

ARIZONA JUDICIAL COUNCIL
Arizona State Courts Building
1501 W. Washington, Suite 119
Phoenix, AZ 85007

March 29, 2012

Meeting Minutes

Council Members Present:

Chief Justice Rebecca White Berch
Judge Louraine Arkfeld (*retired*)
Jim Bruner
David Byers
Judge Rachel Torres Carrillo
Judge Norman Davis
Karen D. Ferrara
Athia Hardt
Mike Hellon
Judge Douglas Holt
Judge Joseph Howard
Yvonne R. Hunter

Emily Johnston
Michael Jeanes
Joe Kanefield
Judge David Mackey
William J. Mangold, M.D., J.D.
Judge Robert Carter Olson
Janet K. Regner
Judge Antonio Riojas, Jr.
Judge Sally Simmons
George Weisz
Judge David Widmaier
Judge Lawrence Winthrop

Council Members Absent:

Jose A. Cardenas, Esq.

Administrative Office of the Courts (AOC) Staff Present:

Mike Baumstark
Jennifer Greene
Melinda Hardman
Janet Johnson
Kevin Kluge
Jerry Landau
Jennifer Liewer
Amy Love
Mark Meltzer

Alicia Moffatt
Kay Radwanski
Jodi Rogers
Steve Scales
Jeff Schrade
Patrick Scott
Lorraine Smith
Kathy Waters
David Withey

Presenters and Guests Present:

Charity Antal
Justice W. Scott Bales

Vice Chief Justice Andrew Hurwitz
Sheryl Rabin

Chief Justice Rebecca White Berch, Chair, called the meeting to order at 10:00 a.m., at the State Courts Building, 1501 W. Washington Street, Suite 119, Phoenix, Arizona. The Chair welcomed those in attendance and recognized Judge David Mackey, the Council's newest member, replacing Judge James Soto as the Chair of the Committee on Superior Court member.

Approval of Minutes

The Chair called for any omissions or corrections to the minutes from the December 15, 2011, meeting of the Arizona Judicial Council; there were none.

MOTION: To approve the minutes from the December 15, 2011, meeting of the Arizona Judicial Council, as presented. Motion was seconded and passed. AJC 2012-01.

Legislative Branch Update

Ms. Amy Love, Legislative Liaison for the AOC, and Mr. Jerry Landau, Director of Governmental Affairs for the AOC, briefed the Council on the following bills from the Arizona Judicial Council legislative package: HB2382: criminal offenses; sentencing, SB1152: homeless court; establishment; jurisdiction, SB1406: probate omnibus, and SB1491: parental rights; termination; determinations.

Ms. Love presented information on the following bills requiring Council action:

- HB2284: DUI; jury trial. The Chair noted the Presiding Judges agreed to take no position on this bill.

MOTION: To take no position on HB2284: DUI; jury trial, as presented. Motion was seconded and passed. AJC 2012-02.

- HB2433: Bail bond agent lists; solicitation. Ms. Love noted the Presiding Judge agreed to take a neutral position on this bill, as the bill is no longer problematic.

MOTION: To take a neutral position on HB2433: Bail bond agent lists; solicitation, as presented. Motion was seconded and passed. AJC 2012-03.

- HB2729: state regulation of firearms. Ms. Love noted the Presiding Judges opposed this bill. Judge Widmaier added that rural courts will not have the funding to pay for security, and it would be easier for them to take the signs down.

MOTION: To oppose HB2729: state regulation of firearms, as presented. Motion was seconded and passed. AJC 2012-04.

- SB1142: jurors; Arizona lengthy trial fund. The Chair noted the Presiding Judges supported this bill.

MOTION: To support SB1142: jurors; Arizona lengthy trial fund, as presented. Motion was seconded and passed. AJC 2012-05.

- SB1310: small claims division; jurisdiction; limits. The Chair noted the Presiding Judges did not take a separate vote on this bill. Mr. Mike Hellon added there is no appeal with small claims cases, \$5,000 is a little high, and this bill will affect the caseload tremendously. Mr. Hellon questioned the level of experience and competence of hearing officers, which can vary quite a bit. Mr. Michael Jeanes noted that a case can be moved at any time in the justice court setting, which preserves a right to appeal. Mr. Jeanes added he is not troubled by the bill, and if the inflation numbers were run, we would be at \$5,000 right now. He noted the cost is higher in most other states. Judge Rachel Torres Carrillo expressed concern with the experience level of hearing officers and the increased workload that would result. Mr. Landau noted the bill is already through the process and awaiting the Governor's signature.

MOTION: To remain neutral on SB1310: small claims division; jurisdiction; limits, as presented. Motion was seconded and passed. AJC 2012-06.

- SB1311: civil actions; justice courts; jurisdiction. Mr. Landau noted the Justice of the Peace Association opposed SB1311 and did not take a position on SB1310. He reported the Presiding Judges took no position on SB1311. Judge David Widmaier noted the JPs oppose the bill because of the increase in filings that will result, as well as more work for judges and staff. The Chair expressed concern with the financing which was not well thought out. She noted the sponsor may not be aware of the difference in filing fees between the superior court and JP courts and the affect to various funds. Discussion took place regarding organizing a group to look at these issues in a more thoughtful discussion and put together a package to address the implications, appropriate increases, and timelines.

MOTION: To oppose SB1311: civil actions; justice courts; jurisdiction, as presented. Motion was seconded and passed. AJC 2012-07.

Mr. Landau presented on the following bills for informational purposes: HB2130: disease testing; public safety employees (signed by the Governor), HB2376: court fees; payment method (amendment added for convenience charge), and HB2643: police officer; duty related injury (county issued, but affects probation).

Ms. Love presented SB1246: child support; supreme court; factors. Ms. Love noted this is the final effort of the Legislature to make it clear they do not want the Supreme Court to adopt the Child Outcome Based Support (COBS) model.

Ms. Love presented information on the issue of sensitive data in minute entries. She passed out examples of redacted minute entries. Ms. Love explained that Rep. Hobbs and Rep. Forese co-sponsored HB2398 which was an attempt by the Legislature to address concerns they noticed with minute entries in Maricopa County. She stated HB2398 would have required the courts to use a random letter in place of the names of children in family law orders, which would be burdensome on the parties. Ms. Love reported that the co-sponsors agreed to work through the AJC process rather than move forward with legislation.

Discussion took place regarding the value of making family law minute entries available on the web to people other than parties to that case. Mr. David Byers suggested that we limit this to high-profile cases. Mr. George Weisz asked if there were other examples of public data that is not published on the web. Ms. Yvonne Hunter asked if a party could request that it remain on the web, but seal it if a minor is involved in the case, unless the parent waives that right.

Mr. Jeanes noted these family law minute entries have been online in Maricopa County for the past 10 years. He urged caution from the Clerk's perspective regarding which ones can be sealed or not and who makes that decision. Mr. Jeanes stated this is possible to do, but very difficult from a technology standard, and he would prefer sealing all of them or none of them. The Chair suggested the "low tech" solution to train the judges to do an order rather than a minute entry in these types of cases.

Judge Joseph Howard suggested putting together a workgroup to work with legislators, obtain input from stakeholders, and come up with a joint solution. The Chair and Judge Norman Davis agreed with this suggestion. Judge Davis stated he would support a provision that would allow us to seal a minute entry or an entire file if public disclosure of information would be detrimental to a child.

The Chair stated she would put together a group to work with Senator Hobbs and other interested persons. Mr. Hellon suggested that we emphasize with legislators that if there is a way to solve this problem without legislation, this would be a positive way to handle it.

Judge Davis noted there is no standard for sealing cases, but it would benefit the public to have a standard, with one factor being "detriment to a child."

Mr. Jeanes volunteered to serve on this workgroup.

Budget Update

Mr. Kevin Kluge, Chief Financial Officer for the AOC, provided an update on cuts taken since 2008 totaling \$56.7 million since FY 2008.

Mr. Kluge stated that negotiations on the budget are just beginning with the Governor and Legislative leadership, and there are major differences in the two budgets in both revenues and spending. Mr. Kluge reported there are no fund sweeps in the current legislative budget proposal, but at the end of the day, there could possibly be fund sweeps and more cuts.

Mr. Kluge also reported on the supplemental budget request, other impacts to the budget, as well as cuts to Federal Byrne grants impacting local funding and requiring a 25% match.

Law Day Activity (Taken out of order)

Mr. Byers reported the Chief Justice of Iraq was invited to participate in Law Day, and although he accepted the invitation, there were problems with renewing his Visa, and his participation will most likely not occur. Mr. Byers noted we are considering inviting him to speak at the June Judicial Conference or during the Leadership Conference in the fall and would provide more details as plans are finalized.

Ms. Karen Ferrara stated they have a Law Day Ceremony planned in Cochise County on May 1 and invited members to join them.

Mr. Joe Kanefield reported the State Bar has been asked by the American Bar Association to promote the national event entitled "No Courts, No Justice, No Freedom." He explained this event has to do with a nationwide effort to increase funding for the Judiciary and other jurisdiction and will culminate with an event with a call to action on the steps of every state's Supreme Court and the U.S. Supreme Court on Law Day. Mr. Kanefield noted there is no plan to march to the steps of the Arizona Supreme Court on this day, as we don't have a major problem in this state.

Mr. Byers reported the Supreme Court will be holding Oral Arguments on the Road in Coconino County on May 1.

Adult Probation Results with Evidence-Based Sentencing

Ms. Kathy Waters, Director of the Adult Probation Services Division for the AOC, provided background information and an update on results with evidence-based practices statewide.

Mr. Weisz stated there is a big debate at the Legislature that, with the population being down, is there really a need for as many beds both private and public. He explained

there is some push back as to whether they really need as many beds as they put in for, especially in light of the results of this project.

Ms. Waters spoke on the Safe Communities Act (Safer Communities) and presented information on the number of revocations FY2008 - FY2011. She presented information on pilot programs modeled after Project HOPE in Hawaii and the impressive results obtained in Pima, Cochise, Yuma, and Maricopa counties. Ms. Waters reported they are hoping to expand this program into the other counties in the future.

The Chair noted this is an amazing program with amazing results that is bringing national attention to Arizona in a positive way.

Mr. Weisz asked if there were plans to present this positive information to the Legislature and suggested this be done early in the next session, possibly at an informational hearing, as well as talking with Judiciary members over the summer that may be re-elected.

Social Media/Technology Committee

Mr. Mark Meltzer, Program Specialist with the Court Services Division of the AOC and staff member to this Committee, presented a preliminary overview on the Committee on the Impact of Wireless, Mobile Technologies and Social Media on Court Proceedings. Mr. Meltzer explained the Committee was established on March 7, 2012 by Administrative Order No. 2012-22, and their charge is to study and make recommendations concerning the impact of wireless mobile technology and social media on court proceedings. He noted the Committee will submit a report and recommendations to the Arizona Judicial Council later this year.

Mr. Meltzer reported that Council members Michael Jeanes and Joe Kanefield are members of this Committee. Mr. Kanefield stated it is critically important to take this issue on.

Opinions Website Demo

Mr. Steve Scales, Chief IT Architect and Laura Freer, Software Developer for the AOC, presented a demo on enhancements to the current "Opinion" (name being changed to "Decision") modules for both Division 1 of the Court of Appeals and Supreme Court websites at *AZcourts.gov*. He noted these enhancements provide new search and administrative functionality that assists the courts with compliance with the new legislation (SB1482 and SB1472) affecting Judicial Performance Review (JPR). Mr. Scales stated this module will also integrate with the JPR website now by allowing users to select a judge in JPR and then link to the decision module to see the decisions the selected judge or justice has been part of. He reported that Division 2 of the Court of Appeals is also building similar search functionality that the JPR site can also integrate with.

Mr. Scales noted staff is testing the site at this time, and they plan to go live with the new site on June 15, 2012.

Judicial Education Report Re: Court Leadership Development

Mr. Jeff Schrade, Director of the Education Services Division for the AOC, briefed the Council members on the Court Leadership Institute of Arizona and the AOC's partnership with the National Center for State Courts' Institute for Court Management and six other state courts to develop a localized leadership certification program. Mr. Schrade explained the program is currently being delivered to court leaders at the management and executive level and has already resulted in nearly 100 court leaders receiving the Certified Court Management distinction. He shared future plans for enhancing the development of court leaders and a course list for the upcoming year.

Model Time Standards

Mr. Mike Baumstark, Deputy Director of the AOC, provided background information and the history of the Model Time Standards for State Trial Courts. He noted the next step will be for Chief Justice Berch to establish a committee in the coming months to look at the model time standards and determine the adaptability of those standards in Arizona. He noted the Council would receive periodic updates on the work of the committee once established, and the final report and recommendations will come to the Arizona Judicial Council for review and approval.

The Chair noted there are many great projects going on in the state of Arizona. She stated she would like to spend some time at the next meeting by sharing a list of those accomplishments. She added the next meeting is scheduled for Monday, June 18 at the JW Marriott Starr Pass in Tucson.

Mr. Byers asked the Council members to be prepared for an active meeting in June dealing with such issues as probate and fee guidelines, as well as members of the public wishing to provide comment.

Call to the Public/Adjourn

The Chair made a call to the public; there was none.

The Chair acknowledged the upcoming retirement of Council member Ms. Karen Ferrara at the end of May. The Chair thanked Ms. Ferrara for her service on the Council and wished her happiness in her retirement.

A motion was made to adjourn the meeting at 12:55 p.m.