processing).
 - ii. If the Violators Database indicates that an ICE interview is needed prior to determination, forward identification verification findings to ICE for employment and legal status determination.
 - b. Contact ICE periodically for updates on the employment and legal status determination.
2. If ICE determines the probationer is not in the US legally AND/OR is not authorized to obtain employment, the probation officer shall complete the following procedures:
 - a. Petition the court to order the new Uniform Conditions of Probation adopted in AO 2007-95 on November 29, 2007 and corrected on December 13, 2007
 - b. The probation officer shall complete the following upon issuance of the new court's orders:

- i. Review ineligibility for lawful employment.

A sample notification form, [Notice of Employment Ineligibility Document](#) is contained in the appendix. Probation offices shall utilize a formalized process to document the notification to the probationer or ensure the notification is documented in the chronological records.

- ii. Complete a review of the new modifications to the conditions with the probationer

- iii. Update the probationer's status in APETS

- 1. Probation Conditions
 - 2. Court order program placement
 - 3. Changes in Probation term date
 - 4. Incarceration terms (if applicable)
 - 5. Other sections as necessary

- iv. Review the assessment and case plan to determine if changes are needed.

- v. Complete an unscheduled case plan to update the probationer's goals and objectives and the officer's supervision plan

- vi. Note the changes of the probationer's status in the chronological records.

- 3. If it is discovered the offender was previously deported, refer to the [Deported Probationer](#) section in this manual.

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Courtesy Transfer Probationers

The originating and receiving probation departments shall have duties under these protocols to verify the identity and legal status of all probationers. Courtesy Transfers of unauthorized aliens, deported probationers or those probationers selected for deportation by ICE shall comply with ACJA Part 6, Chapter 2, Section 6-211. Specific guidelines are as follows:

ACJA 6-211(E)

In accordance with caseload capacities a department shall accept a probationer who intends to reside in the (receiving) 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.

Unauthorized alien probationers and previously deported probationers are ineligible for lawful employment. In order for a transferred probationer to remain in their county of residence, they must comply with at least one of the criteria listed in ACJA 6-211(E) (a-c). Each county of direct supervision of a transferred client shall review the case to determine eligibility for transfer under ACJA 6-211(E) (a-c).

Unauthorized or previously deported probationers who do not meet the above criteria must be staffed to determine continued transfer status or whether the probationer should return to their original jurisdiction county. Receiving counties are under no obligation to maintain the probationer under the Courtesy Transfer agreement in circumstances when the probationer does not meet the criteria under ACJA 6-211(E) (a-c).

Unauthorized and previously deported probationers who are participating in a residential treatment facility in the county for a minimum of 120 days shall be allowed to complete treatment prior to any county terminating the courtesy transfer agreement.

Sending County Duties

Sending counties must complete the following:

1. Petition to modify assignment/conditions on transferred probationers.
2. Forward new orders to receiving county.
3. Review case for continued transfer eligibility.

Receiving County Duties

1. Require the probationer to submit identification documentation as outlined in the protocols. Verification methods do not include self-reported information from the defendant. The investigator shall verify identification information through independent sources.
2. Complete ACJIS check as outlined in the protocols.
3. Notify ICE as outlined in the protocols, if necessary. Notify originating county of the probationer's status and the ICE referral. Provide ICE with the notification information. Document the notifications in the APETS chronological records.
4. Monitor ICE actions regarding probationers in the US illegally as part of direct supervision duties and update APETS chronological records as needed.

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Deported Probationers

Current Probationers who were Deported and Returned Prior to Probation Grant

Deported aliens who returned to the United States illegally are in violation of federal law until ICE is notified of the return. Probation departments shall cooperate with ICE officials to ensure necessary processing of these probationers. Probation officers shall complete the following protocols when a previously deported defendant is granted probation or is currently on a probation term.

1. If a probation officer knows a current probationer was previously deported, notify ICE immediately.
 - a. Provide ICE with the Name, Address, employer (if applicable) and date of next report.
 - b. Offer ICE agency assistance with necessary processing of the probationer.
 - c. Once ICE processing begins, the probation officer shall monitor deportation proceedings and not information in the chronological records.

ICE has implemented a protocol to flag files of probationers who are detained pending deportation proceedings. If the probationer receives a bond during the deportation review process, ICE personnel will review, with the probationer, an order to report to their probation officer within a specified time period prior to the probationer exiting the detention facility. ICE will forward this document to the supervising probation officer as verification the probationer was ordered to report.

NOTE: Pre-trial and Pre-sentence investigators shall report defendants pending court action to ICE as outlined in the above protocols.

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Probationers Deported During an Active Period of Probation

Probationers deported prior to a probation grant (as described above), and probationers who have committed offenses that result in deportability may be deported to their country of origin during an active probation grant through federal deportation proceedings. Probation departments shall complete the following protocols to increase the identification of deported probationers who return to the US illegally subsequent to deportation.

1. Probation officers shall maintain deported probationers on an indirect probation supervision case until the termination date of the probation grant.
 - a. Probation officers will update APETS on the address screen by indicating their location as deported.
 - b. Obtain a copy of the deportation orders from ICE for the case file.
 - c. Access ACJIS utilizing the PU code and update the probationer's criminal history record with the following:
 - i. The probationer has been deported and returned to their country of origin on (DATE).
 - ii. The probationer has an open probation case and note the termination date.
 - iii. Request immediate contact if the probationer is arrested or has contact with any law enforcement agency subsequent to the deportation date.
 - iv. Provide contact information for the probation department.
2. Any probationer who agrees to voluntary removal must complete a formal removal process with ICE. ICE officials must document the probationer's removal from the United States and accompany the probationer to the appropriate US border. ICE will monitor the removal process until the probationer physically leaves the US. Probation officers shall request documentation from ICE verifying the probationer voluntarily departed the US and maintain this documentation in the case file.

Probation officers must then complete the following:

Access the ACJIS system utilizing the PU code and note the following on the probationer's profile

- a. The probationer has voluntarily departed the US and contact the probation department of the probationer's presence in the United States if contact is made after the departed date.
 - b. The probationer has an active probation term for (offense) and note the term date.
 - c. Request law enforcement officials notify the probation department upon arrest.
 - d. Provide agency contact information
- 3. Probation departments shall assign deported and voluntarily departed probation cases to an ICE case load and supervise the case load as follows:
 - a. Probation departments will place deported cases on administrative status
 - b. Probation departments will report ICE case loads in the administrative cases section on the monthly reports
 - c. Probation departments will complete an ACJIS check one time per year until probation term expiration.
 - d. Probation departments will complete necessary closing activities at the end of the probation term
 - e. Probation departments will note ACJIS when the probation term expires.
- 4. Updating the ACJIS file will substitute for filing a warrant for deported offenders. The probationer is unable to report as directed due to deportation and therefore failure to report may not be a probation violation.
 - a. Any probationer who returns to the US subsequent to deportation without authorization obtained through required immigration protocols is in violation of probation until ICE is notified of the unauthorized return (*United States v Guzman Bruno*, 27 F.3d 420, 423 (9th Cir.1994)). Probation departments may file Petitions to Revoke Probation (PTR) for violation of condition #1 and condition #20 and request a bench warrant for the probationer's arrest in instances when probationers return unlawfully to the United States. The probation office shall forward a copy of the PTR and the incarceration information to ICE.

- b. If a probationer does return, the probation officer shall notify ICE regarding the return for federal processing.
 - i. ICE will place a detainer on the probationer and monitor the probation violation action until disposition. If the probationer is incarcerated, ICE will delay federal proceedings until the state imprisonment term is completed.
 - ii. If the probationer remains on probation upon the completion of incarceration, the probation officer shall monitor the federal case until disposition of the deportation violation has occurred in federal court.
 - iii. The probation officer shall place the probationer on the ICE case load (administrative status) until the federal incarceration term is completed and/or until the probation term expires.

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APPENDIX

Additional Considerations

Sentencing Recommendations

1. A.R.S. §13-914(E) requires all defendants assigned to Intensive Probation Supervision maintain employment or full-time student status at a school subject to title 15 or title 32.
2. Public safety risk to the community based upon the criminal history and previous probation history (if applicable) of the defendant.
3. Consider an enhanced version of standard probation supervision if the defendant is not eligible to work lawfully in the United States.
4. Consider, based upon the risk of the offender and the inability to assign IPS to whether a jail/prison sentence should be imposed to provide adequate levels of public safety.

Falsified Documentation

- a. A.R.S. §13-2001 et. seq. makes possession of falsified identification documents illegal in Arizona. A.R.S. §13-2009 now make taking the identity of another person (real or fictitious) with the intent to obtain employment aggravated taking the identity of another person or entity. This is a class 3 felony.
- b. When there is probable cause to believe a probationer is in possession of falsified documentation (probable cause would include, but not be limited to; verification from an authority specially trained to identify the authenticity of documents, such as ICE regarding immigration documents and/or identification databases, such as ACJIS) it is necessary to act with due diligence and report the action to appropriate law enforcement officials.
- c. It is the duty of law enforcement and county attorneys to determine if any legal action is taken against the defendant. The probation officer's only responsibility is to report the evidence to the appropriate authorities.

Important Information in the Federal Statutes

U.S.C. 8-1324(a)(1) states:

It is unlawful for a person or other entity

(A) To hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien with respect to such employment.

U.S.C. 8-1324(a)(2) states:

It is unlawful for a person or other entity, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

U.S.C. 8-1342(a)(4) states:

For purposes of this section, a person or other entity who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after November 6, 1986, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1) (A).

A.R.S. §23-212(A) states;

“An employer shall not intentionally employ an unauthorized alien or knowingly employ an unauthorized alien”.

Due to these statutes, probation departments cannot allow undocumented aliens, deported probationers, or those without employment authorization to engage in any activities, including intermittent day and contract labor, that is defined as employment. If a probation department becomes aware that a probationer unauthorized to work is commissioned to complete activities for payment by a company and/or individual, the probation officer shall notify the employer regarding the probationer’s legal status.

Authorized Identification Documents

(Adapted from the ADOT Motor Vehicle Division)

Primary:

Driver License or Instruction Permit issued in Arizona or another state, territory or possession of the US.

Birth Certificate issued in any state, territory or possession of the US.

US Certificate of Birth Abroad

US Passport

Foreign Passport with US Visa (admission stamp or I-94 form required in passport)

[I-94 Form \(with photo\) presented without passport. Must have photo.](#)

Refugee Medical Assistance Card issued by the Arizona Department of Economic Security, Refugee Medical Assistance Program

[Resident Alien Card \(Green Card\)](#)

[US Citizenship and Immigration Services Employment Authorization Document](#) (I-688A, I-688B, I-766)

US Citizenship and Immigration Services, Refugee Travel Document I-571

US Certificate of Naturalization

[US Certificate of Citizenship](#)

Arizona ID card

Tribal Certificate of Indian Blood

Tribal or Bureau of Indian Affairs Affidavit of Birth

US Military DD-214

US Military ID Card (active duty, reserve and retired)

Affidavit of Identification (with photo and within 15 days of issue) from the Arizona Department of Corrections

Released Offender ID from Arizona Department of Corrections

Secondary

US Military Dependent ID card

US Armed Forces Driver License

US Department of Justice Inmate ID Card

Social Security Card

Selective Service Card

US Department of Veterans Affairs Card

Employee ID Badge (with photo)

Marriage Certificate issued in any state, territory or possession of the US

Certified Letter of Identification for a Ward of the Court, issued by a court or government agency in the US.

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Social Security Information

Types of Social Security Cards

The United States issues several types of Social Security cards. The type of card issued is based upon the individual circumstances of the person applying for a number. The following lists the types of social security cards issued.

1. Shows the name of the individual and Social Security number that allows the individual to work in the United States without restriction. These cards are issued to only;
 - A. US Citizens
 - B. People lawfully admitted to the United States on a permanent basis
2. Shows the name of the individual and Social Security number and notes “VALID FOR WORK ONLY WITH DHS AUTHORIZATION”. This card is issued to individuals lawfully admitted to the United States on a temporary basis who have DHS authorization to work.
3. Shows the name of the individual and Social Security number and notes “NOT VALID FOR EMPLOYMENT”. This card is issued to individuals from other countries who:
 - A. Are lawfully admitted to the United States without work authorization from DHS, but with a valid nonwork reason for needing a Social Security number; or
 - B. Need a number because of a federal law requiring a Social Security number to get a benefit or service.

The following table lists a few Visa codes used by the federal government to classify visas issued to foreign nationals. This in no way is a full list of the visas issued. However, these codes may be used by ICE when information is received on verification requests.

Visa Classification authorizing Employment Eligibility and the ability to receive a Social Security Number

Visa Classification	Definition
E-1, E-2	Treaty trader or Treaty investor
F-1	Foreign academic student, when certain conditions are met
H-1B, H-1C, H-2A, H-2B, H-3	Temporary Worker
I	Foreign information media representative
J-1	Exchange visitor, when certain conditions are met
K-1	Fiancé of a US citizen
L-1	Intra-company transferee
M-1	Foreign vocational student
O-1, O-2	Temporary worker in the sciences, arts, education, business, or athletics
P-1, P-2, P-3	Temporary worker in the arts, athletics in an exchange or cultural program
Q-1, Q-2	Cultural exchange visitor
R-1	Temporary religious worker with a nonprofit organization
TC	Professional business worker admitted under US-Canada Free Trade Act (NAFTA)
TN	Professional business worker admitted under NAFTA

Documents Required to Obtain a Social Security Number

Identity Documents must include your name, identifying information and preferably a recent photograph such as a driver's license, state-issued non-driver identification card or US passport. Other documents may include Employee ID, School ID, Marriage document, Health insurance card and/or US Military ID card.

Citizenship or Immigration Status includes only specific documents. These documents are; US birth certificate, US consular report or both, US passport, Certificate of Naturalization or Certificate of Citizenship. If the individual is NOT an US citizen, it is required for the noncitizen to produce the I-551 immigration visa, and the I-94 or Work Permit issued by the Homeland Security Office

For further information regarding Social Security Cards, please see www.socialsecurity.gov

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Verification Questionnaire

Name_____

DOB_____

SS#_____

OR

ARN_____

Last three addresses:

Mother's Maiden Name_____

For Investigators Use:

Findings:

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Notice of Employment Ineligibility

Pursuant to Federal law and the findings of the Immigration and Customs Enforcement agency investigation, you are hereby notified that you are ineligible to obtain and/or maintain lawful employment in the United States. Further, the court has modified standard condition #11 to read:

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.

If you continue to work, your probation officer will notify your employer of the ICE determination that you are ineligible to work legally in the United States.

I have read or have had read to me, the above information. My signature below serves as verification that I understand the above information.

Probationer

Date

Officer

Date

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HELPFUL WEBSITES

www.immihelp.com :	Offers information about necessary procedures for individuals wanting to legally immigrate into the United States and samples of immigration documentation (EAD Card)
www.uscis.gov :	US citizenship and Immigration Services website that offers immigrants a website to access the status of their citizenship and work authorization process through the Federal Government
www.deportation-solutions.com	Arizona-based law firm offering information about Arizona Laws regarding penalties for employers who knowingly employ undocumented aliens
www.azcorrections.gov	Arizona Criminal Justice Information System (ACJIS) website that offers information about the criminal justice information held in the ACJIS database.
www.dps.state.az.us	Website of the Arizona Department of Public Safety
www.supreme.state.az.us	Offers information and updates about the ACJIS system
http://www.ice.gov	Official Website for Immigration and Customs Enforcement Agency
http://www.azleg.gov/	Arizona Revised Statutes
http://supreme8/orders/admorder/	Administrative Orders of the Supreme Court
http://www4.law.cornell.edu/uscode	USC Code
www.socialsecurity.gov	Information regarding the Social Security Card and the requirements for individuals to successfully receive a social security number

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APPLICABLE ARIZONA REVISED STATUTES

23-212. Employment of unauthorized aliens; prohibition; false and frivolous complaints; violation; classification; license suspension and revocation; affirmative defense

A. An employer shall not intentionally employ an unauthorized alien or knowingly employ an unauthorized alien.

B. On receipt of a complaint that an employer allegedly intentionally employs an unauthorized alien or knowingly employs an unauthorized alien, the attorney general or county attorney shall investigate whether the employer has violated subsection A. When investigating a complaint, the attorney general or county attorney shall verify the work authorization of the alleged unauthorized alien with the federal government pursuant to 8 United States Code section 1373(c). A state, county or local official shall not attempt to independently make a final determination on whether an alien is authorized to work in the United States. An alien's immigration status or work authorization status shall be verified with the federal government pursuant to 8 United States Code section 1373(c). A person who knowingly files a false and frivolous complaint under this subsection is guilty of a class 3 misdemeanor.

C. If, after an investigation, the attorney general or county attorney determines that the complaint is not frivolous:

1. The attorney general or county attorney shall notify the United States immigration and customs enforcement of the unauthorized alien.

2. The attorney general or county attorney shall notify the local law enforcement agency of the unauthorized alien.

3. The attorney general shall notify the appropriate county attorney to bring an action pursuant to subsection D if the complaint was originally filed with the attorney general.

D. An action for a violation of subsection A shall be brought against the employer by the county attorney in the county where the unauthorized alien employee is employed. The county attorney shall not bring an action against any employer for any violation of subsection A that occurs before January 1, 2008. A second violation of this section shall be based only on an unauthorized alien who is employed by the employer after an action has been brought for a violation of subsection A.

E. For any action in superior court under this section, the court shall expedite the action, including assigning the hearing at the earliest practicable date.

F. On a finding of a violation of subsection A:

1. For a first violation during a three year period that is a knowing violation of subsection A, the court:

(a) Shall order the employer to terminate the employment of all unauthorized aliens.

(b) Shall order the employer to be subject to a three year probationary period. During the probationary period the employer shall file quarterly reports with the county attorney of each new employee who is hired by the employer at the specific location where the unauthorized alien performed work.

(c) Shall order the employer to file a signed sworn affidavit with the county attorney within three business days after the order is issued. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens and that the employer will not intentionally or knowingly employ an unauthorized alien. The court shall order the appropriate agencies to suspend all licenses subject to this subdivision that are held by the employer if the employer fails to file a signed sworn affidavit with the county attorney within three business days after the order is issued. All licenses that are suspended under this subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. Notwithstanding any other law, on filing of the affidavit the suspended licenses shall be reinstated immediately by the appropriate agencies. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer and that are necessary to operate the employer's business at the employer's business location where the unauthorized alien performed work. If a license is not necessary to operate the employer's business at the specific location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G.

(d) May order the appropriate agencies to suspend all licenses described in subdivision (c) of this paragraph that are held by the employer for not to exceed ten business days. The court shall base its decision to suspend under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:

- (i) The number of unauthorized aliens employed by the employer.
- (ii) Any prior misconduct by the employer.
- (iii) The degree of harm resulting from the violation.
- (iv) Whether the employer made good faith efforts to comply with any applicable requirements.
- (v) The duration of the violation.
- (vi) The role of the directors, officers or principals of the employer in the violation.
- (vii) Any other factors the court deems appropriate.

2. For a first violation during a five year period that is an intentional violation of subsection A, the court shall:

- (a) Order the employer to terminate the employment of all unauthorized aliens.
- (b) Order the employer to be subject to a five year probationary period. During the probationary period the employer shall file quarterly reports with the county attorney of each new employee who is hired by the employer at the specific location where the unauthorized alien performed work.

(c) Order the appropriate agencies to suspend all licenses, described in subdivision (d) of this paragraph that are held by the employer for a minimum of ten days. The court shall base its decision on the length of the suspension under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:

- (i) The number of unauthorized aliens employed by the employer.
- (ii) Any prior misconduct by the employer.
- (iii) The degree of harm resulting from the violation.
- (iv) Whether the employer made good faith efforts to comply with any applicable requirements.
- (v) The duration of the violation.
- (vi) The role of the directors, officers or principals of the employer in the violation.
- (vii) Any other factors the court deems appropriate.

(d) Order the employer to file a signed sworn affidavit with the county attorney. The affidavit shall state that the employer has terminated the employment of all unauthorized aliens and that the employer will not intentionally or knowingly employ an unauthorized alien. All licenses that are suspended under this subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer and that are necessary to operate the employer's business at the employer's business location where the unauthorized alien performed work. If a license is not necessary to operate the employer's business at the specific location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G.

3. For a second violation of subsection A during the period of probation, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer and that are necessary to operate the employer's business at the employer's business location where the unauthorized alien performed work. If a license is not necessary to operate the employer's business at the specific location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.

G. The attorney general shall maintain copies of court orders that are received pursuant to subsection F and shall maintain a database of the employers who have a first violation of subsection A and make the court orders available on the attorney general's website.

H. On determining whether an employee is an unauthorized alien, the court shall consider only the federal government's determination pursuant to 8 United States Code section 1373(c). The federal

government's determination creates a rebuttable presumption of the employee's lawful status. The court may take judicial notice of the federal government's determination and may request the federal government to provide automated or testimonial verification pursuant to 8 United States Code section 1373(c).

I. For the purposes of this section, proof of verifying the employment authorization of an employee through the basic pilot program creates a rebuttable presumption that an employer did not intentionally employ an unauthorized alien or knowingly employ an unauthorized alien.

J. For the purposes of this section, an employer who establishes that it has complied in good faith with the requirements of 8 United States Code section 1324b establishes an affirmative defense that the employer did not intentionally or knowingly employ an unauthorized alien.

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12-253. Powers and duties

The adult probation officer shall:

- 1. 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.**
- 2. Exercise general supervision and observation over persons under suspended sentence, subject to control and direction by the court.**
- 3. 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.**
- 4. 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 the person's legal defense pursuant to section 11-584, education and personal habits. The presentence report shall contain a recommendation by the officer regarding contribution by the convicted person toward the costs of legal defense pursuant to section 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.**
- 5. 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.**
- 6. Obtain and assemble information concerning the conduct of persons placed under suspended sentence and report the information to the court.**
- 7. Bring defaulting probationers into court when in the probation officer's judgment the conduct of the probationer justifies the court to revoke suspension of the sentence.**
- 8. Monitor the payment of restitution.**

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ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 6: Probation

Chapter 1: General Administration

Section 6-105: Powers and Duties of Officers

A. Definitions. In this section the following definition applies:

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

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

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

“Case record” means any record pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

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

“Court” means superior court.

“Standardized assessment” means the state-approved tool to determine the offender’s needs related to criminal behavior and propensity to re-offend.

“Standardized reassessment” means the state-approved tool designed to measure changes in an offender’s needs related to criminal behavior and propensity to re-offend.

B. Applicability. Az. Const. Art. 6, § 3 and A.R.S. §~ 12-253 and 12-254 authorize the supreme court to establish powers and duties of officers.

C. Purpose. Outline and clarify the powers and duties of directors of juvenile court services, chief probation officers, probation officers and surveillance officers.

D. Duties of Directors of Juvenile Court Services and Chief Probation Officers.

1. Directors of juvenile court services and chief probation officers shall:

- a. Abide by the Code of Conduct for Judicial Employees and the Code of Ethics for Arizona Probation Personnel;
- b. Treat probationers, victims, criminal justice personnel and the public with dignity and respect;
- c. Require that all probation employees adhere to all federal and state statutes, local ordinances, the Arizona Code of Judicial Administration (ACJA) and all administrative orders concerning adult and juvenile probation services;
- d. Require that probation employees are provided with, or have access to:
 - (1) Applicable local policies and procedures; and
 - (2) ACJA sections pertaining to probation related matters.
- e. Require all probation employees to comply with all applicable policies and procedures;
- f. Promote and support the existence of a drug-free workplace through the enactment and enforcement of ACJA sections or local policy;

- g. Uphold the mission and strive to meet all related performance measures of state funded probation services;
 - h. Maintain accurate and verifiable records of all persons under supervision of the court; and
 - i. Support the implementation of all probation and court- related goals contained within the strategic agenda for Arizona's courts.
2. The chief probation officer, with the approval of the presiding judge, shall also:
- a. As provided by A.R.S. § 12-251(A), "...appoint such deputy adult probation officers and support staff as are necessary to provide presentence investigations and supervision services to the court," and ensure that the appointed positions shall also contribute to the effective and efficient operation of the probation department;
 - b. "Establish organizational and operational procedures for the deputy adult probation officers of the county" as provided in A.R.S. § 12-254(A)(1), and ensure that policies and procedures for the organization and operation of the probation department shall be consistent with federal and state statutes, existing supreme court administrative orders and the ACJA;
 - c. "Direct the work activities of the deputy adult probation officers of the county" as provided by A.R.S. § 12-254(A)(2); and
 - d. "Perform other duties assigned by the presiding judge, which duties may include serving as a juvenile probation officer, if such officer meets the minimum qualifications prescribed by § 8-203, subsection C" as provided in A.R.S. § 12-254(A)(4).
3. The director of juvenile court services, with the approval of the presiding juvenile judge, shall also:

- a. As provided by A.R.S. § 8-203 (B)” ... recommend the appointment of deputy probation officers, detention personnel, other personnel and office assistants as the director deems necessary.”;
- b. Establish policies and procedures for the organization and operation of the probation department consistent with federal and state statutes, existing supreme court administrative orders and the ACJA;
- c. Direct the work activities of the deputy juvenile court officers of the county; and
- d. Perform other duties as assigned by the presiding judge of the juvenile court.

E. Duties of Probation Officers.

- 1. Adult and juvenile probation officers shall:
 - a. Abide by the Code of Conduct for Judicial Employees and the Code of Ethics for Arizona Probation Personnel;
 - b. Treat probationers, victims, criminal justice personnel and the public with dignity and respect;
 - c. Adhere to all federal and state statutes, local ordinances, the ACJA and all administrative orders concerning adult and juvenile probation services;
 - d. Comply with all current departmental policies and procedures;
 - e. Acknowledge the impact of crime on victims by adhering to the Victim’s Bill of Rights and other applicable legislation;

- f. Communicate and coordinate with treatment providers concerning probationer participation in and compliance with treatment requirements, to ensure probationer rehabilitation, community protection and victim restoration;
- g. Work with the community and department personnel to develop resources and opportunities for treatment and rehabilitation for persons on probation and under their supervision;
- h. Ensure that persons under their supervision are referred to available treatment and rehabilitation resources as needed within the level of authorized appropriations, and adhering to department policies and procedures and the ACJA;
- i. Maintain accurate and verifiable case records of all persons assigned to them for supervision; and
- j. Perform other duties as prescribed by the chief probation officer or director of juvenile court services.

2. Adult probation officers shall also:

- a. As provided by A.R.S. § 12-253(1), “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”;
 - (1) 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.
 - (2) The supervising probation officer shall document in the case record all contacts and information received pertaining to the incident, as well as the actions taken as a result of the incident.
- b. As provided by A.R.S. § 12-253(2), “Exercise general supervision and observation over persons under suspended sentence, subject to control and direction by the court”;

(1) Adult probation officers shall:

- (a) Utilize the results of the standardized assessment to establish a level of supervision and develop a case plan within one month of a probationer's placement on probation or initial release from custody as a condition of standard or intensive probation. The case plan shall contain the signatures of the supervising probation officer, the probationer, and if the probationer is on intensive probation, the surveillance officer;
 - (b) Administer the standardized reassessment every six months. The results of the standardized reassessment, along with the probationer's compliance with the conditions of probation and any other relevant factors shall be used to develop a new case plan; and
 - (c) Monitor probationer behavior and compliance with the conditions of standard or intensive probation and, when appropriate, increase or decrease the probationer's level of supervision.
- (2) Adult probation officers shall provide a written directive to the probationer referring the probationer to an appropriate service provider within two months of sentencing, release from custody, 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.
- (3) The supervising officer shall administer 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, and shall be documented in the case record.
- (4) Adult probation officers shall ensure the collection of monies owed as a condition of probation and immediately address any arrearage. The probation officer shall also encourage the probationer's payment of other assessments, such as child support or traffic fines, ordered by any court.
- (5) Adult probation officers shall monitor and enforce probationer compliance with court-ordered community restitution requirements. Credit toward court-ordered community restitution requirements are awarded on the basis of actual hours completed unless otherwise authorized by the court.

- c. As provided by A.R.S. § 12-253(3), “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.”
- d. As provided by A.R.S. § 12-253(4), 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 the 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.
- e. As provided by A.R.S. § 12-253(5), “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.” Probation officers shall maintain verifiable case records for each probationer supervised, including, but not limited to:
 - (1) A written statement of the conditions of probation;
 - (2) An individual case plan setting forth behavioral and program expectations; and
 - (3) Contact logs detailing the time, nature and location of each contact made with each person on probation.
- f. As provided by A.R.S. § 12-253(6), “Obtain and assemble information concerning the conduct of persons placed under suspended sentence and report the information to the court.” 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; and
- g. As provided by A.R.S. § 12-253(7), “Bring defaulting probationers into court when in his judgment the conduct of the probationer justifies the court to revoke suspension of the sentence.”
 - (1) Adult probation officers shall make documented efforts to locate a probationer that is believed to have absconded.
 - (2) A supervising officer shall consider the following risk factors in determining the time frame necessary to file a petition to revoke probation and request that the court issue a warrant once an officer has reason to believe that a probationer

has absconded supervision:

- (a) Probationer's general history;
- (b) History of violence, including weapons use;
- (c) History of drug or alcohol abuse;
- (d) History of mental illness;
- (e) Offense history;
- (f) Supervision history;
- (g) Illegal use of drugs or alcohol;
- (h) Failure to participate in or complete treatment;
- (i) Current or recent patterns of avoiding officer contact;
- (j) Emotional or mental instability or distress on the part of the probationer or the family unit, including evidence of domestic violence; or
- (k) Current or recent unstable pattern of employment, residence, or associations.

(3) If the absconder is on standard probation supervision and is not located within three months, the supervising probation officer shall file a petition to revoke probation and request that the court issue a warrant. The supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.

(4) If the absconder is on intensive probation supervision and is not located within 72 hours, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.

(5) The probation department shall make documented efforts to locate the absconder until the absconder is apprehended.

3. Juvenile probation officers shall also:

- a. As provided by A.R.S. § 8-205(1), "Except as provided by § 8-323, receive and examine all referrals or Arizona uniform traffic ticket and complaint forms involving an alleged delinquent juvenile or incorrigible child."
- b. As provided by the juvenile court and as provided by A.R.S. § 8-205(3), "... Have the authority of a peace officer in the performance of the court officer's duties."

These duties shall include, but are not limited to:

- (1) Serve warrants;
 - (2) Make arrests; and
 - (3) Bring non-compliant probationers before the court.
- c. As provided by A.R.S. § 8-205(4), “Receive petitions alleging a child or children as dependent and transmit the petitions to the juvenile court.”
- d. Maintain verifiable case records for each juvenile supervised, including, but not limited to:
- (1) A written statement of the conditions of the probation;
 - (2) An individual service plan or court report setting forth behavioral and program expectations and recommendations subject to the approval of the director; and
 - (3) Contact logs detailing the time, nature, and location of each contact made with each juvenile on probation.
- e. As provided by A.R.S. § 8-321(F)(1) through (7):

If the county attorney diverts the prosecution of a juvenile to the juvenile court, the juvenile probation officer shall conduct a personal interview with the alleged juvenile offender. At least one of the juvenile’s parents or guardians shall attend the interview. The probation officer may waive the requirement for the attendance of the parent or guardian for good cause. If the juvenile acknowledges responsibility for the delinquent or incorrigible act, the juvenile probation officer shall require that the juvenile comply with one or more of the following conditions:

1. Participation in unpaid community restitution work.
2. Participation in a counseling program that is approved by the court and that is designed to strengthen family relationships and to prevent repetitive juvenile delinquency.
3. Participation in an education program that is approved by the court and that has as its goal the prevention of further delinquent behavior.
4. Participation in an education program that is approved by the court and that is designed to deal with ancillary problems experienced by the juvenile, such as alcohol or drug abuse.

5. Participation in a nonresidential program of rehabilitation or supervision that is offered by the court or offered by a community youth serving agency and approved by the court.
 6. Payment of restitution to the victim of the delinquent act.
 7. Payment of a monetary assessment.
- f. Exercise general supervision and observation over juveniles on probation, enforcing all court orders and emphasizing probationer accountability, and notify the court when probationer conduct displays an inability or unwillingness to comply with the conditions of probation and all court orders.

- (1) Juvenile probation officers shall make documented efforts to locate a probationer that is believed to have absconded.
- (2) A supervising officer shall consider the following risk factors in determining the time frame necessary to file a petition to revoke probation and request that the court issue a warrant once an officer has reason to believe that a probationer has absconded supervision:
 - (a) Probationer's general history;
 - (b) History of violence, including weapons use;
 - (c) History of drug or alcohol abuse;
 - (d) History of mental illness;
 - (e) Offense history;
 - (f) Supervision history;
 - (g) Illegal use of drugs or alcohol;
 - (h) Failure to participate in or complete treatment;
 - (i) Current or recent patterns of avoiding officer contact;
 - (j) Emotional or mental instability or distress on the part of the probationer or the family unit, including evidence of domestic violence; or
 - (k) Current or recent unstable pattern of employment, residence, or associations.

- (3) If the absconder is on standard probation supervision and is not located within 90 days, the supervising probation officer shall file a petition to revoke probation and request that the court issue a warrant. The supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.
 - (4) If the absconder is on intensive probation supervision and is not located within 72 hours, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.
 - (5) Probation officers shall make documented efforts to locate the absconder until the absconder is located pursuant to local departmental policy.
- g. Ensure that juveniles placed on probation pay restitution and probation fees as ordered and establish monthly payment schedules which emphasize payment of restitution and probation fees in the absence of specific court ordered monthly payment schedules.
- h. Conduct a risk needs assessment on every juvenile supervised within 30 days if not completed during the pre-dispositional process. The result of the assessment shall be used to establish a level of supervision for the juvenile and formulate a supervision plan.
- i. Closely monitor school attendance and performance.
- j. Assist those juveniles seeking employment and closely monitor employment of probationers.
- k. Involve the parent or guardian in the rehabilitation and treatment of the juvenile.
- l. Provide or arrange for appropriate supervision of juveniles performing community service.

F. Duties of Surveillance Officers.

1. Adult and juvenile surveillance officers shall:
 - a. Abide by the Code of Conduct for Judicial Employees and the Code of Ethics for Arizona Probation Personnel;
 - b. Treat probationers, victims, criminal justice personnel and the public with dignity and respect;
 - c. Adhere to all federal and state statutes, local ordinances, the ACJA and all administrative orders concerning adult and juvenile probation services;d.
Comply with all current departmental policies and procedures;
 - e. Acknowledge the impact of crime on victims by adhering to the Victims Bill of Rights and other applicable legislation;
 - f. Maintain accurate and verifiable case records of all persons assigned to them for supervision;
 - g. Enforce the collection of monies owed as a condition of probation;
 - h. Monitor and enforce probationer compliance with court-ordered community restitution requirements;
 - i. Make documented efforts to locate absconders pursuant to local departmental policy; and
 - j. Perform other duties as prescribed by the presiding judge, chief probation officer or director of juvenile court services.
2. Adult surveillance officers, as provided by A.R.S. §~ 13-916(E) and 12-259.01(1), have the authority of a peace officer in the performance of the officer's duties..."
3. Juvenile surveillance officers, as authorized by the juvenile court and as provided by

A.R.S. §~ 8-353 and 8-205(3), “. . . have the authority of a peace officer in the performance of the court officer’s duties.”

Adopted by Administrative Order 2001-42 effective March 29, 2001. Amended by Administrative Order 2003-38 effective March 27~ 2003. Amended by Administrative Order 2004-16 effective February 25, 2004. Amended by Administrative Order 2006-13 effective February 1, 2006.

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13-914. [Intensive probation; evaluation; sentence; criteria; limit; conditions](#)

A. An adult probation officer shall prepare a presentence report for every offender who has either:

1. Been convicted of a felony and for whom the granting of probation is not prohibited by law.
2. Violated probation by commission of a technical violation that was not chargeable or indictable as a criminal offense.

B. The adult probation officer shall evaluate the needs of the offender and the offender's risk to the community, including the nature of the offense and criminal history of the offender. If the nature of the offense and the prior criminal history of the offender indicate that the offender should be included in an intensive probation program pursuant to supreme court guidelines for intensive probation, the adult probation officer may recommend to the court that the offender be granted intensive probation.

C. The court may suspend the imposition or execution of the sentence and grant the offender a period of intensive probation in accordance with this chapter. Except for sentences that are imposed pursuant to section 13-3601, the sentence is tentative to the extent that it may be altered or revoked pursuant to this chapter, but for all other purposes it is a final judgment of conviction. This subsection does not preclude the court from imposing a term of intensive probation pursuant to section 13-3601.

D. When granting intensive probation the court shall set forth on the record the factual and legal reasons in support of the sentence.

E. Intensive probation shall be conditioned on the offender:

1. Maintaining employment or maintaining full-time student status at a school subject to title 15 or title 32, chapter 30 and making progress deemed satisfactory to the probation officer, or both, or being involved in supervised job searches and community restitution work at least six days a week throughout the offender's term of intensive probation.

2. Paying restitution and probation fees of not less than fifty dollars unless, after determining the inability of the offender to pay the fee, the court assesses a lesser fee. Probation fees shall be deposited in the adult probation services fund established by section 12-267. Any amount greater than forty dollars of the fee assessed pursuant to this subsection shall only be used to supplement monies currently used for the salaries of adult probation and surveillance officers and for support of programs and services of the superior court adult probation departments.

3. Establishing a residence at a place approved by the intensive probation team and not changing the offender's residence without the team's prior approval.

4. Remaining at the offender's place of residence at all times except to go to work, to attend school, to perform community restitution and as specifically allowed in each instance by the adult probation officer.

5. Allowing administration of drug and alcohol tests if requested by a member of the intensive probation team.

6. Performing not less than forty hours of community restitution each month. Full-time students may be exempted or required to perform fewer hours of community restitution. For good cause, the court may reduce the number of community restitution hours performed to not less than twenty hours each month.

7. Meeting any other conditions imposed by the court to meet the needs of the offender and limit the risks to the community, including participation in a program of community punishment authorized in title 12, chapter 2, article 11.

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13-2001. Definitions

In this chapter, unless the context otherwise requires:

1. "Access device" means any card, token, code, account number, electronic serial number, mobile or personal identification number, password, encryption key, biometric identifier or other means of account access, including a canceled or revoked access device, that can be used alone or in conjunction with another access device to obtain money, goods, services, computer or network access or any other thing of value or that can be used to initiate a transfer of any thing of value.

2. "Coin machine" means a coin box, turnstile, vending machine or other mechanical, electrical or electronic device or receptacle that is designed to receive a coin or bill of a certain denomination or a token made for such purpose and that, in return for the insertion or deposit of the coin, bill or token, automatically offers, provides, assists in providing or permits the acquisition or use of some property or service.

3. "Complete written instrument" means a written instrument that purports to be genuine and fully drawn with respect to every essential feature.

4. "Entity identifying information" includes, if the entity is a person other than a human being, any written document or electronic data that does or purports to provide information concerning the entity's name, address, telephone number, employer identification number, account number or electronic serial number, the identifying number of the entity's depository account or any other information or data that is unique to, assigned to or belongs to the entity and that is intended to be used to access services, funds or benefits of any kind that the entity owns or to which the entity is entitled.

5. "Falsely alters a written instrument" means to change a complete or incomplete written instrument, without the permission of anyone entitled to grant it, by means of counterfeiting, washing, erasure, obliteration, deletion, insertion of new matter, connecting together different parts of the whole of more than one genuine instrument or transposition of matter or in any other manner, so that the altered instrument falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by him.

6. "Falsely completes a written instrument" means to transform an incomplete written instrument into a complete one by adding, inserting or changing matter without the permission of anyone entitled to grant it, so that the complete written instrument falsely appears or purports to be in all respects an authentic creation of its ostensible maker or authorized by him.

7. "Falsely makes a written instrument" means to make or draw a complete or incomplete written instrument that purports to be an authentic creation of its ostensible maker but that is not either because the ostensible maker is fictitious, or because, if real, the ostensible maker did not authorize the making or drawing of the written instrument.

8. "Forged instrument" means a written instrument that has been falsely made, completed or altered.

9. "Incomplete written instrument" means a written instrument that contains some matter by way of content or authentication but that requires additional matter to render it a complete written instrument.

10. "Personal identifying information" means any written document or electronic data that does or purports to provide information concerning a name, signature, electronic identifier or screen name, electronic mail signature, address or account, biometric identifier, driver or professional license number, access device, residence or mailing address, telephone number, employer, student or military identification number, social security number, tax identification number, employment information, citizenship status or alien identification number, personal identification number, photograph, birth date, savings, checking or other financial account number, credit card, charge card or debit card number, mother's maiden name, fingerprint or retinal image, the image of an iris or deoxyribonucleic acid or genetic information.

11. "Slug" means an object, article or device that by virtue of its size, its shape or any other quality is capable of being inserted, deposited or otherwise used in a coin machine as a fraudulent substitute for a genuine token, lawful coin or bill of the United States.

12. "Written instrument" means either:

(a) Any paper, document or other instrument that contains written or printed matter or its equivalent.

(b) Any token, stamp, seal, badge, trademark, graphical image, access device or other evidence or symbol of value, right, privilege or identification. [Return to Introduction](#)

13-2009. Aggravated taking identity of another person or entity; classification

A. A person commits aggravated taking the identity of another person or entity if the person knowingly takes, purchases, manufactures, records, possesses or uses any personal identifying information or entity identifying information of either:

1. Three or more other persons or entities, including real or fictitious persons or entities, without the consent of the other persons or entities, with the intent to obtain or use the other persons' or entities' identities for any unlawful purpose or to cause loss to the persons or entities whether or not the persons or entities actually suffer any economic loss.

2. Another person or entity, including a real or fictitious person or entity, without the consent of that other person or entity, with the intent to obtain or use the other person's or entity's identity for any unlawful purpose and causes another person or entity to suffer an economic loss of three thousand dollars or more.

3. Another person, including a real or fictitious person, with the intent to obtain employment.

B. In an action for aggravated taking the identity of another person or entity under subsection A, paragraph 1 of this section, proof of possession out of the regular course of business of the personal identifying information or entity identifying information of three or more other persons or entities may give rise to an inference that the personal identifying information or entity identifying information of the three or more other persons or entities was possessed for an unlawful purpose.

C. This section does not apply to a violation of section 4-241 by a person who is under twenty-one years of age.

D. Aggravated taking the identity of another person or entity is a class 3 felony.

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13-604.02. Offenses committed while released from confinement

A. Notwithstanding any law to the contrary, a person convicted of any felony offense involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction on another of serious physical injury if committed while the person is on probation for a conviction of a felony offense or parole, work furlough, community supervision or any other release or escape from confinement for conviction of a felony offense shall be sentenced to imprisonment for not less than the presumptive sentence authorized under this chapter and is not eligible for suspension or commutation or release on any basis until the sentence imposed is served. If the person committed the offense while on release or escape from confinement for a conviction of a serious offense as defined in section 13-604, an offense resulting in serious physical injury or an offense involving the use or exhibition of a deadly weapon or dangerous instrument, the person shall be sentenced to the maximum sentence authorized under this chapter and is not eligible for suspension or commutation or release on any basis until the sentence imposed is served. If the court finds that at least two substantial aggravating circumstances listed in section 13-702, subsection C apply, the court may increase the maximum sentence authorized under this chapter by up to twenty-five per cent. A sentence imposed pursuant to this subsection shall revoke the convicted person's release if the person was on release and shall be consecutive to any other sentence from which the convicted person had been temporarily released or had escaped, unless the sentence from which the convicted person had been paroled or placed on probation was imposed by a jurisdiction other than this state.

B. Notwithstanding any law to the contrary, a person convicted of any felony offense not included in subsection A of this section if committed while the person is on probation for a conviction of a felony offense or parole, work furlough, community supervision or any other release or escape from confinement for conviction of a felony offense shall be sentenced to a term of not less than the presumptive sentence authorized for the offense and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or provision of law that specifies a later release or completion of the sentence imposed prior to release. A sentence imposed pursuant to this subsection shall revoke the convicted person's release if the person was on release and shall be consecutive to any other sentence from which the convicted person had been temporarily released or had escaped, unless the sentence from which the convicted person had been paroled or placed on probation was imposed by a jurisdiction other than this state. For purposes of this subsection, "substantive offense" means the felony, misdemeanor or petty offense that the trier of fact found beyond a reasonable doubt the defendant committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the defendant would otherwise be subject.

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13-702. Sentencing; definition

A. Sentences provided in section 13-701 for a first conviction of a felony, except those felonies involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another or if a specific sentence is otherwise provided, may be increased or reduced by the court within the ranges set by this subsection. Any reduction or increase shall be based on the aggravating and mitigating circumstances contained in subsections C and D of this section and shall be within the following ranges:

		<u>Minimum</u>	<u>Maximum</u>
1. For a class 2 felony	4 years	10 years	
2. For a class 3 felony	2.5 years	7 years	
3. For a class 4 felony	1.5 years	3 years	
4. For a class 5 felony	9 months	2 years	
5. For a class 6 felony	6 months	1.5 years	

B. The upper or lower term imposed pursuant to section 13-604, 13-604.01, 13-604.02, 13-702.01 or 13-710 or subsection A of this section may be imposed only if one or more of the circumstances alleged to be in aggravation of the crime are found to be true by the trier of fact beyond a reasonable doubt or are admitted by the defendant, except that an alleged aggravating circumstance under subsection C, paragraph 11 of this section shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of such findings are set forth on the record at the time of sentencing.

C. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the trier of fact shall determine and the court shall consider the following aggravating circumstances, except that the court shall determine an aggravating circumstance under paragraph 11 of this subsection:

1. Infliction or threatened infliction of serious physical injury, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.

2. Use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime, except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under section 13-604.

3. If the offense involves the taking of or damage to property, the value of the property so taken or damaged.

4. Presence of an accomplice.

5. Especially heinous, cruel or depraved manner in which the offense was committed.

6. The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

7. The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

8. At the time of the commission of the offense, the defendant was a public servant and the offense involved conduct directly related to the defendant's office or employment.

9. The victim or, if the victim has died as a result of the conduct of the defendant, the victim's immediate family suffered physical, emotional or financial harm.

10. During the course of the commission of the offense, the death of an unborn child at any stage of its development occurred.

11. The defendant was previously convicted of a felony within the ten years immediately preceding the date of the offense. A conviction outside the jurisdiction of this state for an offense that if committed in this state would be punishable as a felony is a felony conviction for the purposes of this paragraph.

12. The defendant was wearing body armor as defined in section 13-3116.

13. The victim of the offense is at least sixty-five years of age or is a disabled person as defined by section 38-492.

14. The defendant was appointed pursuant to title 14 as a fiduciary and the offense involved conduct directly related to the defendant's duties to the victim as fiduciary.

15. Evidence that the defendant committed the crime out of malice toward a victim because of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3 or because of the defendant's perception of the victim's identity in a group listed in section 41-1750, subsection A, paragraph 3.

16. The defendant was convicted of a violation of section 13-1102, section 13-1103, section 13-1104, subsection A, paragraph 3 or section 13-1204, subsection A, paragraph 1 or 2 arising from an act that was committed while driving a motor vehicle and the defendant's alcohol concentration at the time of committing

the offense was 0.15 or more. For the purposes of this paragraph, "alcohol concentration" has the same meaning prescribed in section 28-101.

17. Lying in wait for the victim or ambushing the victim during the commission of any felony.

18. The offense was committed in the presence of a child and any of the circumstances exist that are set forth in section 13-3601, subsection A.

19. The offense was committed in retaliation for a victim's either reporting criminal activity or being involved in an organization, other than a law enforcement agency, that is established for the purpose of reporting or preventing criminal activity.

20. The defendant was impersonating a peace officer as defined in section 1-215.

21. The defendant was in violation of 8 United States Code section 1323, 1324, 1325, 1326 or 1328 at the time of the commission of the offense.

22. The defendant used a remote stun gun or an authorized remote stun gun in the commission of the offense. For the purposes of this paragraph:

(a) "Authorized remote stun gun" means a remote stun gun that has all of the following:

(i) An electrical discharge that is less than one hundred thousand volts and less than nine joules of energy per pulse.

(ii) A serial or identification number on all projectiles that are discharged from the remote stun gun.

(iii) An identification and tracking system that, on deployment of remote electrodes, disperses coded material that is traceable to the purchaser through records that are kept by the manufacturer on all remote stun guns and all individual cartridges sold.

(iv) A training program that is offered by the manufacturer.

(b) "Remote stun gun" means an electronic device that emits an electrical charge and that is designed and primarily employed to incapacitate a person or animal either through contact with electrodes on the device itself or remotely through wired probes that are attached to the device or through a spark, plasma, ionization or other conductive means emitting from the device.

23. During or immediately following the commission of the offense, the defendant committed a violation of either section 28-661, 28-662 or 28-663.

24. Any other factor that the state alleges is relevant to the defendant's character or background or to the nature or circumstances of the crime.

D. For the purpose of determining the sentence pursuant to section 13-710 and subsection A of this section, the court shall consider the following mitigating circumstances:

1. The age of the defendant.

2. The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution.

3. The defendant was under unusual or substantial duress, although not such as to constitute a defense to prosecution.

4. The degree of the defendant's participation in the crime was minor, although not so minor as to constitute a defense to prosecution.

5. During or immediately following the commission of the offense, the defendant complied with all duties imposed under sections 28-661, 28-662 and 28-663.

6. Any other factor that is relevant to the defendant's character or background or to the nature or circumstances of the crime and that the court finds to be mitigating.

If the trier of fact finds at least one aggravating circumstance, the trial court may find by a preponderance of the evidence additional aggravating circumstances. In determining what sentence to impose, the court shall take into account the amount of aggravating circumstances and whether the amount of mitigating circumstances is sufficiently substantial to call for the lesser term. If the trier of fact finds aggravating circumstances and the court does not find any mitigating circumstances, the court shall impose an aggravated sentence.

E. The court in imposing a sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

F. Nothing in this section affects any provision of law that imposes the death penalty, that expressly provides for imprisonment for life or that authorizes or restricts the granting of probation and suspending the execution of sentence.

G. Notwithstanding any other provision of this title, if a person is convicted of any class 6 felony not involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument and if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that it would

be unduly harsh to sentence the defendant for a felony, the court may enter judgment of conviction for a class 1 misdemeanor and make disposition accordingly or may place the defendant on probation in accordance with chapter 9 of this title and refrain from designating the offense as a felony or misdemeanor until the probation is terminated. The offense shall be treated as a felony for all purposes until such time as the court may actually enter an order designating the offense a misdemeanor. This subsection does not apply to any person who stands convicted of a class 6 felony and who has previously been convicted of two or more felonies. If a crime or public offense is punishable in the discretion of the court by a sentence as a class 6 felony or a class 1 misdemeanor, the offense shall be deemed a misdemeanor if the prosecuting attorney:

1. Files an information in superior court designating the offense as a misdemeanor.
2. Files a complaint in justice court or municipal court designating the offense as a misdemeanor within the jurisdiction of the respective court.
3. Files a complaint, with the consent of the defendant, before or during the preliminary hearing amending the complaint to charge a misdemeanor.

H. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

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13-702.01. Exceptional circumstances; aggravation; mitigation; definition

A. Notwithstanding section 13-702, subsection A, if a person is convicted of a felony without having previously been convicted of any felony and if at least two aggravating factors listed in section 13-702, subsection C apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense up to the following maximum terms:

- | | |
|-------------------------|------------|
| 1. For a class 2 felony | 12.5 years |
| 2. For a class 3 felony | 8.75 years |
| 3. For a class 4 felony | 3.75 years |
| 4. For a class 5 felony | 2.5 years |
| 5. For a class 6 felony | 2 years |

B. Notwithstanding section 13-702, subsection A, if a person is convicted of a felony without having previously been convicted of any felony and if the court finds that at least two mitigating factors listed in section 13-702, subsection D apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense down to the following minimum terms:

- | | |
|-------------------------|----------|
| 1. For a class 2 felony | 3 years |
| 2. For a class 3 felony | 2 years |
| 3. For a class 4 felony | 1 year |
| 4. For a class 5 felony | 6 months |
| 5. For a class 6 felony | 4 months |

C. Notwithstanding section 13-604, subsection A or B, if a person is convicted of a felony offense and has one historical prior felony conviction and if at least two aggravating factors listed in section 13-702, subsection C apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense up to the following maximum terms:

- | | |
|-------------------|-------------|
| 1. Class 2 felony | 23.25 years |
| 2. Class 3 felony | 16.25 years |
| 3. Class 4 felony | 7.5 years |
| 4. Class 5 felony | 3.75 years |
| 5. Class 6 felony | 2.75 years |

D. Notwithstanding section 13-604, subsection A or B, if a person is convicted of a felony offense and has one historical prior felony conviction and if the court finds that at least two mitigating factors listed in section 13-702, subsection D apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense down to the following minimum terms:

- | | |
|-------------------|------------|
| 1. Class 2 felony | 4.5 years |
| 2. Class 3 felony | 3.5 years |
| 3. Class 4 felony | 2.25 years |
| 4. Class 5 felony | 1 year |
| 5. Class 6 felony | 9 months |

E. Notwithstanding section 13-604, subsection C or D, if a person is convicted of a felony offense and has two or more historical prior felony convictions and at least two aggravating factors listed in section 13-702, subsection C apply, the court may increase the maximum term of imprisonment otherwise authorized for that offense up to the following maximum terms:

- | | |
|-------------------|------------|
| 1. Class 2 felony | 35 years |
| 2. Class 3 felony | 25 years |
| 3. Class 4 felony | 15 years |
| 4. Class 5 felony | 7.5 years |
| 5. Class 6 felony | 5.75 years |

F. Notwithstanding section 13-604, subsection C or D, if a person is convicted of a felony offense and has two or more historical prior felony convictions and if the court finds that at least two mitigating factors listed in section 13-702, subsection D apply, the court may decrease the minimum term of imprisonment otherwise authorized for that offense down to the following minimum terms:

- | | |
|-------------------|------------|
| 1. Class 2 felony | 10.5 years |
| 2. Class 3 felony | 7.5 years |
| 3. Class 4 felony | 6 years |
| 4. Class 5 felony | 3 years |
| 5. Class 6 felony | 2.25 years |

G. The upper or lower term imposed pursuant to this section may be imposed only if at least two of the aggravating circumstances are found beyond a reasonable doubt to be true by the trier of fact or are admitted by the defendant, except that an aggravating circumstance under section 13-702, subsection C,

paragraph 11 shall be found to be true by the court, or in mitigation of the crime are found to be true by the court, on any evidence or information introduced or submitted to the court or the trier of fact before sentencing or any evidence presented at trial, and factual findings and reasons in support of these findings are set forth on the record at the time of sentencing.

H. The court in imposing sentence shall consider the evidence and opinions presented by the victim or the victim's immediate family at any aggravation or mitigation proceeding or in the presentence report.

I. The court shall inform all of the parties before sentencing occurs of its intent to increase or decrease a sentence pursuant to this section. If the court fails to inform the parties, a party waives its right to be informed unless the party timely objects at the time of sentencing.

J. For the purposes of this section, "trier of fact" means a jury, unless the defendant and the state waive a jury in which case the trier of fact means the court.

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13-604. Dangerous and repetitive offenders: definitions

(L07, Ch. 248, sec. 1)

A. Except as provided in subsection F, G or H of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	3 years	4.5 years	6 years
Class 5	1.5 years	2.25 years	3 years
Class 6	1 year	1.75 years	2.25 years

B. Except as provided in subsection I, J or K of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	6 years	9.25 years	18.5 years
Class 3	4.5 years	6.5 years	13 years

C. Except as provided in subsection F, G, H or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has two or more historical prior felony convictions shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

D. Except as provided in subsection I, J, K or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, and who has two or more historical prior felony convictions, shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

E. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the

present offense shall be sentenced for the next higher class of offense than that for which such person currently stands convicted.

F. Except as provided in section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument without having previously been convicted of any felony shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	4 years	6 years	8 years
Class 5	2 years	3 years	4 years
Class 6	1.5 years	2.25 years	3 years

G. Except as provided in section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has a historical prior felony conviction involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

H. Except as provided in subsection S of this section or section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has two or more historical prior felony convictions involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	12 years	14 years	16 years
Class 5	6 years	7 years	8 years
Class 6	4.5 years	5.25 years	6 years

I. Except as provided in section 13-604.01, upon a first conviction of a class 2 or 3 felony involving discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or upon conviction of a class 2 or 3 felony when the intentional or knowing infliction of serious physical injury upon another has occurred, the defendant shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	7 years	10.5 years	21 years
Class 3	5 years	7.5 years	15 years

J. Except as provided in section 13-604.01, upon conviction of a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has a historical prior felony conviction that is a class 1, 2 or 3 felony involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

K. Except as provided in subsection S of this section or section 13-604.01, upon conviction for a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has two or more historical prior felony convictions that are class 1, 2 or 3 felonies involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	21 years	28 years	35 years
Class 3	15 years	20 years	25 years

L. For the purposes of subsections I, J and K of this section in determining the applicability of the penalties provided in this section for second or subsequent class 2 or 3 felonies, the conviction for any felony committed before October 1, 1978 which, if committed after October 1, 1978, could be a dangerous felony under this section may be designated by the state as a prior felony.

M. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for purposes of this section.

N. A person who has been convicted in any court outside the jurisdiction of this state of an offense which if committed within this state would be punishable as a felony or misdemeanor is subject to the provisions of this section. A person who has been convicted as an adult of an offense punishable as a felony or a misdemeanor under the provisions of any prior code in this state shall be subject to the provisions of this section.

O. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced under subsection E of this section shall not be included in the two years required to be free of convictions for purposes of that subsection.

P. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if the previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody as provided in subsection R of this section is charged in the indictment or information and admitted or found by the court or if the dangerous nature of the felony is charged in the indictment or information and admitted or found by the trier of fact. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or provision of law that specifies a later release or completion of the sentence imposed prior to release. The court shall allow the allegation of a prior conviction, the dangerous nature of the felony or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody at any time prior to the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the defendant was in fact prejudiced by the untimely filing and states the reasons for these findings, provided that when the allegation of a prior conviction is filed, the state must make available to the defendant a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody shall not be read

to the jury. For the purposes of this subsection, "dangerous nature of the felony" means a felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another.

Q. Intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title shall be deemed to be malfeasance.

R. A person who is convicted of committing any felony offense, which felony offense is committed while the person is released on bail or on the defendant's own recognizance on a separate felony offense or while the person is escaped from preconviction custody for a separate felony offense, shall be sentenced to a term of imprisonment two years longer than would otherwise be imposed for the felony offense committed while released on bond or on the defendant's own recognizance or while escaped from preconviction custody. The additional sentence imposed under this subsection is in addition to any enhanced punishment that may be applicable under any of the other subsections of this section. The defendant is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the two years are served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

S. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a serious offense except a drug offense, first degree murder or any dangerous crime against children, whether a completed or preparatory offense, and who has previously been convicted of two or more serious offenses not committed on the same occasion shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not less than twenty-five years or the sentence is commuted.

T. A person who is convicted of committing any felony offense with the intent to promote, further or assist any criminal conduct by a criminal street gang shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive, minimum and maximum sentence for the offense shall be increased by three years. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable.

U. A person who is convicted of intentionally or knowingly committing aggravated assault on a peace officer while the officer is engaged in the execution of any official duties pursuant to section 13-1204, subsection A, paragraph 1 or 2 shall be sentenced to imprisonment for not less than the presumptive sentence authorized under this chapter and is not eligible for suspension of sentence, commutation or release on any basis until the sentence imposed is served.

V. Except as provided in section 13-604.01 or 13-703, if the victim is an unborn child in the womb at any stage of its development, the defendant shall be sentenced pursuant to this section.

W. For the purposes of this section:

1. "Absconder" means a probationer who has moved from the probationer's primary place of residence without permission of the probation officer, who cannot be located within ninety days of the previous contact and against whom a petition to revoke has been filed in the superior court alleging that the probationer's whereabouts are unknown. A probationer is no longer deemed to be an absconder when voluntarily or involuntarily returned to probation service.

2. "Historical prior felony conviction" means:

(a) Any prior felony conviction for which the offense of conviction:

(i) Mandated a term of imprisonment except for a violation of chapter 34 of this title involving a drug below the threshold amount; or

(ii) Involved the intentional or knowing infliction of serious physical injury; or

(iii) Involved the use or exhibition of a deadly weapon or dangerous instrument; or

(iv) Involved the illegal control of a criminal enterprise; or

(v) Involved aggravated driving under the influence of intoxicating liquor or drugs, driving while under the influence of intoxicating liquor or drugs with a suspended, canceled, revoked or refused driver license or driving under the influence of intoxicating liquor or drugs with two or more driving under the influence of intoxicating liquor or drug convictions within a period of eighty-four months; or

(vi) Involved any dangerous crime against children as defined in section 13-604.01.

(b) Any class 2 or 3 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the ten years immediately preceding the date of the present offense. Any time spent on absconder status while on probation or incarcerated is excluded in calculating if the offense was committed

within the preceding ten years. If a court determines a person was not on absconder status while on probation that time is not excluded.

(c) Any class 4, 5 or 6 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the five years immediately preceding the date of the present offense. Any time spent on absconder status while on probation or incarcerated is excluded in calculating if the offense was committed within the preceding five years. If a court determines a person was not on absconder status while on probation that time is not excluded.

(d) Any felony conviction that is a third or more prior felony conviction.

3. "Preconviction custody" means the confinement of a person in a jail in this state or another state after the person is arrested for or charged with a felony offense.

4. "Serious offense" means any of the following offenses if committed in this state or any offense committed outside this state which if committed in this state would constitute one of the following offenses:

(a) First degree murder.

(b) Second degree murder.

(c) Manslaughter.

(d) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.

(e) Sexual assault.

(f) Any dangerous crime against children.

(g) Arson of an occupied structure.

(h) Armed robbery.

(i) Burglary in the first degree.

(j) Kidnapping.

(k) Sexual conduct with a minor under fifteen years of age.

(l) Child prostitution.

5. "Substantive offense" means the felony, misdemeanor or petty offense that the trier of fact found beyond a reasonable doubt the defendant committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the defendant otherwise would be subject.

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ADMINISTRATIVE ORDERS

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
REPORTING ALIEN CONVICTIONS	)	Administrative Order
	)	No. 2007 - 71
	)	(Affecting Administrative Order No.
	)	2006-47)
)	

Administrative Order No. 2006-47 adopted certain administrative requirements for reporting alien convictions. Since the adoption of this Order, probation departments have developed different information exchange measures in coordination with Immigration and Customs Enforcement (ICE), a successor agency to the Immigration and Naturalization Service (INS). ICE has requested that if the immigration status of an offender is provided by ICE at booking, the inquiry/notification currently required by B(1) and B(2) of the Administrative Requirements at the presentence stage be discontinued since it is repetitive and unnecessary. The immigration status information provided by ICE at booking can be obtained by the probation department for the presentence report. If the immigration status of an offender is not determined at booking, the procedures described in B(1) and B(2) are still needed.

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

IT IS ORDERED effective immediately, that probation departments shall include the immigration status information found in booking records in the presentence report and the procedures described in B(1) and B(2) of the Administrative Requirements for Reporting of Alien Convictions adopted by Administrative Order No. 2006-47 shall not apply. If the immigration status of an offender was not determined at booking, the procedures provided in B(1) and B(2) shall continue to apply.

IT IS ORDERED that in all other respects Administrative Order No. 2006-47 remains in full force and effect until further order of this court.

Dated this 27th day of September, 2007.

RUTH V. MCGREGOR
Chief Justice

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IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
AMENDING ARIZONA CODE OF) Administrative Order
JUDICIAL ADMINISTRATION § 6-207:) No. 2007- __85____
UNIFORM CONDITIONS OF) (Affecting Administrative
SUPERVISED PROBATION) Order No. 2006-22)
_____)

On January 1, 2008, the enactment of A.R.S. § 23-212 will directly impact the probation programs in the State of Arizona. A.R.S. § 23-212 places sanctions on Arizona employers who knowingly employ undocumented alien workers. The Uniform Conditions of Supervised Probation require all standard probation clients to seek, obtain and/or maintain employment during their probation term. In order to act consistently with A.R.S. § 23-212 and federal law, the requirement to seek and maintain employment must be limited to those who are legally authorized to work in the United States. To implement this policy, the Arizona Judicial Council (AJC) approved the following amendments to the ACJA Section 6-207: Uniform Conditions of Supervised Probation, Appendix A, Uniform Conditions of Supervised Probation Form on October 24, 2007.

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

IT IS ORDERED that Arizona Code of Judicial Administration § 6-207 is amended as indicated on the attached document. All other provisions of § 6-207, as amended, remain unchanged and in effect.

IT IS FURTHER ORDERED that probation departments may develop a cost-effective alternative to immediate use of the new conditions form to implement the amended condition of probation.

IT IS FURTHER ORDERED that probation departments shall seek modification of the conditions of probation in accordance with the Arizona Rules of Criminal Procedure for persons currently on probation as necessary to assure that any condition of probation concerning employment in effect is consistent with this order.

IT IS FURTHER ORDERED that the effective date of this order shall be January 1, 2008. All persons sentenced to probation on or after January 1, 2008 shall be subject to these conditions.

Dated this _____ day of _____, 2007.

RUTH V. MCGREGOR
Chief Justice [Back to the Instructions Page](#)

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: ☐ 1st ☐ 2nd ☐ Ineligible

PID#: _____

OFFENSE(S): _____

It is ordered suspending imposition 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) ☐ lifetime
☐ to begin ____/____/____ or
☐ upon absolute discharge from prison for a separate offense or
☐ upon release from prison for felony DUI (____ months; ____ days credit)
- ☐ **CONTINUING** the defendant on probation
☐ for a modified term
☐ with a revised expiration date of ____/____/____

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

RECEIPT AND ACKNOWLEDGMENT: *I hereby acknowledge receipt of the conditions of probation and any attached addenda. I understand that a violation of any of the conditions could result in the revocation of my probation and the court may impose sentence upon me in accordance with the law. As a further condition, I waive extradition for any probation revocation proceedings in this matter.*

Defendant Date

Judge of the Superior Court Date

Defendant=s Address Apt.

DISTRIBUTION: Original - Court, Copies - APD, Defendant

City State Zip Phone
Revision 2004A

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)		
AMENDING ARIZONA CODE OF	)	Administrative Order
JUDICIAL ADMINISTRATION §§ 6-105:	)	No. 2007- ____86____
POWERS AND DUTIES OF OFFICERS;	)	(Affecting Administrative
6-201: STANDARD PROBATION; 6-202:	)	Orders Nos. 2006-13, 2005-
82,		
ADULT INTENSIVE PROBATION; 6-204:	)	2005-83, 2005-84, 2006-100,
INTERSTATE COMPACT PROBATION;	)	2006-101)
6-301: JUVENILE STANDARD)	
PROBATION; 6-302: JUVENILE)	
INTENSIVE PROBATION)	
SUPERVISION)	

On January 1, 2008, the enactment of A.R.S. § 23-212 will directly impact the probation programs in the State of Arizona. A.R.S. § 23-212 places sanctions on Arizona employers who knowingly employ undocumented alien workers. In order to act consistently with A.R.S. § 23-212 and federal law, any probation requirement concerning employment must be limited to those who are legally authorized to work in the United States. To implement this policy, the Arizona Judicial Council (AJC) approved amendments to the above-captioned Arizona Code of Judicial Administration (ACJA) sections. Also, Protocols are necessary to effect changes in probation department practices.

ACJA § 6-105 also includes a technical change required by SB 1268, i.e., “Monitor the payment of restitution.”

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

IT IS ORDERED that Arizona Code of Judicial Administration §§ 6-105, 6-201, 6-202, 6-204, 6-301 and 6-302 are amended as indicated on the attached document. All other provisions of these sections as amended, remain unchanged and in effect.

IT IS FURTHER ORDERED that the effective date of these amendments shall be January 1, 2008.

IT IS FURTHER ORDERED that the Administrative Director shall adopt such Protocols as are necessary to implement statewide standards regarding confirming legal employment eligibility for foreign born probationers.

Dated this _____ day of November, 2007.

RUTH V. MCGREGOR [Back to the Instructions Page](#)
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

§ 6-105: Powers and Duties of Officers is amended as follows:

Subsection (E)(2)(h):

h. Monitor the payment of restitution.

Subsection (E)(3)(j):

j. Assist those juveniles authorized to work in the United States who are seeking employment and closely monitor employment of probationers.

§ 6-201: Standard Probation is amended as follows:

Subsection (K)(3)(b):

b. Employment verification as necessary or employment search verification once per week, if probationer is authorized to work in the United States;

Subsection (K)(4)(b):

b. Employment verification as necessary or employment search verification weekly once per week, if probationer is authorized to work in the United States;

Subsection (K)(5)(b):

b. Employment verification as necessary or employment search verification weekly once per week, if probationer is authorized to work in the United States;

§ 6-202: Adult Intensive Probation is amended as follows:

Subsection (H)(5)(h – j):

- h. Performance of community restitution hours; and
- i. The offender's legal eligibility to work in the United States; and
- j. Any other factors determined appropriate to the ends of justice and the safety of the community.

§ 6-204: Interstate Compact Probation is amended as follows:

Subsection (P)(3)(b):

b. Employment verification as necessary or employment search verification once per week, if probationer is authorized to work in the United States;

Subsection (P)(4):

34. The medium probation supervision level shall include:

Subsection (P)(4)(b):

b. Employment verification as necessary or employment search verification weekly once per week, if probationer is authorized to work in the United States;

Subsection (P)(5):

45. The minimum probation supervision level shall include:

Subsection (P)(5)(b):

b. Employment verification as necessary or employment search verification weekly once per week, if probationer is authorized to work in the United States;

Subsection (P)(6):

56. Waiver of Minimum Supervision Requirements.

§ 6-301: Juvenile Standard Probation is amended as follows:

Subsection (K)(3):

3. Employment contact and verification if necessary, and

Subsection (L)(3)(c):

c. Employment contact and verification as necessary, if probationer is authorized to work in the United States,

§ 6-302: Juvenile Intensive Probation Supervision is amended as follows:

Subsection (M)(2)(c)(1):

(1) Assisting juveniles seeking employment and closely monitoring employment of juveniles if the juveniles are authorized to work in the United States;

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