

Effective Date: June 1, 2013

RULE TEXT

Part 351 of Title 9 NYCRR is REPEALED and a new Part 351 is added to read as follows:

(Statutory authority Executive Law sections 243(1) and 257(4))

Part 351- Probation Supervision

Section 351.1 - Definitions

Section 351.2 - Objective

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351.1 Definitions.

- (a) The term absconder means a probationer who has failed to make his/her whereabouts known for a period of thirty (30) calendar days subsequent to his/her last failure to report, or who has left the jurisdiction of the court without permission of the court or probation officer with intent to evade supervision.
- (b) The term active case means the probationer is available for probation supervision and should be supervised based on the results of the assessment instrument and individualized case plan.
- (c) The term actuarial risk means the relative risk of the probationer continuing the behaviors related to the presenting problem.

- (d) The term administrative case means the probationer is unavailable for active supervision and meets the requirements of this Rule, Section 351.6(c). Administrative Case is a designation that defines the status of the probationer and not the level of risk, which varies among probationers.
- (e) The term auxiliary personnel means a qualified probation department employee, other than a probation officer, designated by the local director of probation to act for the probation department and who is overseen by a probation officer or supervisor.
- (f) The term case plan means the probationer's individual plan, developed to provide services which are based on a state approved actuarial risk and need assessment.
- (g) The term classification means the specification of the type and frequency of contact between probation officer and probationer in accordance with criteria and procedures which determine the required level of supervision.
- (h) The term conditions of probation means specific supervision requirements prescribed by the court or otherwise authorized by law to assist the probationer in leading a law-abiding life.
- (i) The term contact means a communication with or concerning the probationer, in person, by telephone, by mail, or by electronic means. Specific types of contacts are as follows:
 - (1) The term collateral contact means a contact to objectively verify information regarding the probationer with someone or some source other than the probationer, including the probationer's compliance with conditions of probation and progress toward achieving the case plan goals. Such contacts can be in person, by mail, by telephone, or by electronic means.
 - (2) The term contact substitution means a protocol by which in-person contact and home contact can be replaced for a period lasting no longer than six (6) months in duration

while a Juvenile Delinquent or Person in Need of Supervision (PINS) probationer is engaged in a community-based therapeutic or treatment program that is evidence-based.

- (3) The term home contact means going to the probationer's home to verify residence, assess living conditions, monitor probationer compliance with the conditions of probation, discuss case plan, and/or address service needs.
- (4) The term in-person contact means a real time meeting between a probation officer and probationer where both parties are in the same place at the same time.
- (5) The term positive home contact means an in-person meeting with a probationer in his or her home.
- (6) The term probationer contact means a visual contact in real time with the probationer by the probation officer or other authorized personnel. Probationer contact may include contact in person or through real time technology.
- (j) The term criminogenic needs means risk factors linked to criminal behaviors that are the appropriate targets for intervention, which include but are not limited to criminal thinking/attitudes, criminal associates, personality, family, substance abuse, mental health, social issues, school, aggression/violence, skills, and/or employment/free time.
- (k) The term differential supervision means a system whereby probationers are classified based on risk level pursuant to specific criteria, and assigned to one of the levels of supervision.
- (l) The term disposition means the formal resolution of a case by a court.
- (m) The term educational achievement means measurable progress or achievement in academic or vocational disciplines.
- (n) The term employment retention means sustained and measurable work on either a part- time or full-time basis.

- (o) The term evidence-based practice means a practice that is demonstrated through data-supported research and evaluation to be effective in producing the desired outcome.
- (p) The term graduated sanctions means a system of progressive responses used to address the probationer's continued non-compliance.
- (q) The term incentive means positive reinforcement or rewards for continued probationer compliance and/or improvement.
- (r) The term initial interview means the first interview for supervision purposes between the probation department and the probationer, at which time the conditions of probation are reviewed and acknowledged. The risk assessment and/or case planning process can be commenced at this time.
- (s) The term interim probation supervision means the management of an offender pursuant to Criminal Procedure Law Sections 216.05(10) and/or 390.30(6) where a court adjourns sentencing and permits the defendant to remain in the community under conditions specified by the court and to be supervised by a probation department.
- (t) The term merit credit means a protocol by which Greatest Risk, High Risk or Medium Risk probationers, who are in compliance with their conditions of probation and achieving their case plan goals, may be considered for a reduction in contacts by their probation officer, or eligible for other forms of incentives as determined by local probation departments. Merit credits reflect sustained and measurable achievement and must be documented in the case file.
- (u) The term merit credit activities means victim restoration measures, employment retention, educational achievement, sustained program participation, program completion, or pro-social community activities. Merit credit activities are directly related to the probationer's identified criminogenic needs, conditions of probation and case plan.

- (v) The term placed on probation means a disposition imposed by a family court which permits the probationer to remain in the community under conditions specified by such court and to be supervised by a probation department.
- (w) The term probationer means an individual placed on probation, who has received a probation sentence, or who is subject to interim probation supervision.
- (x) The term probation sentence means a sentence imposed by a criminal court which permits the probationer to remain in the community under conditions specified by such court and to be supervised by a probation department.
- (y) The term program completion means the probationer has completed all of the program requirements.
- (z) The term pro-social community activities means positive engagement of the probationer that contributes to his or her reduced risk of recidivism. Examples of pro-social community activities include, but are not limited to, documented involvement in leadership roles and/or meaningful participation in clubs, cultural groups, religious activities, athletics, or hobbies.
- (aa) The term protective factor means a certain strength or asset that has been demonstrated by research to reduce risk of negative outcomes.
- (bb) The term risk and need assessment means the use of a state approved, validated actuarial instrument and recommended protocol to screen and assess the probationer's risk of recidivism.
- (cc) The term risk management means the utilization of accountability measures, including graduated sanctions in probation supervision. In risk management, the probation officer is watchful of signs that the probationer is demonstrating non-compliance or other high-risk behaviors and responds by imposing graduated responses.

- (dd) The term risk reduction means providing direction, support, and services to the probationer that will facilitate a change in the factors that contribute to unlawful behavior. This helps lead the probationer to new patterns of thinking, feeling and behaving that sustain a law-abiding lifestyle.
- (ee) The term service provider means any agency, organization or individual licensed, certified, or regulated by law that provides services to the probationer in accordance with the probationer's needs.
- (ff) The term specialized assessment means a state approved, validated actuarial instrument and recommended protocol to screen and assess a specific area of concern in terms of recidivism. Examples include substance abuse, mental health, domestic violence, or sexual offending.
- (gg) The term stabilization period means the first three (3) months of juvenile probation supervision and three-six months of adult probation supervision as a Greatest Risk or High Risk probationer during which the probationer is assessed for compliance with the conditions of probation and the case plan.
- (hh) The term state approved means approved by the NYS Division of Criminal Justice Services (DCJS).
- (ii) The term supervision means the sum of activities of a probation officer(s) or other authorized personnel with a probationer during the term of probation or interim probation supervision. Supervision shall include, but is not limited to, contact with the probationer and appropriate collateral and home contacts; probationer participation in services as indicated by the assessment and case plan; the enforcement of law, conditions of probation, and court orders for the promotion of public safety and probationer accountability; the reduction of recidivism through positive probationer behavioral change; and the restoration of victims.
- (jj) The term sustained program participation means the probationer has consistently attended and meaningfully participated in programs approved by the department, and has made measurable progress in meeting program requirements.

- (kk) The term technology means an automated device or system, software, or other technological application authorized for use by the probation department which can record or transmit specific information, verify probationer identity, facilitate probationer-probation officer communication, and/or notify the probation officer or probation department of compliance with the order and conditions of probation.
- (ll) The term victim restoration measures means the activities undertaken by the probationer for the victim's well-being.

351.2 Objective.

The objective of this rule is to provide local probation departments with supervision procedures for persons who receive a probation sentence, are placed on probation supervision, or are under interim probation supervision by the courts. The rule promotes evidence-based practices in the field of probation to advance public safety by holding the offender accountable, improving offender competencies, restoring victims, and reducing recidivism.

351.3 Applicability.

This Part is applicable to all probation departments for family and criminal court probation supervision as well as interim probation supervision cases.

351.4 Case Assignment.

Each Probation Director or designee shall assign a case to a probation officer within three (3) business days from the probation department's receipt of the official notification of the disposition from either criminal or family court or the interim probation supervision, and

- (a) review the probation disposition or interim probation supervision conditions to confirm their legality and the inclusion of all statutorily mandated conditions; and
- (b) verify the dates of disposition or imposition of interim probation supervision and ensure consistency with the court order, applicable case law, and statute; and

- (c) assign applicable cases to specialized caseloads, where available.

351.5 Assessment and Case Planning.

The time frame for assessment and case planning completion shall be up to thirty (30) business days which begins at the date of the initial interview and extends no longer than completion of the case plan. During this time, the probation department shall:

- (a) Conduct the initial interview. The initial interview with the probationer by the assigned probation officer, another probation officer, or auxiliary probation personnel shall occur within eight (8) business days from the date of assignment. When the initial interview is conducted by auxiliary probation personnel, it shall consist only of imparting to the probationer necessary preliminary information and instructions relating to the probation disposition or interim probation supervision; information on when, where, and to whom to report; and ensuring that the probationer is provided with a copy of his order and conditions of probation.
 - (1) Where the probationer is unavailable for the initial interview during the required eight (8) business day time frame because he/she is incarcerated, in detention, or in placement, the initial interview shall occur prior to release from custody, with the goal of establishing the supervision relationship.
 - (2) If the initial interview is not conducted within the required eight (8) business day time frame because the probationer is unavailable, the probation department shall document the reasons for the delay in the case file.
- (b) Complete the risk and need assessment, if not already completed at investigation. Probation departments may complete other specialized assessments, where available.
 - (1) Assign Supervision Level: The risk assessment instrument shall assist the department in determining the appropriate supervision level assignment. When the assessment is

complete, the probationer shall be assigned according to risk level and/or over-ride as Greatest Risk; High Risk; Medium Risk; Low Risk; or designated an Administrative Case, if criteria is met, and the department shall satisfy applicable probation supervision requirements set forth in section 351.6.

If the department imposes a supervision level different than that indicated by the risk assessment, the reason for the over-ride shall conform to criteria approved by the probation director, consistent with department policy, and be documented in the case record.

- (2) Supervision Pending Classification: Pending initial classification the department shall provide appropriate supervision during assessment and case planning which shall include in-person contact every week until the assessment and case plan are completed.
- (c) Confirm that all applicable legal case requirements are met, including:
- (1) DNA sample obtained;
 - (2) Sex Offender Registration Act (SORA) status compliance;
 - (3) Fingerprints obtained; and
 - (4) Where ordered, a restitution account is established for collection.
- (d) Develop and implement the case plan in accordance with department policy. The case plan shall be developed by probation personnel and shall be based primarily on the information provided in the risk and need assessment instrument and any other specialized assessments that may be completed. Case planning shall include efforts to engage the probationer and his/her family. The plan shall be developed to remediate the underlying behavior which gave rise to the need for probation supervision by addressing the identified risks and needs, and incorporating the protective factors and strengths. Effective case planning includes the following activities:

- (1) Provide feedback of assessment results to probationer;
 - (2) Utilize motivational interviewing to engage the probationer in the case plan development;
 - (3) Determine the probationer's level of motivation to change his/her behavior; and
 - (4) Match case planning goals and strategies to probationer's level of motivation to change his/her behavior:
 - (i) For Low Risk probationers case planning should be minimal—referring for services related to the conditions of probation.
 - (ii) For Medium Risk/High Risk/Greatest Risk probationers, case plans shall identify the priority criminogenic needs to be addressed in order to reduce risk.
- (e) Case plans shall focus on 3 steps:
- (1) Long term goals—achievable by the end of probation.
 - (2) Short term goals—achievable from reassessment to reassessment.
 - (3) Action steps—achievable from one probationer contact to the next.
- (f) Case plans shall identify the roles and responsibilities of each person involved in the case plan, and realistic time frames for achieving stated goals.

351.6 Probation Supervision.

The goal of probation supervision is to reduce recidivism by achieving a balance between risk management and risk reduction. Probation Supervision is the foundation for that balance and required as follows:

- (a) If the case is an active case, differential supervision shall be based on the results of the assessment instrument and the case plan, as follows:
 - (1) For the Greatest Risk population, the probation department shall conduct a minimum of six probationer contacts, six collateral contacts, and one positive home contact per month.

The probationer contacts shall include one in-person contact per week and two probationer contacts per month. One positive home contact is required each month from case assignment. A positive home contact constitutes one of the required in-person contacts.

After the stabilization period of 3 months for juveniles and 3-6 months for adults has been completed, and if the probationer has complied with the conditions of probation and the case plan, he/she may be considered for Merit Credit. Up to one probationer contact per month may be credited.

- (2) For the High Risk population, the probation department shall conduct a minimum of one in-person contact per week, six collateral contacts per quarter, and one home contact per month. One positive home contact is required during the first month from case assignment. Thereafter, three home contacts are required each quarter, one completed each month during the quarter, two of which must be positive home contacts. A positive home contact constitutes a required in-person contact.

After the stabilization period of 3 months for juveniles and 3-6 months for adults has been completed, and if the probationer has complied with the conditions of probation and the case plan, he/she may be considered for merit credit. Up to one in-person contact per month may be credited.

- (3) For the Medium Risk population, the probation department shall conduct a minimum of two probationer contacts per month and two collateral contacts per quarter. The probationer contacts shall include one in-person contact per month. One positive home contact is required during the first forty-five (45) calendar days from case assignment and

as needed thereafter. A positive home contact constitutes one of the required in-person contacts.

If the probationer has complied with the conditions of probation and the case plan, he/she may be considered for merit credit. Up to one probationer contact per month may be credited.

- (4) For the Low Risk population, the probation department shall conduct a minimum of one contact per month. Collateral contacts and home contacts will be conducted as needed. Merit credit activities may be used as incentives only.

- (b) Contact Substitution: Contact substitutions are available only for Juvenile Delinquent and Persons in Need of Supervision probationers under age 18 at the time of disposition. Contact substitutions, lasting no longer than six months in duration, are specifically for those juveniles on probation supervision who are participating in a community-based treatment or therapeutic program which is evidence-based.

During program participation, in-person contacts and positive home contacts with outside agency program staff may be substituted for probation department required contacts; up to 50 % of the required probationer contacts per month or quarter, as determined by their risk level, may be substituted. During the time of program participation and where substitutions are applied, a probation officer must conduct one of the collateral contacts as required with the agency/program, and document the probationer progress in the case record. Merit credits may not be applied during the period of contact substitution.

Classification	Minimum Probationer Contacts	Minimum Collateral Contacts	Minimum Home Contacts	Merit Credits/Activities
Greatest Risk	6 probationer contacts per month. Contacts shall include one in-person contact per week and two probationer contacts per month.	6 per month including contacts related to the criminogenic needs identified in the case plan.	One positive home contact is required each month from case assignment. A positive home contact constitutes one of the required in-person contacts.	Following the stabilization period (3 months for juveniles and 3-6 months for adults), and if the probationer is compliant with the conditions of probation and case plan, and there is documentation of merit credit activities, the probationer may be credited with up to a maximum of 1 probationer contact per month on an on-going basis unless rescinded. Merit credit activities are defined as the following: (1) Victim Restoration Measures; (2) Employment Retention; (3) Educational Achievement; (4) Sustained Program Participation; (5) Program Completion; or (6) Pro-Social Community Activities.
High Risk	A minimum of one in-person contact per week.	6 per quarter including contacts related to the criminogenic needs identified in the case plan.	One positive home contact is required during the first month from case assignment. Thereafter, three home contacts are required during each quarter, one completed each month during the quarter, two of which must be positive home contacts. A positive home contact constitutes a required in-person contact.	Following the stabilization period (3 months for juveniles and 3-6 months for adults), and if the probationer is compliant with the conditions of probation and case plan, and there is documentation of merit credit activities, the probationer may be credited with up to a maximum of 1 in-person contact per month on an on-going basis unless rescinded. Merit credit activities are defined as the following: (1) Victim Restoration Measures; (2) Employment Retention; (3) Educational Achievement; (4) Sustained Program Participation; (5) Program Completion; or (6) Pro-Social Community Activities.

Classification	Minimum Probationer Contacts	Minimum Collateral Contacts	Minimum Home Contacts	Merit Credits/Activities
Medium Risk	2 probationer contacts per month. The probationer contacts shall include a minimum of one in-person contact during each month.	2 per quarter including contacts related to the criminogenic needs identified in the case plan.	One positive home contact is required during the first 45 calendar days from case assignment and as needed thereafter. A positive home contact constitutes one of the required in-person contacts.	Documentation of the following may be credited toward up to 1 probationer contact per month. Merit credit activities are defined as the following: (1) Victim Restoration Measures; (2) Employment Retention; (3) Educational Achievement; (4) Sustained Program Participation; (5) Program Completion; or (6) Pro-Social Community Activities.
Low Risk	1 contact per month.	As needed.	As needed.	No merit credit may be applied to the one contact per month that is statutorily required.

(c) If the case is determined to be an Administrative Case at the beginning of supervision, or at any time during the period of supervision through probation department protocols, the probation department shall make one contact per month until no longer meeting the criteria for an Administrative case.

Administrative Cases include:

- (1) Absconders. In all absconder cases, the department shall comply with section 352.5(b). For Absconders, the one contact per month may include running criminal history reports, contact with local law enforcement or intelligence centers, or any other collateral contact relevant to the case;
- (2) Hospitalization or cases in which a probationer/respondent has been diagnosed with an infectious, contagious or terminal medical condition and more frequent reporting may compromise the well being of the individual probationer or his/her probation officer;

- (3) Outgoing pending interstate cases where a notice of departure has been submitted in accordance with the applicable Interstate Compact;
- (4) Interstate cases where the probationer has been accepted for supervision by another receiving state until his/her return or retaking in accordance with the applicable Interstate Compact;
- (5) Interstate cases where the probationer is not subject to the jurisdiction of the Interstate Compact but the court has authorized such relocation;
- (6) Interim probation supervision cases in which the duty of supervision is being carried out by another local probation department and jurisdiction is retained by the transferring court;
- (7) Family court intrastate cases in which the duty of supervision is being carried out by another local probation department and jurisdiction is retained by the transferring court;
- (8) Incarcerated but not intermittently;
- (9) Residential programming or treatment; or
- (10) In Immigration and Customs Enforcement (ICE) custody or deported.

Classification	Minimum Contacts (probationer or collateral)	Minimum Home Contacts	Merit Credits/Activities
Administrative Cases (cases unavailable for Active Supervision, regardless of risk level)	1 contact per month	N/A	N/A

(d) Periodic Reassessments/Case Reviews.

- (1) The purpose of the periodic case review during probation supervision is to reassess the probationer's progress in achieving the goals identified in the case plan and his/her compliance with conditions of probation.

- (2) The periodic case review of each probationer shall be conducted by the assigned probation officer, reviewed and approved according to department policies, and documented in the case record as provided below:
 - (i) For active family court juvenile cases, the periodic case review shall be conducted every three (3) months. For active criminal court and family court adult supervision cases, the periodic case review shall be conducted every six (6) months. For administrative cases, who are probationers otherwise unavailable for active supervision, the periodic case review shall be conducted every twelve (12) months.
 - (ii) The periodic case review shall include:
 - (a) A reassessment or case review utilizing a state approved risk and need assessment or case review instrument;
 - (b) A review of compliance with all required contacts during the prior supervision period and documentation of such included in the case file;
 - (c) Where applicable, a review of documented participation in merit credit activities during the prior supervision period and documentation of such included in the case file; and
 - (d) A review of compliance with the conditions of probation as well as progress toward achieving the case plan goals, objectives, and action steps during the current supervision period and documentation of such included in the case file.
- (3) After conducting the periodic case review, the probation officer shall consider the case for the following options:
 - (a) modification of the case plan;
 - (b) reclassification of the supervision level;
 - (c) modification of the conditions of probation; and/or

- (d) where applicable, merit credit eligibility.

351.7 Probation Supervision Practices.

Supervision is the sum of activities of a probation officer(s), or other authorized personnel with a probationer during the term of probation or interim probation supervision and shall include, but is not limited to:

- (a) Victims Services:

Probation departments shall refer victims of crime to services in the community where available.

Probation departments may provide services to victims, including:

- (1) Restitution collection and disbursement;
 - (2) Victim notification;
 - (3) Helping victims complete applications for victim compensation;
 - (4) Offering or referring for victim/offender mediation;
 - (5) Offering or referring for victim impact panels; or
 - (6) Responding to victim inquiries regarding information about a probationer's status on probation, where allowed by law.
- (b) Probationer Referrals:
 - (1) Probation officers shall refer probationers and/or their families to services available in the community. Probation officer efforts to manage referrals are intended to increase probationer motivation, identify incentives and/or barriers for behavior change, and help the probationer find solutions to reduce resistance to change.
 - (2) Probation officers should be knowledgeable of the services that are available in the jurisdiction and, based on information from the assessment and case plan, shall match the probationer to services that can specifically address the targeted criminogenic needs.
 - (3) Probationers with higher risk and needs shall be referred, if available, to more intensive interventions which target those risk and needs.

- (4) Probation officers shall provide information to the service provider about the probationer's criminogenic needs so that services may be more targeted to those criminogenic needs.

(c) Risk Management:

The utilization of accountability measures, including graduated sanctions, in probation supervision shall include:

- (1) Monitoring the probationer's activities and behaviors—tracking the “what, when, where, and with whom” of the probationer's behavior;
- (2) Periodically reviewing the conditions of probation and case plan with the probationer, being clear, explicit, and specific in expectations; and
- (3) Documenting information in the case record which is important and that may be needed in a future proceeding, in accordance with Part 348, the Case Record Management Rule.

(d) Risk Reduction:

Providing direction, support, and services to the probationer facilitates change that contributes to lawful behavior, and may include:

- (1) Utilizing and periodically reviewing assessment information to determine level of supervision and criminogenic needs;
- (2) Reviewing probationer achievements and challenges and modifying the case plan;
- (3) Using incentives to recognize compliance with conditions of probation or achievement of case plan goals, including merit credit activities;
- (4) Authorizing merit credit, where the probationer has complied with the conditions of probation and the case plan, and has engaged in merit credit activities;
- (5) Using graduated sanctions when the probationer is non-compliant;

- (6) Responding to probationer positive and negative behavior change swiftly, consistently, predictably, and proportionately; or
- (7) Modifying conditions of probation.

Requests for modification of conditions of probation shall be pursuant to the following procedures:

- (i) In accordance with departmental policies, the probation officer shall draft suggested revisions to the conditions of probation, specifically stating which of the original terms are to be modified or enlarged, or new terms added.
 - (ii) The probation officer shall submit the proposed revision to the court with a covering memorandum indicating specific rationale for the modification or enlargement and request, if necessary, a court appearance for the probationer to effect these changes.
 - (iii) If the modification of the conditions consists solely of the elimination or relaxation of one or more conditions, the probationer shall not be required to appear in court and shall be so advised unless the court directs otherwise. If the modification of the conditions consists of an enlargement of the conditions, the probationer shall be required to appear in court.
 - (iv) Upon a probation officer's notification of the court's approval of the modification or enlargement of the terms and conditions of probation, the probation officer shall review all of the current terms and conditions with the probationer.
- (e) Technology:

Various technologies may be used as a form of communication between probation officers and probationers, where approved and applicable, pursuant to existing department policies. Certain

technology, for example ignition interlock devices, global positioning systems, and computer searches, may be required by law or court order as part of probation supervision.

Technology may be utilized to enhance supervision skills and strategies, but it is not a replacement for probation supervision. Technology alone will not change probationer behavior unless coupled with effective assessment, case planning, services, incentives and graduated sanctions.

Technology enhanced supervision may be used when feasible with all levels of probation supervision.

Where applicable, existing probation department written policies shall reflect how technology may be used in probation supervision.

(f) Supervisory Directives/Instructions:

Courts are required to impose specific conditions related to probation supervision and others as required by law. These conditions of probation are relative to conduct, rehabilitation, movement, and controls, so as to ensure that the probationer being supervised will lead a law-abiding life or assist him/her in doing so, or to ameliorate the conduct which gave rise to the term of probation.

Each probation director may establish written policies providing that supervisory directives and/or instructions are required for the probationer to follow as part of his/her respective supervision plan. Any directives and/or instructions shall be reviewed and approved by a supervisor within the department. Such directives or instructions shall relate to and clarify any general or specific conditions of probation imposed by the court relative to conduct, rehabilitation, movement, controls, assessment, needs, or classification relevant to the supervision plan of the probationer. The probationer shall be given written documentation of any such directives or instructions and the probation officer shall review its content with the probationer to ensure that he/she is aware of and understands the supervisory requirements. The probationer shall sign an acknowledgement that the supervisory directive(s) has been

provided and explained. Supervisory directives/instructions may apply to interstate cases where probation has authority to impose probation conditions.

351.8 Interstate and Intrastate Transfer Cases.

If a probationer requests an interstate or an intrastate transfer of supervision during the term of probation, the probation department shall adhere to applicable state law governing interstate or intrastate transfer, the Interstate Compact for Adult Offender Supervision or the Interstate Compact for Juveniles and their respective governing rules, where applicable, and additional regulatory requirements set forth in Part 349 with respect to the Interstate and Intrastate Transfer of Probation Supervision for Adults and Juveniles.

A review of the probationer's compliance with conditions of probation and his/her progress in meeting the goals of the case plan should be considered before a transfer is recommended or initiated.

For criminal court cases, where a probationer is granted permission to move or travel outside the court's jurisdiction, he/she shall sign a written waiver of extradition agreeing to waive extradition proceedings where such proceedings are the result of the issuance of a warrant by the court pursuant to Criminal Procedure Law section 410.40(2), based upon an alleged violation of probation.

Where an interstate case has been accepted for supervision by another state, the contact requirements herein shall be satisfied through the rules of the applicable Interstate Compact and the supervision requirements of the receiving state until such time as a return or retaking.

351.9 Termination of Sentence.

Following departmental policies, a probation officer may request of the court a termination of the probation sentence when the probation officer concludes:

- (a) The probationer is no longer in need of such guidance, training or other assistance which would otherwise be administered through probation supervision;

- (b) The probationer has diligently complied with the terms and conditions of the sentence of probation; and
- (c) The termination of the sentence of probation is not adverse to the protection of the public or the victim/s.

351.10 Case Closing.

Probation supervision cases shall be closed using one of the following case closing options:

- (a) Termination of Sentence (Early Termination/Early Discharge);
- (b) Maximum Expiration;
- (c) Revocation;
- (d) Complete intrastate transfer;
- (e) Death; or
- (f) Other—includes the imposition of certain state imprisonment sentences pursuant to Penal Law section 65.15 or authorized transfer of custody and supervision to federal authorities pursuant to Criminal Procedure Law section 410.80(4).

351.11 Reporting Requirements.

Each probation director shall report to the Commissioner of the Division of Criminal Justice Services in the form, manner, and timeframes prescribed, including any and all such information requested pertaining to any person receiving a probation sentence, placed on probation, or subject to interim probation supervision.