

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
)  
ESTABLISHMENT OF THE ) Administrative Order  
COMMITTEE ON IMPROVING ) No. 2010 - 52  
JUDICIAL OVERSIGHT AND )  
PROCESSING OF PROBATE COURT )  
MATTERS )  
\_\_\_\_\_ )

Protection of incapacitated and vulnerable individuals is an important concern of the Arizona Judicial Branch, as evidenced by key strategic initiatives in the Court’s strategic agenda: “Justice 2020, A Vision for the Future of the Arizona Judicial Branch.”

Much progress has been made to improve court processing and oversight of probate matters. In the late 1990s, Arizona began to regulate “professional fiduciaries,” individuals who serve as guardians, conservators, and personal representatives in probate cases. In June 2000, the Court appointed the Fiduciary Advisory Committee, which issued its Final Report to the Arizona Judicial Council in June 2001. Effective January 1, 2009, the Court adopted the Arizona Rules of Probate Procedure, which provide uniform practice and statewide standards for proceedings in the Probate Court. Although significant progress has been made over the past decade, additional efforts are needed to provide for the protection of vulnerable and incapacitated persons. Key initiatives contained in “Justice 2020” include simplifying the processing of guardianship cases and ensuring fiduciaries are held accountable for the services they provide to their vulnerable clients.

Approximately twenty-five percent of Arizona’s citizens are fifty-five years of age or older. This demographic places unique challenges on the Judicial Branch, including increased filings in the areas of guardianship, conservatorship, elder fraud, and physical abuse. Additionally, disabled children and their parents encounter unique legal and financial issues when the child reaches the age of majority, which necessitate court action.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the Committee on Improving Judicial Oversight and Processing of Probate Matters is established as follows:

1. PURPOSE: The Committee shall consider and make recommendations on the following issues:
  - a. Minor to Adult Guardianships. The Committee shall consider if any changes to applicable statutes and court rules would help streamline the process for

cases in which an incapacitated or vulnerable child reaches the age of majority and is in need of a guardian.

- b. Judicial Oversight of Probate Matters. Effective court oversight and monitoring of guardianships, conservatorship, and decedent estate cases and the family members and professional fiduciaries appointed to perform services for vulnerable and incapacitated persons is essential to the protection of wards and assets under the jurisdiction of the Probate Court. The Committee shall examine the current procedures, court rules, statutes, and training of judicial officers and make recommendations for any needed improvements. The Committee's review should include an examination of models and "best practices" from other states.
  - c. Fee Guidelines. The Committee shall develop statewide fee guidelines for professional fiduciaries and court-appointed attorneys in probate matters. In developing guidelines, the Committee shall review and consider applicability of Administrative Order No. 96-017, adopted by the Superior Court in Maricopa County in February 1996, and fee setting or approval guidelines that may be used in other states. The guidelines will assist judicial officers in determining the reasonableness of fees charged.
  - d. Fee Awards and Fee Dispute Resolution. The Committee shall make recommendations on a process for reviewing and awarding fees and, where a dispute regarding the fees arises, alternative dispute resolution options that provide timely and less costly resolution of the fee dispute.
  - e. National Center for State Courts Report. The Committee shall review and consider the National Center for State Courts Report, "Adult Guardianship Court Data and Issues: Results from an Online Survey, March 2, 2010," and determine if any of its recommendations should be implemented in Arizona.
2. **REPORT:** The Committee shall submit an interim report, with its findings and recommendations, to the Arizona Judicial Council at the October 2010 Council meeting. This report shall include any recommendations for necessary statutory changes. The Committee shall submit a final report to the Arizona Judicial Council at the June 2011 Council meeting.
  3. **MEMBERSHIP:** The membership of the Committee is attached as Appendix "A." The Chief Justice may appoint additional members as may be necessary. The Committee Chair may appoint members to workgroups to assist the Committee with its work.
  4. **MEETINGS:** At the discretion of the Chair, meetings may be scheduled and rescheduled, canceled, or moved. All meetings shall comply with the Arizona Code of Judicial Administration § 1-202: Public Meetings.

5. STAFF: The Administrative Office of the Courts shall provide staff for the Committee and, as feasible, conduct or coordinate research as requested by the Committee.

Dated this 30th day of April, 2010.

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REBECCA WHITE BERCH  
Chief Justice

**APPENDIX "A"**  
**MEMBERSHIP**

**Chair:**

Judge Ann A. Scott Timmer  
Chief Judge  
Court of Appeals, Division One  
Phoenix

Judge Rosa Mroz  
Presiding Probate Judge  
Superior Court in Maricopa County  
Phoenix

Judge Gary Donahoe  
Superior Court in Maricopa County  
Phoenix

Jay Polk  
State Bar Representative  
Phoenix

Julia Conner  
Commissioner  
Superior Court in Pima County

Diana Clark  
Probate Court Counsel  
Superior Court in Maricopa County

Catherine Robbins  
Mohave County Public Fiduciary  
Kingman

Sherry Reed  
Navajo County Public Fiduciary

Pam Johnston  
Licensed Fiduciary  
Phoenix

John Evans  
Attorney  
Office of the Attorney General  
Phoenix

Robert Myers  
Attorney/Public Member

Clerk of the Court Representative  
Beverly Frame  
Yuma

Silvia Stevens  
AARP  
Phoenix

Jacob Schmitt  
Child Welfare Program Administrator  
Department of Economic Security

Judge Charles Harrington  
Superior Court in Pima County

Judge William J. O'Neil  
Superior Court in Pinal County

Judge David L. Mackey  
Superior Court in Yavapai County