



ARIZONA STATE SENATE
Forty-ninth Legislature, First Regular Session

PROGRAM PRESENTATIONS

- I. Adult Standard Probation Supervision including Probation Officer Ratios
- II. Juvenile Intensive Probation Supervision
- III. Juvenile Diversion
- IV. Financial Sanctions Collections Improvement

I. Adult Standard Probation Supervision including Probation Officer Ratios

Background

Adult Probation Supervision

Generally, probation is an alternative to imprisonment allowing a person found guilty of an offense to stay in the community, under certain conditions and usually under the supervision of the courts through a probation officer (officer). Officers and support staff provide presentence investigations and supervision services to the court. The officer has various responsibilities for each probationer, including making and filing a complete record for each person placed under suspended sentence, exercising general supervision and observation, investigating cases for a presentence report and monitoring the payment of restitution. The officer utilizes 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. All levels of supervision include visual contact, investigation of arrest notification, community restitution monitoring and, as necessary, employment verification, alcohol and drug testing and treatment and counseling.

Probation periods vary, generally from one to seven years, depending on the offense. Probation may be extended based on the probationer's completion of restitution and it may be adjusted for earned time credit if certain conditions are met. Earned time credits do not apply to certain probationers, including a probationer who is on lifetime probation or is on probation for any class 2 or 3 felony.

Adult Standard Probation Officer Ratios

An officer supervises no more than an average of 60 adults. Only those probationers on the officer's active caseload are included in determining the average caseload of 60 adults. Maricopa County is exempt from statutory probation ratios but must maintain appropriate ratios of officers to probationers consistent with evidence based practices in differentiated case management. Maricopa County annually reports on its probation performance to the Chief Justice of the Arizona Supreme Court and the Legislature.

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 2

Adult Intensive Probation

Intensive probation is a statutory sentencing alternative that provides surveillance, control and intervention to probationers who would otherwise have been incarcerated in the Arizona Department of Corrections (ADC) at initial sentencing or as a result of a technical violation of standard probation. Intensive probation is a program of highly structured and closely supervised probation that emphasizes the payment of restitution.

Statute allows the court to revoke intensive probation at any time before the expiration or termination of the intensive probation period if the person commits an additional offense or violates a condition of probation. The court is required to revoke the period of intensive probation and impose a term of imprisonment if a petition to revoke the probation period is filed and the court finds that the person has committed an additional felony offense or has violated a condition of probation that poses a serious threat or danger to the community.

Intensive Probation Officer Ratios

A 2-person intensive probation team (team) shall supervise no more than 25 persons at one time and a 3-person team shall supervise no more than 40 persons at one time. The team consists of one probation officer and one or two surveillance officers. Supervision and observation includes visual contact with each probationer at least four times per week and weekly contact with the probationer's employer.

In counties with a population of fewer than 300,000 persons, the ratio requirements may be waived if the case load of every officer is not more than 15 persons and the program requires visual contact with each probationer at least one time per week. The administrative director of AOC may waive supervision, contact and caseload limit requirements upon a filing of a waiver request of the presiding judge of the participating court.

Minimum supervision requirements are established as thresholds for intensive probationers supervised in the community but each probation department may establish more rigorous supervision requirements. There are five supervision levels, which include various intensities of visual contacts, employment verification (unless in residential treatment), enforcement of community restitution and referrals for treatment and counseling.

Fiscal Information

The Adult Probation Services Fund (Fund) is administered by the chief fiscal officer designated by the county's board of supervisors. The Fund consists of county general fund appropriations, state appropriations, probation fees, federal monies and any other source.

Annual Report on Adult Probation Services Fund (FY 2006-2007)	
Total Expenditures = 127.6 million	
County Funds	58.2 percent
State Funds	24.2 percent
Federal Funds	0.8 percent
Other Revenue (including probation fees and local fees)	16.8 percent

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 3

County Funds

The probation fees account within the Fund is used to pay the probation employee salaries and employee related benefits and to otherwise improve, maintain or expand adult probation services within the county. The officers' salaries are fixed by each county's board of supervisors on recommendation from the presiding judge of the superior court and at least 60 percent of the expenditures from the probation fees account during the fiscal year must be used to pay probation employee salaries and employee related benefits, unless a written request to waive the expenditure guidelines is granted by the AOC's administrative director

The probation fees account cannot be used for any indirect costs such as accounting, payroll or other administration costs. Each quarter AOC charges the local probation fees account 100 percent of the cost of the global position system monitoring devices to cover a proportional share of the cost of monitoring devices required for certain offenders. The chief fiscal officer reports each year to the Arizona Supreme Court showing the total amount of receipts and expenditures in each account of the Fund.

Laws 2008, Chapter 298, requires the Legislature, beginning in FY 2010-2011, to annually appropriate 40 percent of any cost savings related to a reduction in probation revocations for distribution and deposit in the Fund of each county. Monies received as a result of a reduction in the percentage of supervised probationers who are convicted of a new felony offense must be used: 1) to increase the availability of substance abuse treatment programs and 2) to increase the availability of risk reduction programs and interventions for probationers and 3) for grants to nonprofit victim service organizations to assist victims and increase the amount of restitution collected from probationers.

State Appropriations

State monies expended from the Fund can only supplement, not supplant, county appropriations for the superior court adult probation department. State appropriations for adult probation include monies for officers, state aid for adult probation services, adult community punishment programs and adult intensive probation.

State aid must be used to improve, maintain or expend existing juvenile probation programs or to achieve or maintain the average adult probation case supervision requirement and are prohibited for use to increase any salaries under current county probation programs. Monies in the Fund also pay the annual assessment on member states of the Interstate Compact for the Supervision of Adult Offenders. Any county operating a program for probation services receives a base amount of \$20,000 from state aid. The remainder of appropriated funds, excluding administrative funds, are distributed to each participating county based upon the need and probable effectiveness of each plan. The funds are allocated between the adult and juvenile probation departments in proportion to the adult and juvenile populations of that county.

Laws 2006, Chapter 261, transferred the responsibility of adult and juvenile probationary costs to Maricopa County, as a county with a population of two million or more persons. Maricopa County determines the probation surcharge it levies and does not receive state aid.

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 4

Fees

A monthly fee of \$50 is assessed to a probationer as a condition of probation unless the court assesses a lesser fee based on the probationer's inability to pay. Any amount over \$40 shall only be used to supplement monies currently used for salaries of adult probation and surveillance officers and for support of programs and services of the superior court adult probation departments.

For an offender under intensive probation, the minimum fee is \$50 unless the court determines the inability of the probationer to pay the fee and assesses a lesser fee. The probationer's wages are paid directly to an account from which the chief adult probation officer makes payments for restitution, probation fees, fines and other payments. The balance of the monies are placed in an account to be used for or paid to the probationer or the probationer's immediate family in a manner and in such amounts as determined by the chief adult probation officer or the court. Any monies remaining in the account at the time the person successfully completes probation are paid to the probationer.

FY 2008-2009 Budget Action

Increases the probation fee to \$65 and allows any amount of the assessed fee to be used for salaries and probation support services. Additionally, AOC is required to charge annually the local probation fees account of each county a specific amount to reflect each county's portion of the superior court risk management premium.

II. Juvenile Intensive Probation Supervision

Background

Juvenile Intensive Probation Supervision (JIPS) is a program of highly structured and closely supervised juvenile probation that emphasizes surveillance, treatment, work, education and home detention. JIPS is administered in all 15 counties and has been in operation since 1987. At disposition hearings when judges decide what will happen to a juvenile as a result of the juvenile's criminal activity, the judge may place a juvenile in the JIPS program. The judge's decision is based in part on the facts and circumstances of the case and on the report submitted by the probation officer.

JIPS also provides an alternative from the Arizona Department of Juvenile Corrections (ADJC) or Adult Court for juvenile delinquent offenders who have been adjudicated of a second felony offense since July 21, 1997. JIPS is also used for juvenile delinquent offenders who are candidates for out-of-home placement. Out-of-home placement removes a juvenile from the home and places a juvenile in a residential treatment program or the ADJC for public safety, treatment needs of the juvenile or other reasons.

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 5

The JIPS team secures and keeps a complete identification record of each juvenile supervised by the team and a written statement of the conditions of the probation. The team exercises close supervision and observation over juveniles who are ordered to participate in the intensive probation program, including visual contact with each juvenile at least four times per week and weekly contact with the school, employer, community restitution agency or treatment program of the juvenile among other duties. Probation officers make unannounced visits to the juvenile several times a week. The juvenile may be detained for up to one month if the juvenile breaks probation terms. Juveniles who comply with the requirements may be put on standard probation and those who do not comply with the requirements may be sent to ADJC or Adult Court.

Juvenile Probation Officer Ratios

Juveniles are supervised by JIPS teams consisting of juvenile probation officers and surveillance officers. Each 2-person team may supervise no more than 25 juveniles at a time. Each 3-person team may supervise no more than 40 juveniles at a time. The exception to this is in counties having fewer than 300,000 persons where there may be a single probation officer supervising 15 individuals.

Fiscal Information

JIPS is funded and administered by the Juvenile Justice Services Division (JJSD) of the Administrative Office of the Courts and is locally managed by the Juvenile Probation Department of the Superior Court in 14 of 15 counties, excluding Maricopa County. Maricopa County Juvenile Probation Department administers JIPS locally and does not receive any direct state aid for probation services monies, except for state funds for the Maricopa JIPS treatment component.

Dollars that are not disbursed to the individual departments are used for projects that benefit JIPS statewide. Juvenile Online Tracking System (JOLTS), officer training and officer safety are a few examples of such expenditures. JOLTS is an automated Juvenile Court juvenile tracking, case management and management information system, operational in all 15 Arizona counties. Administrative funds are used by JJSD to administer the JIPS program. Administrative costs accounted for 6.7 percent of the FY 2007-2008 expenditures.

Attachments

- 1) JIPS Fiscal Information
- 2) JIPS Youth FY 2007-2008
- 3) Juvenile Justice Flow Chart
- 4) JIPS Statewide Data

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 6

III. Juvenile Diversion

Background

The juvenile justice system has jurisdiction over juveniles aged 8 to 17. Juvenile Diversion is a process for low-risk, low-offense juveniles to avoid formal court processing and requires consequences for the offender and due dates for completion of the consequence such as community or victim restitution. Typically, juveniles who commit class 1 or 2 misdemeanors or status offenses such as truancy, possession of tobacco, and curfew violations are eligible for juvenile diversion. A juvenile identified as a chronic violent offender or who is referred for a DUI offense is not eligible for diversion.

Diversion allows the referral alleging an offense to be adjusted if the juvenile completes one or more conditions. To “adjust” is to dispose of a case without the juvenile being required to go to court. Before a petition is filed or an adjudication hearing is held, the county attorney may divert the prosecution of a juvenile, who is accused of committing a delinquent act or a status offense, to a community based alternative program or to a diversion program administered by the juvenile court. A community based alternative program refers the juvenile to a citizen board in local communities established by the county attorney or juvenile court, which reviews diversion cases and recommends consequences. Examples of diversion programs in the community are community restitution work service (graffiti abatement, volunteer work), teen court programs (juvenile court operated programs), educational/vocational programs (substance abuse programs, life skills development), day supervision (weekend/daily programs), drug testing, counseling interventions (family and group) and evaluations.

If the county attorney diverts the prosecution of a juvenile to the juvenile court, the juvenile probation officer conducts a personal interview with the juvenile. If during the interview the juvenile acknowledges responsibility for the delinquent act or status offense, the juvenile probation officer requires 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 additional 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.

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 7

If the juvenile successfully complies with the conditions set forth by the probation officer, the county attorney may not file a petition in juvenile court and the program's resolution may not be used against the juvenile in any further proceeding and is not an adjudication of a status offender or delinquent. The "resolution" of the program is not a criminal conviction, does not impose any civil disabilities ordinarily resulting from a conviction and does not disqualify the juvenile in any civil service application or appointment.

In 2008, there were estimated 974,610 juveniles ages 8 to 18 in Arizona. From July 1, 2007, to June 30, 2008, 4.8 percent of these juveniles (46,749) were referred at least once to Arizona's juvenile courts. In FY 2007-2008, there were 20,664 juveniles diverted in Arizona's juvenile justice system. Of the juveniles diverted in FY 2007-2008, 66.8 percent had no prior referrals and 62.6 percent had a misdemeanor as the most serious offense.

Fiscal Information

The Joint Legislative Budget Committee includes \$10,334,300 from the state General Fund for Juvenile Diversion Consequences in FY 2008-2009. This amount is unchanged from FY 2007-2008.

The county attorney or juvenile court may assess the parent of a juvenile who is diverted a fee of \$50. If the parent cannot pay the fee, then the county attorney or juvenile court may assess a lesser amount. Any amount greater than \$40 of the fee is used to supplement monies for salaries of the juvenile probation and surveillance officers and for support of programs and services of the superior court juvenile probation departments such as community-based alternative programs or juvenile court diversion programs. The county attorney pays all monies collected from the assessment into the County Attorney Juvenile Diversion Fund (Fund).

The Fund consists of diversion fees, county general fund appropriations, federal monies that are appropriated for community-based alternative programs, quarterly reimbursements from the Supreme Court for juveniles participating in county attorney community-based alternative programs, grants, gifts, devises and donations from any public or private source. The county board of supervisors may apply to the Internal Revenue Service so that donations to the Fund are tax deductible.

Of the 15,845 girls referred in FY 2007-2008, 24.5 percent received treatment services during the year compared to 33.9 percent of the boys. On average, \$996.37 was spent on treatment for girls and \$1,166.68 was spent on boys. The largest allocation of treatment monies for both boys (38.9 percent) and girls (54.0 percent) was for "Out of Home" services (residential, group homes, detention alternatives, etc.). The second largest amount of money spent on boys was for sex offender treatment (29.1 percent) and for girls it was substance abuse (15.0 percent).

Attachments

Juveniles Diverted in the Arizona Superior Court System in FY 2007-2008.

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 8

IV. Financial Sanctions Collections Improvement

Background

The Arizona Supreme Court exercises administrative supervision over all of the courts of the state through the Administrative Office of the Courts (AOC), including establishing procedures for applying payments to financial obligations in the limited jurisdiction courts.

Fines, Fees and Restitution Enforcement (FARE) Program

Most payments are applied first to the offender's payment plan in scheduled payment due date order and then to the offender's obligations not associated with a payment plan. The payments are applied in a specific order with any FARE fees following collection of restitution and the time payment fee. The FARE fee is any fee established by administrative order of the Arizona Supreme Court designated to cover a cost for services provided to enhance enforcement of court orders. The Court Services Division houses the FARE collections program, which provides automated collections services to individual courts.

FARE is voluntary and includes services such as notice-serving, skip-tracing, payments by Internet or interactive voice response (IVR) in both English and Spanish, and referrals to intercept state tax refunds and lottery winnings, as well as providing motor vehicle registration holds. Special collections services are also offered for fines and fees that are more than 55 days past due.

FARE services begin from the date the vendor receives the case information. A courtesy notice is sent to the defendant informing him or her of the fine or fee amount and payment options. If the defendant fails to pay the fines or appear in court, the vendor sends two additional notices encouraging compliance. The vendor charges AOC a fee for each item submitted based on the service and the volume of transactions, and AOC adds the general service fee to the fine. When fines are not collected within 55 days, each court can choose to send a case to special collections. According to the 2006 Office of the Auditor General (OAG) performance audit, a 16 percent fee is added to each case sent to special collections and the fee is added to the amount of the fine, which is retained by the vendor upon collection. An additional 3 percent special collections fee is added to the fine, which AOC retains upon collection. These special collection fees are used to offset operational costs incurred by FARE.

In 2007, the Arizona Supreme Court established the FARE Advisory Committee to review and make recommendations on business rules, policies and procedures relevant to the growth, integrity and statewide implementation of collection programs. The Committee is responsible for evaluating the effectiveness of existing collection programs and evaluating operational and overall program goal effectiveness of collection programs.

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 9

Fiscal Information

In FY 2006-2007, almost \$30.2 million was collected in outstanding fines, fees and restitution. Since inception of the program in FY 2003-2004, nearly \$74 million has been recovered. More than 90 courts in 11 counties participate in the program. Bilingual web-based and telephone credit card payment began in 2004 and has collected more than \$27.9 million. Out-of-state and out-of-county defendants make a significant portion of these payments.

Federal Tax Intercept

Under current law, the federal government is authorized to intercept tax refunds for child support debts, state and federal tax debt and federal agency debt, but not for the collection of court ordered fines, fees and restitution. On May 3, 2007, Oregon Senator Gordon Smith introduced S.1287, which extends the powers of the current Federal Income Tax Intercept Program. S.1287 amends the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for state judicial debts that are past due.

In 2008, S.C.M. 1004 was passed and transmitted to the Secretary of State to distribute to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives and each member of Congress from Arizona, urging Congress to enact legislation enabling the U.S. Department of Treasury to intercept federal tax refunds to pay overdue victim restitution and other financial obligations ordered by state and local courts.

Fiscal Information

The AOC estimates that Arizona courts currently possess between \$500 million and \$1 billion in victim restitution, fine fees and surcharges that are past due.

Attachments

S.C.M. 1004

PROGRAM PRESENTATION

Adult Probation, Juvenile Probation, Juvenile Diversion &
Financial Sanctions Collection Improvement

Page 10

Committee Activity

The Judiciary Committee met on February 2, 2009, and heard two presentations from AOC: 1) the use of evidence based practices for effective probation management, which included information about Project Hammer, a strategy to address noncompliance by probationers; and 2) program presentations on the following topics:

- a) Adult Probation, including probation officer ratios.
- b) Juvenile Probation, including probation officer ratios.
- c) Juvenile Diversion.
- d) Financial Sanctions Collection Improvement, specifically FARE and Federal Tax Intercept.

There was no public testimony and no committee recommendations.

Prepared by Senate Research

February 9, 2009

CEW/jas