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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

MAR 16 2018

IN AND FOR THE COUNTY OF YAVAPAI

DONNA McQUALITY, CI
By: J. DEROIS

IN THE MATTER OF:)
)
ORDER REGARDING THE) ADMINISTRATIVE ORDER
ESTABLISHMENT OF A 24/7)
SOBRIETY PROGRAM)
) No. 2018-02
)

The Yavapai County Superior Court (Court) through the Adult Probation Department (APD) and in partnership with the Yavapai County Attorney (YCA), Yavapai County Public Defender (YCPD), TASC and the Yavapai County Sheriff's Office (YCSO) has established a 24/7 alcohol and drug testing sobriety pilot program (24/7 Sobriety Program or program) to monitor the sobriety of appropriate individuals supervised by the Adult Probation Department. The testing during the pilot program will consist of twice daily breathalyzers or random (3x per week) urine drug tests as directed by the Adult Probation Department. The pilot program is scheduled to begin on March 19, 2018 and continue for a minimum of six (6) months unless further extended by the partners. It is contemplated that this Administrative Order will be modified during the pilot program as needed as issues are discovered and more streamlined approaches are negotiated.

IT IS ORDERED, effective March 19, 2018 the Yavapai County Probation Department in cooperation with the partners set forth above is authorized to operate the Sobriety Program pursuant to the terms of this Administrative Order.

(x) clph of Court (e)
(x) Chief Deputy (e)
(x) Court Admin (e)
(x) Sr. (e)

IT IS ORDERED the goal of the program is to provide the defendant with ninety (90) consecutive days of sobriety and a defendant successfully completes the program upon completing ninety (90) consecutive days of compliance with the terms of the program. Interpretation of the terms of this Administrative Order and the Orders issued pursuant to this Administrative Order shall take into consideration this goal as well as the safety of the partners and public.

IT IS ORDERED a defendant on felony probation shall be screened by APD pursuant to an evidence based process designated by APD pursuant to the following:

1. A recommendation from the YCA, YCPD or private defense counsel as part of a plea agreement. However, the plea agreement shall only recommend screening.
2. A Judge orders screening as part of sentencing or a probation violation. However, the Judge will only order screening.
3. A recommendation by any probation officer as part of probation for any number of reasons including before participation in a treatment court, as last resort before violation of probation or as part of a probation violation.

IT IS ORDERED after a defendant is determined to be eligible the APD shall review the requirements of the 24/7 Sobriety Program including the 24/7 Sobriety Program Information Brochure, the 24/7 Sobriety Program Participation Agreement, the 24/7 Sobriety Program Authorization and Consent For Release of Confidential Information and the 24/7 Program Acceptance Order with the defendant. If on order jail time is a part of the defendant's sentence, the defendant may sign the documents to begin the program without a Court hearing. In the event on order jail time is not a part of a defendant's sentence and the defendant is determined to be eligible for

participation in the program, the Court shall appoint counsel and may modify the terms of the defendant's probation to include on order jail time after a hearing at which the defendant and his counsel shall be heard.

IT IS ORDERED the Honorable David L. Mackey or his designee shall issue and file the 24/7 Program Acceptance Order which shall include a copy of the 24/7 Sobriety Program Participation Agreement specifying the type of testing, a start date for the program as well as a beginning and ending date for suspension or modification of the defendant's monthly payments on the defendant's financial obligations except for restitution. The time frame shall be sufficient to allow the defendant a minimum of ninety days to complete the program; however, given the limitations of the Court's financial management programs the orders shall designate the first day of the month for the beginning and ending date. In the event, the defendant requires more than the time authorized in the 24/7 Program Acceptance Order, the Court may order a further suspension or modification of the defendant's monthly payments on the defendant's financial obligations except for restitution after notice to the partners.

IT IS ORDERED a defendant who violates the conditions of the program by appearing and failing to provide a sample or by appearing and providing a positive sample shall surrender to the custody of YCSO.

IT IS ORDERED YCSO is authorized by this Administrative Order to book the defendant into the Yavapai County Jail upon receipt of a 24/7 Daily Noncompliance Report that includes the defendant's name, case number and designates a 1st, 2nd or 3rd violation of the conditions of the program along with the Court's 24/7 Sobriety Program TASC Standard Order that includes the defendant's name, case number and YCSO is authorized by this Administrative Order to hold the defendant in custody pursuant to the

terms outlined in this Administrative Order and set forth in the Court's 24/7 Sobriety Program TASC Standard Order. Those incarceration times are as follows:

1st Violation: The Defendant shall serve on order jail time of not more than twenty-four (24) hours and not less than one overnight in the Yavapai County Jail effective immediately.

2nd Violation: The Defendant shall serve on order jail time of not more than forty-eight (48) hours and not less than two overnights in the Yavapai County Jail effective immediately.

3rd Violation: The Defendant shall serve on order jail time of not more than seventy-two (72) hours and not less than three overnights in the Yavapai County Jail effective immediately.

IT IS ORDERED the Court's 24/7 Sobriety Program TASC Standard Order shall provide that upon a 3rd Violation the defendant is suspended from the 24/7 Sobriety Program until the Honorable David L. Mackey or his designee authorizes the defendant to return to the 24/7 Sobriety Program.

IT IS ORDERED TASC shall provide to the partners through electronic distribution the 24/7 Daily Noncompliance Report along with the Court's 24/7 Sobriety Program Standard Order as soon as possible.

IT IS ORDERED upon receipt of the 24/7 Daily Noncompliance Report along with the Court's 24/7 Sobriety Program TASC Standard Order the Honorable David L. Mackey or his designee shall review the documents and file with the Clerk of Court those documents attached to a 24/7 Sobriety Program Confirmation Order which **will contain the Judge's original signature** and which will either confirm or modify the

Standard TASC Order, will set a hearing either by video conference or in person, if appropriate, and order the transport of the defendant by YCSO, if necessary.

IT IS ORDERED that sanctions for failing to appear for testing may be handled in one of two ways. First, if the defendant voluntarily appears and surrenders to APD, then APD may issue a 24/7 Adult Probation Department Violation Report and attach it to a 24/7 Sobriety Program APD Standard Order which shall impose sanctions of the same duration as a 24/7 Sobriety Program TASC Standard Order as set forth above. YCSO is authorized by this Administrative Order to book the defendant into the Yavapai County Jail upon receipt of a 24/7 Adult Probation Department Violation Report that includes the defendant's name, case number and designates a 1st, 2nd or 3rd violation of the conditions of the program along with the Court's 24/7 Sobriety Program APD Standard Order that includes the defendant's name, case number and YCSO is authorized by this Administrative Order to hold the defendant in custody pursuant to the terms outlined in this Administrative Order and set forth in the Court's 24/7 Sobriety Program TASC Standard Order.

IT IS ORDERED that the second way that a failure to appear for testing may be addressed when the location of a defendant is unknown is through a signed Order from a Judge. The Honorable David L. Mackey or his designee after review of an electronically transmitted statement or report for APD may issue a 24/7 Sobriety Program Incarceration Order which shall impose sanctions of the same duration as a 24/7 Sobriety Program TASC Standard Order as set forth above. The 24/7 Sobriety Program Incarceration Order may include an order for the issuance of an Arizona only warrant and a bail amount subject to modification by the Court upon apprehension of

the defendant. The statement or report shall be attached to 24/7 Sobriety Program Incarceration Order and filed with the Clerk.

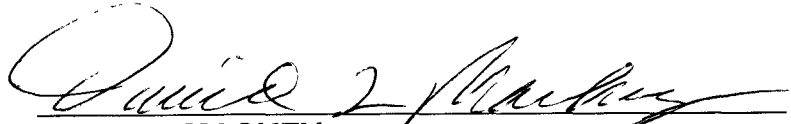
IT IS ORDERED that sanctions for other violations of the program including more than three violations, damaging testing equipment, disrespectful conduct, disruptive conduct or other violations of any other terms of the program may be ordered by the Honorable David L. Mackey or his designee after review of an electronically transmitted statement or report for APD and that statement or report shall be attached to 24/7 Sobriety Program Incarceration Order. The sanctions imposed for other violations of the program include on order jail time as determined by the Court as well as suspension or termination from the program. The Court will order a hearing at which the defendant shall appear. The 24/7 Sobriety Program Incarceration Order may include an order for the issuance of an Arizona only warrant and a bail amount subject to modification by the Court upon apprehension of the defendant.

IT IS ORDERED the Court's 24/7 Sobriety Program TASC Standard Order, the Court's 24/7 Sobriety Program APD Standard Order, the Court's 24/7 Sobriety Program Confirmation Order and the Court's 24/7 Incarceration Order shall provide that reasonable efforts shall be made by the Yavapai County Sheriff's Office and the Honorable David L. Mackey to coordinate a video appearance of the defendant before the Honorable David L. Mackey or his designee while the defendant is in custody; however, in the event such an in-custody appearance cannot be arranged, a hearing shall be scheduled before the Honorable David L. Mackey or his designee before the defendant is authorized to return to the 24/7 Sobriety Program.

IT IS ORDERED the Court will issue a 24/7 Sobriety Program Completion, Suspension Or Termination Order upon the Defendant's successful completion of the program or upon a determination that further participation is not appropriate until the Defendant takes further action towards sobriety. The Order shall include the completion, suspension or termination date and shall reinstate or modify all financial obligations previously suspended or modified during the Defendant's participation in the program.

IT IS ORDERED the 24/7 Program Orders referred to in this Administrative Order as well as all other forms contemplated by this Administrative Order shall be electronically distributed to the partners to insure full communication.

DATED at Prescott, Arizona, the 16th day of March, 2018.


DAVID L. MACKEY
Presiding Judge