

AGENDA

FOR THE COMMITTEE ON LIMITED JURISDICTION COURTS

Wednesday, February 24, 2016

10:00 a.m. to 12:00 p.m.

State Courts Building, Conference Rooms 119 A&B

1501 West Washington Street, Phoenix, Arizona

Conference Call Number: **(602) 452-3288** or **(520) 388-4330** Access Code: **0370**

<https://arizonacourts.webex.com>

(All times shown on this agenda are approximate.)

Time	Regular Business	Presenter
10:00 a.m.	Call to Order	Judge Antonio Riojas, Chair
* Pg. 3 10:05	Approval of October 28, 2015 Meeting Minutes <i>Action Item</i>	Judge Riojas
Business Items and Potential Action Items		
* Pg. 9 10:10	Proposed Supreme Court Rule 28.1, Approval of Local Rules	Ellen Crowley <i>Chief Staff Attorney</i>
* Pg. 11 10:20	2016 Rules Update <i>Action Item</i>	Mark Meltzer <i>AOC, Court Services Division</i>
* Pg. 25 10:50	Rule 41, Form 2, Rules of Criminal Procedure	Patrick Scott <i>AOC, Court Services Division</i>
* Pg. 27	ACJA § 5.206: Fee Waivers and Deferrals	Patrick Scott
* Pg. 31 11:00	Legislative Update	Jerry Landau <i>AOC, Government Affairs Director</i>
12:00	Call to the Public	Judge Riojas
	Next Meeting: May 25, 2016	
	Adjourn	Judge Riojas

Any agenda item, including the call to the public, may be considered at a time other than what is indicated on this agenda. The Committee may meet in executive session as permitted by A.C.J.A. § 1-202. Please contact Susan Pickard at (602) 452-3252 with any questions concerning this agenda. Persons with a disability may request reasonable accommodations by contacting Julie Graber at (602) 452-3250. Requests should be made as early as possible to allow time to arrange the accommodation.

**COMMITTEE ON LIMITED JURISDICTION COURTS
DRAFT MINUTES**

Wednesday, October 28, 2015

10:00 a.m. to 2:00 p.m.

Conference Room 119A/B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Judge Antonio Riojas, Chair, Judge Timothy Dickerson, Julie Dybas, Jeffrey Fine, Judge Elizabeth R. Finn, Christopher Hale, Judge Eric Jeffery, Doug Kooi (proxy for Judge Maria Felix), Judge Dorothy Little, Marla Randall, Judge Laine P. Sklar, Paul Thomas (proxy for Judge J. Matias “Matt” Tafoya), Sharon S. Yates

Telephonic: Judge James William Hazel, Jr., Judge Arthur Markham

Absent/Excused: Chief Dan Doyle, Judge Steven McMurry

Presenters/Guests: Judge Mark Armstrong (Supreme Court Staff Attorney), Pamela Bridge (Community Legal Services), Ellen Katz (William E. Morris Institute for Justice), Judge Wendy Million (Tucson City Court), Janis Villalpando (Community Legal Services), and Judge Gerald Williams (North Valley Justice Court); Theresa Barrett, Stewart Bruner, Eric Ciminski, Brian Granillo, Jennifer Greene, Francelle Kounouho, Jerry Landau, Marretta Mathes, Mark Meltzer, Nick Olm, Kathy Sekardi, David Svoboda, Kathy Waters, David Withey, and Amy Wood, Administrative Office of the Courts (AOC)

Staff: Susan Pickard (AOC), Julie Graber (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The October 28, 2015, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:00 a.m. by Judge Antonio Riojas, Chair.

B. Approval of Minutes

The draft minutes from the August 26, 2015, meeting of the LJC were presented for approval.

Motion: To approve the August 26, 2015, meeting minutes, as presented. **Action:** Approve, **Moved by** Judge Dorothy Little, **Seconded by** Judge Timothy Dickerson. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Domestic Violence Offender Treatment Workgroup

Judge Wendy Million, Tucson City Court and Chair of the Domestic Violence Offender Treatment Workgroup, presented a new code section, ACJA § 5-209, which was drafted to implement provisions of SB1035 and establish minimum standards for courts when approving domestic violence offender treatment programs not otherwise approved by the Department of Health Services (DHS), a probation department, or the Department of Veterans Affairs (VA) for persons convicted of a misdemeanor domestic violence offense. The law authorizes courts to approve these programs, subject to rules created by the Arizona Supreme Court, and takes effect on January 1, 2016.

Judge Million discussed the purpose, goals and requirements of the new standards, which are modeled after the DHS regulations and would differentiate between intimate and non-intimate relationships. The standards are intended to address the high failure rate, cost disparity and lack of approved providers in rural counties by: allowing for non-DHS certified treatment providers; making the standards available for judges to use at their discretion to approve an alternative provider if a finding of good cause exists; and requiring judges to conduct compliance reviews of the approved treatment providers annually. She sought feedback from LJC and other stakeholders, as well as recommendation for approval before presenting the proposal to the Arizona Judicial Council (AJC) at the December meeting

Member comments:

- Several members commented that the proposed code section did not resolve logistical issues and suggested providing alternative delivery methods, such as Skype and FaceTime. Judge Million noted that the workgroup explored the issue but there is no research available on the topic and she stressed the importance of having a group dynamic and personal responsibility.
- Some members commented that educating offenders more quickly would reduce recidivism. Judge Million noted that the offenders need the minimum time for pre-contemplation and contemplation to facilitate changes in their behaviors.
- The timeframe for the review of treatment providers should be every two years rather than annually.

Motion: To approve the court approval of domestic violence offender treatment programs in concept, subject to the committee's concerns; and to review the final product before it is presented to AJC. **Action:** Approve, **Moved by** Judge Arthur Markham, **Seconded by** Jeff Fine. Motion passed unanimously.

B. R-14-0027: Rule 11, Rules of Procedure for Eviction Actions

Judge Mark Armstrong (Ret.), Supreme Court Staff Attorney, provided background information and an update on the status of rule petition, R-14-0027, to amend Rule 11, Rules of Procedure for Eviction Actions. The petition proposed telephonic or video conference appearances in eviction actions, subject to due process concerns. Judge Armstrong noted that the language is modeled after Rule 1(R) of the Arizona Rules of Protective Order because of the accelerated nature of both types of proceedings. For additional comment, he yielded the floor to Douglas C. Fitzpatrick, the petitioner; Judge Gerald Williams on behalf of the Maricopa County Justice Court bench; and Ellen Katz on behalf of the William E. Morris Institute for Justice. Judge Armstrong presented proposed language that addressed issues with statutory time standards, alignment of filing deadlines, equal protection for both parties, and practicality of a written request. Judge Armstrong sought feedback from LJC on the proposed language and inquired whether a middle-ground could be found that allowed the amended language to move forward.

Member comments:

- Concerns were raised about timing issues with the 24-hour rule because clerks cannot answer every call or return all voicemail messages when there is not enough information provided.

- Members felt that a written request should be required to appear telephonically. Judge Armstrong pointed out that the protective order rule does not require a written request and a judge will retain discretion with the proposed standards. Judge Finn reported not having a problem with telephonic appearances in protective order proceedings.
- Members believed a middle-ground could be reached regarding telephonic appearances in eviction actions; however, they agreed that more time was needed to resolve the matter of oral versus written motions, the 24-hour rule, and prior court approval for telephonic appearances.

Motion: To table until the next LJC meeting on February 28, 2016. **Action:** Approve, **Moved by** Judge Eric Jeffery, **Seconded by** Julie Dybas. Motion passed unanimously.

C. Mesa and Glendale Rule 11 Pilot Project

Judge Elizabeth Finn, Glendale City Court, and Paul Thomas, Mesa Municipal Court, presented information on the Glendale City Court and Mesa Municipal Court pilot project to facilitate Rule 11 competency evaluation and subsequent ruling at the local court level. Judge Finn explained how this proposal would (1) allow a process for city court judges to act as Superior Court *judge pro tem* and preside over Rule 11 proceedings at their courthouses; (2) use doctors on the approved Superior Court list; and (3) keep the case's Superior Court jurisdiction.

The presenters summarized the processes developed to date, those in progress, and the benefits of facilitating these proceedings at the local level for city courts, city court judges, and clerks' offices. The highlighted benefits included:

- By allowing defendants to have their evaluations conducted at the courthouse instead of another off-site location, the "no show" rate was drastically reduced from 40% to 0%;
- Case processing times can be shortened by monitoring timelines on doctors' reports;
- Significant cost savings can be achieved by negotiating flat rates with doctors; and
- Fulfills access to justice goals.

The proposed pilot project was approved by the AJC last week and will start in January 2016.

Member comments:

- Would limited jurisdiction courts handle restoration at the local level? No. It would remain a Superior Court matter.
- Will judges have the ability to send a case to the superior court? Yes. The jurisdiction of a Rule 11 case would not change.

D. 2016 Meeting Schedule

Susan Pickard, AOC, reviewed the 2016 proposed meeting schedule:

- Wednesday, February 24
- Wednesday, May 25
- Wednesday, August 31
- Wednesday, November 16

Motion: To approve the 2016 meeting schedule, as presented. **Action:** Approve, **Moved** by Judge Timothy Dickerson, **Seconded** by Sharon Yates. Motion passed unanimously.

E. SB1116 and Community Restitution

Marretta Mathes, AOC Senior Court Operations Specialist, discussed the impact of SB1116, which authorizes a municipal or justice court to order a defendant to complete community restitution in criminal cases to be credited at a rate of \$10.00 per hour in lieu of payment for all or part of the amount owed if the court finds the defendant is unable to pay, or if the defendant is in contempt for failure to pay, a fine, fee, assessment or incarceration costs. Ms. Mathes noted that a draft Q&A form was developed to address potential implementation issues for courts when the bill becomes effective on January 1, 2016. She reviewed the document and sought feedback from members on whether additional questions should be included before it is distributed in December as part of a statewide memorandum. Members should forward additional questions to her and David Withey.

Member comments:

- Mr. Withey noted that reimbursable costs are not addressed in A.R.S. § 13-824 and cannot be satisfied by community restitution.
- What is the impact of the bill on a court that already has a community restitution program in place? The provisions of A.R.S. § 13-824 will be effective and take precedence over current programs. This question will be added to the Q&A.
- Do fees provided by local ordinances take priority over statutory fees? Yes.

F. Interpreter Credentialing Program

Amy Wood, Court Services Division, Case Flow Management, updated members on the proposed interpreter credentialing program since presenting at the August LJC meeting and following AJC's approval to move forward with interpreter credentialing, the proposed fee structure and the model code of ethics. Ms. Wood highlighted changes to the program and addressed concerns raised by stakeholders.

- Background checks for staff and freelance interpreters will remain with the court and will not be part of the credentialing program.
- Interpreting skills for lesser used languages that are not covered by the National Center for State Courts' (NCSC) oral examination will be tested with the oral proficiency interview. The AOC has reached out to NCSC about available resources for the language, Dinka.
- Courts are to show a preference for using credentialed freelance interpreters and will be required to have staff interpreters credentialed within 36 months.
- Fees will be based on residency.

- The credentialing program will provide for reciprocity.
- The AOC will communicate with interpreter agencies and associations about the credentialing program to bring more awareness.
- At the last meeting, members inquired whether the tiered program could result in an appellate issue when multiple parties require an interpreter for the same rare language and each is provided with an interpreter with a different level of credentialing. Ms. Wood reported that it would not really be an issue from Arizona law's perspective because the error in interpreting would have to be substantial and be shown to impact on the outcome of the event.
- The AOC is asking court administrators to share audio files to build a body of cases that can be used as resources for interpreters to gain skills.
- There will be two cycles of testing per year.

Member comments:

- A member inquired about how to evaluate the skills of court staff who converse with limited English proficiency court customers at the front counter. Ms. Wood noted that the credentialing program does not apply to bilingual non-interpreter staff who carry out their duties in a language other than English.

G. 2015 Rules Agenda

Mark Meltzer, AOC Senior Policy Analyst, reviewed the 2015 rule petitions of interest to limited jurisdiction courts that were adopted. The general effective date is January 1, 2016.

Criminal Procedure

R-15-0009: The rule petition repeals the Rules of Procedure in Traffic and Boating Cases; moves the Arizona Traffic Ticket and Complaint (ATTC) form from the repealed rules to the Civil Traffic Rules; and applies to cases filed on or after January 1, 2016.

R-15-0005: The rule petition allows the court having jurisdiction over the defendant to either issue a notice to schedule a hearing, or issue a summons or warrant to compel the defendant's presence, upon receipt of a petition or a written report.

R-15-0011: The rule petition clarifies that redactions must be identified and the legal basis stated in discovery documents.

R-15-0017: The rule petition requires additional notifications to defendants on certain forms that they will lose their right to directly appeal a guilty verdict if they fail to appear for sentencing within 90 days after conviction.

R-15-0024: The rule petition establishes a new standard warrant form that merges eight forms into Form 2; and is mandatory as of January 1, 2016.

R-15-0026: New questions are included regarding military service, homeless status, and language skills in Rule 41, Form 4(a) and Form 4(b).

Rules of the Supreme Court

R-15-0020: The rule petition requesting that gender identity be recognized was denied because Rule 2.3 already prohibits judges from manifesting improper bias.

R-15-0027: The rule petition clarifies access to personnel records and includes a new definition for high-level administrative positions.

Other Rule Petitions

R-15-0015: The rule petition requesting a preemptory change of judge in eviction actions was denied.

R-15-0010: The rule petition reorganizes the Arizona Rules of Protective Order Procedure.

R-15-0018: The rule petition amends the definition of a mediator by adding that serving as a mediator is not the practice of law.

H. Legislative Update

Jerry Landau, AOC Government Affairs Director, noted that there is not any legislation being proposed that would directly affect limited jurisdiction courts but a few issues are being considered:

- The Arizona Criminal Justice Commission (ACJC) will examine changes to the fingerprinting protocol in the State so all fingerprinting would be reported to the booking agency, except in misdemeanor cases, which would go to the arresting agency.
- Arizona Prosecuting Attorneys Advisory Council (APAAC) has formed a working group regarding the criminal sentencing code in the 2017 legislation session.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

None present.

B. Next Committee Meeting Date

Wednesday, February 24, 2016

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119

1501 West Washington Street

Phoenix, Arizona 85007

Meeting adjourned at 1:34 p.m.

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: February 24, 2016	This agenda item is for: <input type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input checked="" type="checkbox"/> Other	Subject: Approval of Local Rules
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Presenter(s): Ellen Crowley
Chief Staff Attorney

Discussion: Ms. Crowley will present a draft rule (tentatively numbered Supreme Court Rule 28.1) concerning the approval of new or amended local rules for superior and limited jurisdiction courts.

Recommended Action or Request (if any): Whether through formal support or otherwise, Ms. Crowley requests comments and feedback from LJC members on this draft rule.

RULES OF THE SUPREME COURT

Rule 28.1. Procedure for Requesting Approval of Local Rules

- (a) **Applicability.** This rule governs requests for approval of new or amended local rules for the superior court and courts of limited jurisdiction.
- (b) **Promulgation.** The presiding judge of a county superior court, the presiding judge of the justice courts within a county, and the presiding judge of a municipal court may promulgate local rules. In the case of local rules promulgated by a superior court presiding judge, the rules must be approved by a majority of the superior court judges within the relevant county. In the case of local rules promulgated by a presiding justice court judge, the rules must be approved by a majority of the justice court judges within the relevant county. In the case of local rules promulgated by a presiding municipal court judge, the rules must be approved by a majority of the judges on the municipal court's bench.
- (c) **Approval.** Local rules must be consistent with rules of statewide application and must be approved by the Supreme Court.
- (d) **Method of Filing Request for Approval.** A presiding judge may submit a request for approval of a new or amended local rule by either filing a paper copy of the request with the Supreme Court clerk or filing the request electronically through the Court Rules Forum on the Supreme Court's website. If filed electronically, the request must be submitted according to the instructions found on the Frequently Asked Questions (FAQ) page of the Court Rules Forum.
- (e) **Form and Contents of Request for Approval.** The request must state its grounds and include a draft of the proposed rule or amendment (showing additions and deletions to an existing rule by underscoring and strikeouts). The request may include supporting documentation and be in letter form.
- (f) **Comment on a Proposed Amendment.** A request may be opened for comment for a period of 30 days or as the Supreme Court otherwise directs. The Supreme Court clerk will send the order opening the matter for comment to the distribution list set forth in Supreme Court Rule 28(C). Comments may be filed with the Supreme Court in paper form or electronically. If filed electronically, the comment must be submitted according to the instructions found on the FAQ page of the Court Rules Forum on the Supreme Court's website. A copy of the comment must be served on the presiding judge who submitted the request.
- (g) **Court Consideration.** After the comment period expires, the Supreme Court will consider and act on a proposed local rule or amendment. The effective date of a new local rule or amendment will be the date on which the order approving the rule or amendment is filed, unless the Court orders otherwise.
- (h) **Publication.** Local rules must be published.

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- (c) **Approval.** Local rules must be consistent with rules of statewide application and must be approved by the Supreme Court.
- (d) Circulation to Interested Persons and Organizations. Before submitting a proposed local rule for approval by the Supreme Court, the presiding judge shall circulate the proposal to interested persons and organizations, allowing adequate time for submission of comments.
- ~~(de)~~ **Method of Filing Request for Approval.** A presiding judge may submit a request for approval of a new or amended local rule by either filing a paper copy of the request with the Supreme Court clerk or filing the request electronically through the Court Rules Forum on the Supreme Court's website. If filed electronically, the request must be submitted according to the instructions found on the Frequently Asked Questions (FAQ) page of the Court Rules Forum.
- ~~(ef)~~ **Form and Contents of Request for Approval.** The request must state its grounds and include a draft of the proposed rule or amendment (showing additions and deletions to an existing rule by underscoring and strikeouts). The request must also include any comments received from interested persons or organizations pursuant to subparagraph (d) of this rule or a statement that the proposal was circulated but no comments were received. The request may include supporting documentation and be in letter form.
- ~~(fg)~~ **Comment on a Proposed Amendment.** A request may be opened for comment for a period of ~~30~~60 days or as the Supreme Court otherwise directs. The Supreme Court clerk will send the order opening the matter for comment to the distribution list set forth in Supreme Court Rule 28(C) and to any other persons or organizations as may be designated by the Supreme Court. Comments may be filed with the Supreme Court in paper form or electronically. If filed electronically, the comment must be submitted according to the instructions found on the FAQ page of the Court Rules Forum on the

Supreme Court's website. A copy of the comment must be served on the presiding judge who submitted the request.

(gh) Court Consideration. After the comment period expires, the Supreme Court will consider and act on a proposed local rule or amendment. The effective date of a new local rule or amendment will be the date on which the order approving the rule or amendment is filed, unless the Court orders otherwise.

(hi) Publication. Local rules must be published.

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- (g) **Comment on a Proposed Amendment.** A request may be opened for comment for a period of 60 days or as the Supreme Court otherwise directs. The Supreme Court clerk will send the order opening the matter for comment to the distribution list set forth in Supreme Court Rule 28(C) and to any other persons or organizations as may be designated by the Supreme Court. Comments may be filed with the Supreme Court in paper form or electronically. If filed electronically, the comment must be submitted according to the instructions found on the FAQ page of the Court Rules Forum on the

Supreme Court's website. A copy of the comment must be served on the presiding judge who submitted the request.

(h) Court Consideration. After the comment period expires, the Supreme Court will consider and act on a proposed local rule or amendment. The effective date of a new local rule or amendment will be the date on which the order approving the rule or amendment is filed, unless the Court orders otherwise.

(i) Publication. Local rules must be published.

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: February 24, 2016	This agenda item is for: <input type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input checked="" type="checkbox"/> Other	Subject: 2016 Rule Petitions
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Presenter(s): Mark Meltzer
Court Services Division

Discussion: The presentation will discuss rule petitions that were filed for the Court's consideration during the 2016 rules cycle. This year the summary features a new checkbox for members to distinguish petitions that warrant the filing of a formal committee comment, or that merit further discussion by committee members.

Recommended Action or Request (if any): The Committee is asked to express any concerns or support regarding these rule petitions. Should the Committee choose, the members may take a formal vote regarding support during the meeting, or submit formal comments concerning any of the rule petitions.

2016 Rule Petitions
Petitions of Interest to COSC and the LJC

This summary excludes a number of petitions on State Bar activities, attorney admissions, attorney ethics and the practice of law, judicial ethics, and petitions continued from the previous rules cycle.

Each of the pending rule petitions is available on the Court’s Rules Forum for your detailed review.
[Click here to access the Rules Forum.](#)

This summary features a new checkbox for members to distinguish petitions that warrant the filing of a formal committee comment, or that merit further discussion by committee members.

The comment deadline for these rule petitions is May 20, 2016, unless otherwise noted.

Petition Number and Petitioner	Rule	Summary
CIVIL PROCEDURE		
1. R-15-0043 Pima County Bar Association	Civil Rule 11 <input type="checkbox"/>	This petition supports the State Bar’s pending petition number R-15-0004 regarding Rule 11, except for R-15-0004’s proposed provision for mandatory sanctions. With regard to the provision on the imposition of sanctions, R-15-0043 proposes replacing the word “shall” with the word “may.”
2. R-16-0010 Task Force on the Arizona Rules of Civil Procedure <i>Initial comments are due April 1, 2016</i> <i>Comments in the second round are due June 20, 2016</i>	All Civil Rules <input type="checkbox"/>	This petition proposes comprehensive revisions to the civil rules by stylistic and substantive amendments. A detailed, rule-by-rule explanation of these revisions is included in Appendix C to this petition. Page 11 of the petition notes that the Task Force chairs presented the “vetting draft” to COSC, and that COSC approved a motion supporting the work of the Task Force.

2016 Rule Petitions

COSC: February 5, 2016/ LJC: February 24, 2016

<p>3. R-16-0017 Maricopa County Attorney</p>	<p>Civil Rule 5.1(a)</p> <p><input type="checkbox"/></p>	<p>The petition would modify Rule 5.1(a) to allow a governmental law office, or a public or private law firm that has appeared as counsel of record, to substitute or associate another member of that office or firm by filing a notice of substitution or association of counsel. This would avoid the necessity for another attorney in that same office or firm to file a written application or motion and obtain a court order allowing the substitution.</p> <p>The petition notes that this alternative procedure is provided by U.S. District Court LR Civ. 83.3(b)(4).</p>
<p>4. R-16-0018 Hon. Randall Warner</p>	<p>Civil Rule 49(a)</p> <p><input type="checkbox"/></p>	<p>The proposed amendment would further protect the confidential identity of individual jurors. It would do this by permitting a jury foreperson, or six or more jurors who agree upon a verdict, to sign the verdict form by writing their juror number and initials in lieu of a full signature.</p>
<p>5. R-16-0019 Attorney Brian Partridge</p>	<p>Civil Rule 10 and JCRCP Rule 110</p> <p><input type="checkbox"/></p>	<p>The petition states that in some cases, and particularly with marital communities, a “known defendant will not reveal another defendant’s existence or true name until after judgment.” The amendments to these two rules propose that “if the defendant’s true name is not discovered before judgment, the court may enter judgment against the fictitiously named defendant if the court finds (1) the defendant received service in accordance with these rules, and (2) the defendant was reasonably identified such that the defendant knew or should have known of the pleading or proceeding.”</p>

CRIMINAL PROCEDURE

Petition Number and Petitioner	Rule	Summary
<p>6. R-15-0038 Attorney Marty Lieberman (OLD)</p>	<p>Criminal Rule 16.4</p> <p><input type="checkbox"/></p>	<p>The petition avers that prosecutors’ discovery obligations “frequently are not met.” It proposes that a judge “enter into a colloquy with the prosecutor to ensure that proper measures have been or are being taken to ensure that disclosure obligations are met.” It would codify this practice by an amendment to the rule on mandatory prehearing conferences with the following text:</p> <p>“The Court shall ensure that the prosecutor has searched its files, the investigating police agency’s files, and any other appropriate files, to determine whether information which tends to mitigate or negate the defendant’s guilt, or</p>

2016 Rule Petitions

COSC: February 5, 2016/ LJC: February 24, 2016

		which would tend to reduce the defendant’s punishment exists and has been disclosed.” [This language differs from the original petition, and was proposed by petitioner’s request to amend filed 1/21/16.]
7. R-16-0007 Hon. Sam Myers	Criminal Rule 8.4 <input type="checkbox"/>	The petition states: “Currently, Rule 8.4(a) excludes from the computation of time limits any delays resulting from the examination and hearing to determine the competency or intellectual disability of the defendant, or the time periods when a defendant is incompetent to stand trial or is absent and cannot be arrested or taken into custody. Once a delay caused by the circumstances under Rule 8.4(a) terminate—i.e., the defendant is found by the court to be competent to stand trial or is no longer absent—the excluded time period also ends, and the time limits under Rules 8.2 and 8.3 begin to run again. In some situations the end of the excluded time period can occur when the time limits to bring the defendant to trial have nearly expired, requiring the defendant to be brought to trial within days—even when the defendant’s trial has otherwise been delayed for months or years due to the defendant’s incompetency or absence. This in turn requires the scheduling of an immediate trial, locating and subpoenaing witnesses, and trial preparation with little advance notice for the court or the parties. “This petition seeks to amend Rule 8.4(a) to exclude from time limit computations an additional period of 30 days when the reasons for the delay under Rule 8.4(a) end within 30 days of the time limits of Rules 8.2 and 8.3. The exclusion of an additional 30-day period from the time limits allows the court and the parties sufficient time to schedule and prepare for a trial.”
8. R-16-0024 Mr. David Byers	Criminal Rule 7.5 <input type="checkbox"/>	This petition proposes amendments occasioned by the enactment of HB 2231, effective September 13, 2013. Rule 7.6(d)(2) provides a circumstance [surrender of a defendant by a surety to the sheriff] where the court “may” exonerate a bond. The proposed amendments would add an additional circumstance [“where the defendant was released or transferred to the custody of another government agency, preventing the defendant

		from appearing in court...”], and make exoneration of the bond mandatory in both circumstances.
9. R-16-0031 Maricopa County Attorney	Criminal Rules 20, 24.1, 24.2, 24.3, and 24.4 <input type="checkbox"/>	If the trial court grants a judgment of acquittal before the verdict under Rule 20(a), that judgment is not reviewable on appeal and double jeopardy bars a retrial of the defendant on the charge. The petition contends this pre-verdict acquittal process deprives the State of its right to a jury trial on the charge, and denies a crime victim his or her rights to justice and due process. Accordingly, the petition proposes deleting Rule 20. Rule 20(b), which is a judgment of acquittal after a jury verdict, would be re-located as a new Rule 24.1. (A post-verdict judgment of acquittal is reviewable on appeal.) The remaining sections of current Rule 24 would be re-numbered as Rules 24.2 through 24.5.

RULES OF PROCEDURE FOR JUVENILE COURT

Petition Number and Petitioner	Rule	Summary
10. R-15-0036 Arizona Public Defender’s Assn	Juvenile Rule (not numbered) <input type="checkbox"/>	The petition avers that the use of mechanical restraints (e.g., handcuffs, leg irons, belly chains) on juveniles transported from detention to superior court, and while appearing in court, varies from county to county. The petition requests adoption of a uniform statewide rule on this subject. The proposed, unnumbered rule would provide that children should “be free of mechanical restraints when appearing in superior court, juvenile division, unless there are no less restrictive alternatives that will prevent flight or physical harm to another person,” and that the court has in those instances determined that the “child is displaying threatening or physically aggressive behavior towards others,” “has expressed an intention to flee,” or “has attempted to flee secure care in the last 3 months.” The proposed rule would require that the court provide the juvenile an opportunity to be heard “before the court orders the use of restraints,” and that the court must make written findings of fact in support of an order for restraints.

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<p>11. R-15-0037 Arizona Public Defender's Assn.</p>	<p>Juvenile Rule 40.2 <input type="checkbox"/></p>	<p>Juvenile Rule 40C currently permits the court to appoint a guardian ad litem for a parent, guardian, or Indian custodian when the court believes the person may be incompetent and in need of protection. Proposed new Rule 40.2 would delineate the role of these guardians, and provide guidance to all parties concerning the guardians' duties, which would include the guardians' ability to file a notice of appeal without an avowal of incompetency.</p>
<p>12. R-5-0040 Hon. Colleen McNally</p>	<p>Juvenile Rule 40.2 <input type="checkbox"/></p>	<p>In January 2012, the Court adopted Rule 40.1, which provides duties and responsibilities of appointed counsel and GALs for children in dependency and termination cases. This proposed rule would establish duties and responsibilities for attorneys representing parents in dependency cases.</p> <p>The proposed rule provides, in part, that attorneys must provide to the presiding juvenile court judge, prior to or at the time of their first appointment, an affidavit of completion of a 6-hour court approved training. Attorneys also must file annually an affidavit certifying compliance with the continuing education requirements [8 hours on juvenile law and related topics] of this rule.</p> <p>See further Supreme Court Administrative Order number 2011-16, which previously established similar requirements.</p>
<p>13. R-15-0042 Hon. Jane Butler</p>	<p>Juvenile Rules 45 and 58 <input type="checkbox"/></p>	<p>These amendments are intended to increase the educational stability of children in foster care, to increase their graduation rates, and lower their rate of dropping-out.</p> <p>The proposed amendments to Rule 45 would require that the child safety worker's narrative report address the appropriateness of the child's school placement, services to help them achieve their educational potential, resolution of school attendance issues, special education services, and grade level progress. The proposed amendments to Rule 58 would specify that DCS reports at review hearings address the educational stability of the child.</p>

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<p>14. R-16-0005 Hon. Colleen McNally</p>	<p>Juvenile Rule 19</p> <p><input type="checkbox"/></p>	<p>Rule 19 of the Rules of Procedure for the Juvenile Court govern juvenile court records. While Rule 19(A)(1) establishes that the juvenile court’s legal file (pleadings, motions, minute entries, orders, etc.) is open to public inspection, Rule 19(A)(2) designates the juvenile’s social file—maintained by the probation department—as confidential and not open to public.</p> <p>This petition seeks to amend Rule 19 to clarify that the juvenile court, including the court’s probation department, may share juvenile court records, including the social file, with other juvenile probation departments both within and outside of Arizona. (Half of Arizona counties have combined adult and juvenile probation departments; in the other half they are separate, and juvenile probation falls under the umbrella of the juvenile court.)</p>
<p>15. R-16-0009 Hon. Colleen McNally</p>	<p>Juvenile Rule 39</p> <p><input type="checkbox"/></p>	<p>Rule 39 allows an attorney to request to withdraw from a dependency or termination case in writing, but without further specifications. The proposed amendments would more closely align the requirements for withdrawal under Rule 39 with the civil and family rules.</p> <p>The amendments would permit an ex parte application to withdraw, if it includes the client’s written approval, and if the withdrawing attorney gives prompt notice of the entry of an order allowing the withdrawal. Otherwise, withdrawal would be permitted only by motion, with the attorney’s certification that the client has been notified of the status of the case and pending court dates. There would also be limitations on withdrawal after a matter has been set for trial. The proposed amendments would not apply to attorneys appointed for children or attorneys appointed as a GAL, because those clients are not in a position to consent to withdrawal of their counsel.</p>
<p>16. R-16-0025 Mr. David Byers</p> <p><i>Initial comments are due March 1, 2016</i></p>	<p>Juvenile Rules 19, 30, 45, 47, and 104</p> <p>X-ref #12 above, which also deals with Rule 19</p> <p><input type="checkbox"/></p>	<p>This petition addresses practices concerning the juvenile social file in delinquency cases, including clarity and consistency in what documents are filed, where the documents are filed, where files are kept, how the court gains access to documents in the file, and what documents are included in the record on appeal. The petition proposes similar revisions in rules concerning dependency cases. Specifically:</p>

<p><i>Comments in the second round are due May 20, 2016</i></p>		<p>Rule 19: Records and Proceedings. The amendments would clarify that although the legal file is open to the public, certain confidential information may require segregation after filing. The amendments would also allow the court to close all or part of the legal file upon a finding of a need to protect the welfare of the victim or another person, or a clear public interest in confidentiality.</p> <p>Rule 30: Disposition. The amendments would clarify that the disposition report should include any Rule 19 social file information relevant to the recommendations, and the clerk must keep this information in a segregated part of the legal file.</p> <p>Rule 45: Admissibility of Evidence: The amendments would provide an option for the court to set a date other than that prescribed by rule for disclosure of a child safety worker’s report, and to allow a child safety worker’s report to be admitted into evidence unless there is an objection. If there is an objection, the right to cross-examine the worker who prepared the report is preserved.</p> <p>Rule 47: Release of Information. There are technical amendments to conform to statutory citations.</p> <p>Rule 104: Time Within Which an Appeal May be Taken, etc. Consistent with ARCAP 11(b)(2), a new subsection would require attorneys to order a certified transcript from an authorized transcriber when a proceeding is recorded by audio or audiovisual means, inasmuch as there is no court reporter.</p>
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RULES OF THE SUPREME COURT

Petition Number and Petitioner	Rule	Summary
<p>17. R-16-0001 Mr. Martin Lynch/National Parents Org.</p>	<p>SCR 122 <input type="checkbox"/></p>	<p>This petition asserts that the word “proceedings,” which is currently defined in Rule 122, is difficult to understand. The petition states this rule should be further clarified so that it does not apply to public meetings (including meetings of a Supreme Court committee.) The proposed amendment to Rule 122 would provide, “This and all other provisions of this Rule 122 apply only to</p>

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		‘proceedings’ as defined herein. Access to public meetings are governed by A.R.S. 38-431.01.”
18. R-16-0003 Hon. Janet Barton	SCR 30 <input type="checkbox"/>	<p>The proposed amended would add the underlined words to this provision: “When an Arizona-certified court reporter <u>employed or contracted by the court</u> records a proceeding in a superior court that is simultaneously recorded by electronic recording equipment, the court reporter’s record shall be the official record.” The amendment would therefore exclude private court reporters and those hired by counsel from being the official record.</p> <p>The amendment would assure that the court would have access to the record or the court reporter’s notes (who are required by local rule to store their notes with the Clerk), if the court reporter becomes unavailable. This amendment also would help to assure that transcripts are timely prepared.</p>
19. R-16-0008 Committee on Time Periods for Electronic Display of Superior Court Case Records <i>Initial comments are due April 1, 2016</i> <i>Comments in the second round are due June 20, 2016</i>	SCR 123 <input type="checkbox"/>	<p>The proposed amendments would make removal of case management system data and case records from the court’s online display, pursuant to the applicable records retention schedule, mandatory rather than permissive. The proposed amendments also would require a public access website through which a court publishes case management system data and case records to include “a prominent disclaimer on the limitations of the case information displayed.”</p>
20. R-16-0011 Attorney Lisa Simpson	SCR 42 <input type="checkbox"/>	<p>The proposed amendment to Rule 42, ER 1.6 [“Confidentiality of Information”] would allow a licensed Adoption Service Provider to share specific information from their birthparent database with other licensed Adoption Service Providers anywhere within the United</p>

		<p>States for the purpose of preventing or mitigating fraudulent birthparent activities.</p> <p>The petition states:</p> <p>“The amended Rule would allow, in the event of suspected or confirmed multiple representation, discontinued services, or misrepresentation, for an Adoption Service Provider to contact and release as much information as necessary to any other Adoption Service Providers or adopting family for the purpose of mitigating or preventing fraud. The disclosure of this information is vital to properly assessing the motives, means and intentions of a prospective birthmother. This could in turn, prevent a prospective adoptive family from becoming involved with a birthmother who they felt had too many previous indiscretions or who they felt had questionable intentions regarding the adoption. Knowing that a potential birthmother has a history of placement failures, has worked with multiple families, or has a history of faking pregnancy could prevent an adoptive family from accepting a match with that birthmother that could possibly leave them in emotional and financial ruin.”</p>
<p>21. R-16-0012 Hon. Rebecca Berch (ret.)</p>	<p>SCR 32 and 44</p> <p><input type="checkbox"/></p>	<p>This petition proposes an amendment to Rule 32(d) that would provide the SBA Board of Governors with the Court’s expressed authorization to “administer a Board of Legal Specialization to certify specialists in specified areas of practice in accordance with Rule 44.”</p> <p>Rule 44 would establish Supreme Court supervision of the BLS in the following ways:</p> <ul style="list-style-type: none"> - It would require the Court to appoint members of the BLS. - It would require Court approval of BLS rules, which would include rules concerning the designated practice areas of specialization and the qualifications for specialization. - It would provide an attorney aggrieved by a decision of the BLS the opportunity to seek judicial review.

<p>22. R-16-0013 Hon. Rebecca Berch (ret.)</p> <p><i>Initial comments are due April 1, 2016</i></p> <p><i>Comments in the second round are due June 20, 2016</i></p>	<p>SCR 32</p> <p><input type="checkbox"/></p>	<p>The proposed amendments would restyle Rule 32, including provisions of this rule that specify the mission of the State Bar of Arizona. The amendments would maintain the current status of the SBA as a bar in which membership is required to actively practice law in Arizona.</p> <p>The amendments also propose modifications to the structure of the SBA’s governing board. One proposal would reduce the number of governors from the current 26 voting members to 19 voting members, and would reconfigure the current 8 election districts into 5 districts. An alternative proposal would maintain the current 26 voting members, but would also reconfigure the election districts and would eliminate the deans of Arizona’s 3 law schools as “ex officio” non-voting board members.</p> <p>Both of these alternatives would reduce the number of the board’s officers from 5 to 3 by eliminating two vice-presidents. Both alternatives also would permit active members who live out-of-state to vote in board elections, and would adopt new provisions regarding qualifications to be a board member, and for removal of a board member.</p>
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RULES OF FAMILY LAW PROCEDURE

Petition Number and Petitioner	Rule	Summary
<p>23. R-16-0002 Mr. Martin Lynch/National Parents Org.</p>	<p>Family Law Rule 96</p> <p><input type="checkbox"/></p>	<p>The petition proposes a new rule. That rule would provide in part, “should a litigant believe that an agent of the Family Court has committed a violation of ARS Title 13 Criminal code [sic], the litigant may submit the allegation in writing to the Family Court judge whereupon that Family Court Judge shall expeditiously forward that allegation to the appropriate law enforce agency who shall lawfully process the allegation.”</p>
<p>24. R-16-0006 Hon. Paul McMurdie</p>	<p>Family Law Rules 41 and 42</p> <p><input type="checkbox"/></p>	<p>This rules respectively concern service of process within and outside of the State of Arizona. Although these rules allow for service of process by certified mail or national courier service, with a receipt signed by the party being served, the petition states that incarcerated individuals are unable to sign for certified mail or courier service deliveries. It therefore proposes that these rules allow the</p>

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		signature of a jail or prison official on a return receipt or signature confirmation to constitute sufficient evidence of service of process when the party being served is incarcerated.
25. R-16-0016 Mr. Martin Lynch/National Parents Org.	Family Law Rule 74 <input type="checkbox"/>	This petition does not include the draft of proposed amendments, but rather cites to three specific areas (public meeting laws, immunity, and insurance) that amendments would address. The introduction to this petition states, in part, “On June 24, 2015 a television news crew from ABC15 was unlawfully denied access to a Public Meeting of R-15-0006 [this was a petition to amend Rule 74.] Since none of the cure provisions available per ARS 38-431.05 were ever processed, a lawsuit CV2015-014152 was filed in Maricopa County Superior Court as prescribed by ARS 38-431.07 seeking that the work performed by the Public Body R-15-0006 be declared ‘Null and Void’ per ARS 38-431.05.” See further rule petition #17 in this summary.
26. R-16-0020 State Bar of Arizona	Family Law Rule 78 <input type="checkbox"/>	The petition states that the purpose of the proposed rule amendment “is to conform the Family Law Rule to the corresponding Rule of Civil Procedure regarding time to request attorney’s fees after a rule on the other pending issues.” The proposed amendment would allow the court to deny a fee award if the court has ruled on all other pending issues except attorney’s fees, and the claimant does not file a timely, separate Rule 83 motion for new trial or amended judgment.
27. R-16-0021 State Bar of Arizona	Family Law Rules 65 and 76 <input type="checkbox"/>	The petition states, in part: “Despite the many years since implementation of the original disclosure requirements in the Arizona Rules of Civil Procedure 26.1, which were later substantially adopted in the Arizona Rules of Family Law Procedure 49, many parties are either unaware of their obligations for voluntary disclosure or choose to ignore them. “The change to Rule 76 directs the court to remind the parties of their obligations for disclosure under Rule 49 at any Resolution Management Conference. “Rule 65 allows the court to impose sanctions against a party who fails to comply with the rule. The amendment

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		to Rule 65 adds a <i>clean hands</i> component which provides direction that the court should not impose sanctions at the behest of one party if that party has not themselves substantially complied with their disclosure obligations under Rule 49.”
28. R-16-0028 State Bar of Arizona	Family Law Rules 2, 5, 10, 14, 24, 26, 27, 28, 41, 42, 44, 45, 49, 66, 67, 68, 73, 76, 91, and 95 <input type="checkbox"/>	This petition requests amendments to these 20 rules to align their nomenclature with Session Law 2012, Chapter 309. “Legal custody” when used in these rules would be replaced with “legal decision-making.” “Physical custody” or “parental visitation” would be replaced with “parenting time” or “legal decision-making and parenting time.” The petition also requests conforming changes to Rule 97, Forms 1, 7, 8, 11, and 16.
29. R-16-0030 Mr. Martin Lynch/National Parents Org.	Family Law Rule 72 <input type="checkbox"/>	Like petition number 25 above, this petition does not include a draft of proposed amendments. The petition states in part, “Rule 72 has many defects in common with Rule 74 which [sic] render it unconstitutional and contrary to written law....Evidence of widespread abuses and harm being committed by these court appointed ‘experts’ may be found filed into the related lawsuit CV 2015-014152 [sic].”

OTHER RULE PETITIONS THAT MAY BE OF INTEREST

Petition Number and Petitioner	Rule	Summary
30. R-16-0022 State Bar of Arizona	RPEA 9(c) <input type="checkbox"/>	<p>The petition states that eviction court litigants should have the same right to a change of judge (as a matter of right and for cause) as other civil litigants in justice and superior court. Petitioner contends that allowing a change of judge in eviction cases would impact neither the administration of justice nor time standards for eviction cases. (Note that RPEA Rule 1 currently incorporates Civil Rule 42(f) by reference for eviction actions pending in the superior court.)</p> <p>The proposed rule amendment would allow a party to request a change of judge as a matter of right orally or in writing. The request would be timely if it was made prior to, or at the time of, the first court appearance, or upon reassignment of the matter to a new judge for trial. The petition would make the change of venue procedures of A.R.S. § 22-204 applicable to a change of judge for cause.</p>

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31. R-15-0035 Mr. Mike Palmer	ARPOP Rules 25(b) and 26(b) <input type="checkbox"/>	Recent amendments to ARPOP Rule 23(b) require a petition for an order of protection to “allege each specific act of domestic violence that will be relied on at hearing.” The petition requests the addition of a comparable requirement for Rule 25 (Injunction Against Harassment) and Rule 26 (Injunction Against Workplace Harassment.)
32. R-16-0026 Mr. David Byers <i>Initial comments are due April 1, 2016</i> <i>Comments in the second round are due June 20, 2016</i>	ARPOP Rule 31 <input type="checkbox"/>	A.R.S. § 13-3602(D), requires a plaintiff, upon issuance of an Order of Protection, to request service of the order by city police, the county sheriff, or a constable, depending on the type of court that issued the order. City police are to serve orders issued by city courts; constables are to serve orders issued by justice of the peace courts; and county sheriffs are to serve orders issued by superior courts. (The Injunction Against Harassment statute, A.R.S. § 12-1809(D), contains similar language.) A protective order becomes effective when it is served on the defendant. The petition states that for many plaintiffs, delivering the order to the correct law enforcement agency can be challenging. The plaintiff must first locate the correct agency and then deliver the paperwork to it. Determining the correct agency can be confusing, and transportation can be difficult. The proposed amendment to Rule 31 will allow a court to transmit documents for service of an Order of Protection or an Injunction Against Harassment based on a dating relationship to a cooperating law enforcement agency or a private process server under contract with a court. Petitioner states that this rule change would expedite service of orders, optimize communication between courts and law enforcement, and improve service to court customers.

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: February 24, 2016	This agenda item is for: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: ARREST WARRANT FORMS
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Presenter(s): Patrick Scott, AOC, Court Services Division

Discussion: In December, the AOC notified the courts of a new standardized warrant form, adopted by the Supreme Court, in Rule 41 ARCrP, Form 2, effective January 1, 2016. Since implementation, some stakeholders have raised legitimate concerns that the Court believes should be addressed before requiring strict compliance to the rule. To address those concerns the Administrative Office of the Courts (AOC) will convene a meeting of the original multi-agency workgroup and those who have requested changes to the form.

Patrick will discuss the concerns coming from the courts and ask the committee for additional input.

Recommended Action or Request (if any): N/A

Questions from the field

1. Can the Superior Court use a different header format than the approved form?
2. Courts want to know if it is permissible to add additional information about the type of bond ordered by the court such as non-bondable offenses. See A.R.S. § 13-3961.
3. Several police agencies, including the Greenlee, Yuma and Santa Cruz **County Sheriff's Offices, have asked the court to include the social security number of the defendant, is that permissible? Can any other identifying information be added?**
4. Probation departments would like to add a check box indicating that the defendant is on interstate compact, is that permissible?
5. AOC adds a print type advisement for law enforcement **after the judge's signature, is that permissible?**
6. Law enforcement wants the name of the judge ordering the warrant. **The form only has one line for "Judicial Officer/Clerk of Superior Court."** Can we add the name of the judge ordering the warrant at superior court?

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: February 24, 2016	This agenda item is for: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: ACJA § 5-206 FEE DEFERRALS AND WAIVERS
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Presenter(s): Patrick Scott

Discussion: Discussion of section E. Deferral (1) (b)

b. If the applicant presents an affidavit showing representation by a non-profit legal services organization that has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil matters.

Recommended Action or Request (if any): Information only.

5 – 206 Current language, E. Deferral.

1. b. If the applicant presents an affidavit showing representation by a non-profit legal services organization that has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil matters.

AOC suggested

If the applicant presents **EVIDENCE THAT THE INDIVIDUAL IS A CLIENT OF** ~~an affidavit showing representation by~~ a non-profit legal services organization that has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil matters.

Legal Aid additions

If an applicant presents evidence that the individual is a client of a non-profit legal services organization ~~that has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil matters.~~ **A LEGAL SERVICES ATTORNEY'S NAME ON THE PLEADINGS, A NOTICE OF APPEARANCE, USE OF A LEGAL SERVICES PROGRAM'S PLEADING PAPER OR A STATEMENT OF RECEIPT OF LEGAL SERVICES IS SUFFICIENT EVIDENCE OF THE RELATIONSHIP.**

The problem is clinics vs. clients

Alternative suggestion

Evidence that the applicant has qualified for and received assistance from a non-profit legal services organization that has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil matters.

A.R.S. Sup.Ct.Rules, Rule 42, Rules of Prof.Conduct, ER 1.2

ER 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer

Currentness

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Credits

Amended June 9, 2003, effective Dec. 1, 2003.

Rule 11. Signing Pleadings, Motions, and Other Documents; Representations to the Court; Sanctions; Assisting Filing by Self-Represented Person

(d) Assisting Filing by Self-Represented Person. An attorney may help draft a pleading, motion, or other document filed by an otherwise self-represented person, and the attorney need not sign that pleading, motion, or other document. In providing such drafting assistance, the attorney may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which case the attorney must make an independent reasonable inquiry into the facts.

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: February 24, 2016	This agenda item is for: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: LEGISLATIVE UPDATE
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Presenter(s): Jerry Landau, Government Affairs Director

Discussion: Mr. Landau will provide an update regarding bills of interest to limited jurisdiction courts.

Recommended Action or Request (if any): Information only.

Committee on LJC

Posted Calendars and Committee Hearings

H2032: SPEED LIMITS; LOCAL AUTHORITY

Calendar:2/24 House Third Reading

H2154: FAILURE TO APPEAR; ARREST; FINGERPRINTING

Hearing:Senate Public Safety, Military & Technology (Wednesday 02/24/16 at 9:00 AM, Senate Rm. 1)

H2287: PRESIDING CONSTABLE; SELECTION; DUTIES

Calendar:2/24 House Third Reading

H2375: CRIME VICTIMS' RIGHTS; FACILITY DOG

Hearing:Senate Judiciary (Thursday 02/25/16 at 10:00 AM, Senate Rm. 109)

H2376: VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS

Hearing:Senate Judiciary (Thursday 02/25/16 at 10:00 AM, Senate Rm. 109)

S1510: JUDICIAL PRODUCTIVITY CREDITS; CALCULATION; SALARY

Calendar:2/24 Senate COW

Bill Summaries

H2032: SPEED LIMITS; LOCAL AUTHORITY

A local authority is permitted to increase or decrease the reasonable and safe maximum speed limit on streets that are adjacent to or otherwise surrounding school grounds or public parks, instead of only streets adjacent to school grounds.

ARS Titles Affected: 28

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

H2032 Daily History

Date Action

SPEED LIMITS; LOCAL AUTHORITY 2/23 House COW approved.

SPEED LIMITS; LOCAL AUTHORITY 2/22 from House rules okay.

SPEED LIMITS; LOCAL AUTHORITY 2/17 from House jud do pass.

SPEED LIMITS; LOCAL AUTHORITY 1/11 referred to House jud.

H2122: TECH CORRECTION; TECHNICAL REGISTRATION BOARD

Minor change in Title 32 (Professions and Occupations) related to the Board of Technical Registration. Apparent striker bus.

ARS Titles Affected: 32

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

An adopted House transportation and infrastructure strike everything amendment excludes the suspension of a person's driver license as a punishment for the failure to appear in court from a citation due to photo enforcement system.

H2122 Daily History

Date Action

TECH CORRECTION; TECHNICAL REGISTRATION BOARD 2/10 from House trans-inf with amend #4158.

TECH CORRECTION; TECHNICAL REGISTRATION BOARD 2/9 House trans-inf amended; report awaited.

TECH CORRECTION; TECHNICAL REGISTRATION BOARD 2/2 referred to House trans-inf.

H2154: FAILURE TO APPEAR; ARREST; FINGERPRINTING

The "booking agency" (defined as the county sheriff or municipal law enforcement agency), instead of the arresting authority, is required to take legible ten-print fingerprints of all persons arrested for specified offenses. If a person is summoned to court as a result of an indictment or complaint for those offenses, the court is required to order the person to appear before the county sheriff and provide legible ten-print fingerprints. If a person is arrested by a municipal law enforcement agency for one of those

offenses that is a misdemeanor offense, the person is required to appear before that agency and provide legible ten-print fingerprints. Effective January 1, 2017. AS PASSED HOUSE.

ARS Titles Affected: 13 41

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

Adopted House Judiciary amendment authorizes the court to issue a warrant for the defendant's arrest if they fail to appear in court before the designated date if they have given their written promise to appear in court. Defines "summoned" as a written promise to appear by the defendant on a uniform traffic ticket and complaint. Strikes "released from custody" as a requirement for fingerprints to be provided if a person is arrested for a misdemeanor offense by a city or town law enforcement agency. Clarifies the effect date is from and after December 31, 2016.

H2154 Daily History

Date Action

FAILURE TO APPEAR; ARREST; FINGERPRINTING 2/16 referred to Senate jud, pub-mil-tech.
FAILURE TO APPEAR; ARREST; FINGERPRINTING 2/11 passed House 59-0; ready for Senate.
FAILURE TO APPEAR; ARREST; FINGERPRINTING 2/10 House COW approved with amend #4072.
FAILURE TO APPEAR; ARREST; FINGERPRINTING 2/8 from House rules okay.
FAILURE TO APPEAR; ARREST; FINGERPRINTING 2/3 from House jud with amend #4072.
FAILURE TO APPEAR; ARREST; FINGERPRINTING 2/3 House jud amended; report awaited.
FAILURE TO APPEAR; ARREST; FINGERPRINTING 1/25 referred to House jud.

H2287: PRESIDING CONSTABLE; SELECTION; DUTIES

In each county in which there are four or more constables, the constables shall select by majority vote one constable to serve as the presiding constable. Establishes duties of the presiding constable, which include serving as the liaison between the constables and the county manager, assigning and managing clerical staff for constables, and assigning deputy constables.

ARS Titles Affected: 22

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

Adopted House MAPS amendment directs the county manager to appoint a presiding constable or associate presiding constable instead of the presiding judge of the superior court.

H2287 Daily History

Date Action

PRESIDING CONSTABLE; SELECTION; DUTIES 2/18 House COW approved with amend #4106.
PRESIDING CONSTABLE; SELECTION; DUTIES 2/16 from House rules okay.
PRESIDING CONSTABLE; SELECTION; DUTIES 2/4 from House mil-pub with amend #4106.
PRESIDING CONSTABLE; SELECTION; DUTIES 2/4 House mil-pub amended; report awaited.
PRESIDING CONSTABLE; SELECTION; DUTIES 1/21 referred to House mil-pub.

H2288: CONSTABLES; DUTIES; TRAINING; DISCIPLINE

Various changes to statutes relating to constables. The Constable Ethics Standards and Training Board is authorized to suspend a constable from performing his/her duties, with or without pay. If the Board determines that a constable has committed a criminal act, the Board must refer the investigation to the county attorney's office. A constable may seek judicial review of a final order suspending the constable in the superior court.

ARS Titles Affected: 22

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

An adopted House Military Affairs and Public Safety amendment enacts salary specifications for constables in precincts with an average of one hundred or fewer total documents served per year and in precincts with an average of more than one hundred total documents served per year. Mandates that the board of supervisors withhold a constable's salary during the time

that a constable is suspended without pay.

An adopted Bowers Floor Amendment clarifies that the constable ethics standards and training board cannot suspend a constable with or without pay for more than 30 consecutive days for each incident of inappropriate behavior.

H2288 Daily History

Date Action

CONSTABLES; DUTIES; TRAINING; DISCIPLINE 2/22 House COW approved with amend #4034 and floor amend #4471.
CONSTABLES; DUTIES; TRAINING; DISCIPLINE 2/8 from House rules okay.
CONSTABLES; DUTIES; TRAINING; DISCIPLINE 1/28 from House mil-pub with amend #4034.
CONSTABLES; DUTIES; TRAINING; DISCIPLINE 1/28 House mil-pub amended; report awaited.
CONSTABLES; DUTIES; TRAINING; DISCIPLINE 1/25 referred to House mil-pub.

H2375: CRIME VICTIMS' RIGHTS; FACILITY DOG

The court is required to allow a victim who is under 18 years of age the opportunity to have a "facility dog" (defined) accompany the victim while testifying in court, and is authorized to allow a victim who is 18 years of age or more or a witness to use a facility dog. A party seeking the use of a facility dog is required to file a notice with the court that includes specified information. AS PASSED HOUSE.

ARS Titles Affected: 13

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

Adopted substitute Farnsworth floor amendment requires that the court must allow a victim who is under eighteen year of age to have a facility dog, if available, accompany the victim while testifying in court. Requires the name of the person or entity who certified the dog to also be included with the noticed filed by the party seeking the use of a facility dog. Mandates that evidence also be the notice that the facility dog is insured. The court may allow a victim who is eighteen years of age or more or a witness to use a facility dog and that to ensure that the presence of a facility dog.

The court must instruct the jury on the role of the facility dog and that the facility dog is a trained animal and further that the dog assisting a victim or a witness should not influence the jury or is not a reflection on the truthfulness of any testimony that is offered by the victim or witness.

H2375 Daily History

Date Action

CRIME VICTIMS' RIGHTS; FACILITY DOG 2/16 referred to Senate jud.
CRIME VICTIMS' RIGHTS; FACILITY DOG 2/4 passed House 57-0; ready for Senate.
CRIME VICTIMS' RIGHTS; FACILITY DOG 2/3 House COW approved with floor amend #4065.
CRIME VICTIMS' RIGHTS; FACILITY DOG 1/28 retained on House COW calendar.
CRIME VICTIMS' RIGHTS; FACILITY DOG 1/27 stricken from House consent calendar by Farnsworth.
CRIME VICTIMS' RIGHTS; FACILITY DOG 1/26 stricken from House consent calendar by Friese.
CRIME VICTIMS' RIGHTS; FACILITY DOG 1/26 from House rules okay.
CRIME VICTIMS' RIGHTS; FACILITY DOG 1/25 to House consent calendar.
CRIME VICTIMS' RIGHTS; FACILITY DOG 1/20 from House jud do pass.
CRIME VICTIMS' RIGHTS; FACILITY DOG 1/19 referred to House jud.

H2376: VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS

The rights enumerated in the Victims' Bill of Rights belong to the victim. The victim has the right to present evidence or information and to make an argument to the court, personally or through counsel, at any proceeding to determine the amount of restitution. Contains a legislative intent section. AS PASSED HOUSE.

ARS Titles Affected: 13

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

An adopted Farnsworth Floor Amendment grants the victim of a juvenile offense or the victim's counsel the right to make an argument, present information or present evidence at any resitution proceeding, states that the rights provided for in the Constitution, statute and court rules also belong to the victim of a juvenile offense, and removes the requirement for the court

to order restitution that is stipulated to in a plea agreement.

H2376 Daily History

Date Action

VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS 2/16 referred to Senate jud.

VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS 1/28 House COW approved with floor amend #4036. Passed House 57-0; ready for Senate.

VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS 1/27 stricken from House consent calendar by Farnsworth.

VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS 1/26 from House rules okay.

VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS 1/25 to House consent calendar.

VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS 1/20 from House jud do pass.

VICTIM RESTITUTION; STIPULATED AMOUNT; HEARINGS 1/19 referred to House jud.

H2591: CIVIL TRAFFIC VIOLATIONS; ALTERNATIVE SERVICE

A person's driving privileges cannot be suspended or revoked as a result of a citation that is issued following the completion of alternative service of process for a photo enforcement violation.

ARS Titles Affected: 28

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

H2591 Daily History

Date Action

CIVIL TRAFFIC VIOLATIONS; ALTERNATIVE SERVICE 2/18 from House gov-higher ed do pass.

CIVIL TRAFFIC VIOLATIONS; ALTERNATIVE SERVICE 2/4 referred to House gov-higher ed.

H2593: INTERSECTION; DEFINITION

For the purposes of traffic and vehicle regulation, the definition of "intersection" includes the area within a crosswalk or beyond a designated stop line if a stop line, yield line or crosswalk is designated on the roadway, and does not include the junction of an alley or driveway with a roadway unless controlled by a traffic control device.

ARS Titles Affected: 28

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

H2593 Daily History

Date Action

INTERSECTION; DEFINITION 2/17 from House trans-inf do pass.

INTERSECTION; DEFINITION 2/9 referred to House trans-inf.

S1057: CRIMES; CULPABLE MENTAL STATE; REQUIREMENT

Beginning January 1, 2017, if a statute classifies an offense as a misdemeanor or felony and does not expressly prescribe a culpable mental state that is sufficient for commission of the offense, the culpable mental state is intentional, except for drug offenses in which case the culpable mental state required is knowingly. Some exceptions, including for sexual offenses, driving under the influence offenses, a moving traffic violation or a violation involving public health and safety included in Title 36 (Public Health and Safety). Beginning January 1, 2017, if a municipality adopts a new ordinance defining a strict liability offense, the ordinance must expressly prescribe that it is a strict liability offense. If the ordinance does not expressly prescribe that it is a strict liability offense, the culpable mental state is intentional, except for misdemeanor drug offenses in which case the culpable mental state required is knowingly. Does not apply to a municipal ordinance that involves a traffic violation, a building code violation or a food or health and safety code violation. AS PASSED SENATE.

ARS Titles Affected: 9

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

Adopted Government Committee amendment clarifies that the offense as a misdemeanor or felony and intentional the culpable mental state is knowingly. Expands exemption to include a violation prescribed in title 28, chapter 4, and a violation prescribed in chapter 14 or 35.1 of the title.

Adopted Kavanagh Floor Amendment specifies any new statute or ordinance adopted on or after January 1, 2017 must either assign a culpable mental state or expressly prescribe that it is a strict liability offense.

S1057 Daily History

Date Action

CRIMES; CULPABLE MENTAL STATE; REQUIREMENT 2/22 passed Senate 19-10; ready for House.
CRIMES; CULPABLE MENTAL STATE; REQUIREMENT 2/18 Senate COW approved with amend #4201 and floor amend #4371.
CRIMES; CULPABLE MENTAL STATE; REQUIREMENT 2/16 from Senate rules okay.
CRIMES; CULPABLE MENTAL STATE; REQUIREMENT 2/11 from Senate gov with amend #4201.
CRIMES; CULPABLE MENTAL STATE; REQUIREMENT 1/20 Senate gov held.
CRIMES; CULPABLE MENTAL STATE; REQUIREMENT 1/11 referred to Senate gov.

S1228: DUI; DRUGS; IGNITION INTERLOCK REQUIREMENT

The requirement for a person convicted of a violation of driving under the influence (DUI) or aggravated DUI to equip any motor vehicle the person operates with a certified ignition interlock device applies only if the DUI violation involved intoxicating liquor. The court is authorized to order a person convicted of a DUI or aggravated DUI that does not involve intoxicating liquor to equip any motor vehicle the person operates with a certified ignition interlock device. Conviction of driving a motor vehicle while under the influence of a drug and/or vapor releasing substance is removed from the list of grounds for mandatory revocation of a driver license. Effective January 1, 2017. AS PASSED SENATE.

ARS Titles Affected: 28

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

Adopted Transportation strike everything amendment allows the court to order a person who is convicted if a violation of the section that does not involve intoxicating liquor to equip a motor vehicle the person operates with a certified ignition interlock device. Directs the department to require the certified ignition interlock device on report of the conviction. Authorizes the court to also be able to order the person to equip any motor vehicle with an ignition interlock device for more than twelve months beginning on the date of reinstatement of the person's driving receipt of the report of conviction. Strikes the subsection requiring the department to remove the requirement that the person maintain a functioning certified ignition interlock device if the person is only convicted of a violation of driving with any drug metabolite in the person's body and completes alcohol or other drug screening required and the court determines that no alcohol education or treatment is required. Adds "if the violation involved intoxicating liquor" as a description of a violation that requires an ignition lock with conviction in all subsections.

Adopted Rules amendment to the adopted strike everything amendment clarifies the ignition interlock requirement to be that of the ignition interlock device and specifies the criteria fall under the subsection, not paragraph. Strictly technical.

S1228 Daily History

Date Action

DUI; DRUGS; IGNITION INTERLOCK REQUIREMENT 2/18 passed Senate 29-0; ready for House.
DUI; DRUGS; IGNITION INTERLOCK REQUIREMENT 2/17 Senate COW approved with amend #4156 and the rules tech amendment.
DUI; DRUGS; IGNITION INTERLOCK REQUIREMENT 2/16 from Senate rules with a technical amendment.
DUI; DRUGS; IGNITION INTERLOCK REQUIREMENT 2/10 from Senate trans with amend #4156.
DUI; DRUGS; IGNITION INTERLOCK REQUIREMENT 1/21 referred to Senate trans.

S1241: PHOTO RADAR PROHIBITION; STATE HIGHWAYS

The state and local authorities are prohibited from using a photo enforcement system on a state highway to identify violators of traffic control devices and speed regulations. Statute authorizing photo enforcement on state highways under certain circumstances is repealed.

ARS Titles Affected: 28

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

S1241 Daily History

Date Action

PHOTO RADAR PROHIBITION; STATE HIGHWAYS 2/15 passed Senate 16-12; ready for House.
PHOTO RADAR PROHIBITION; STATE HIGHWAYS 2/11 Senate COW approved.
PHOTO RADAR PROHIBITION; STATE HIGHWAYS 2/2 from Senate rules okay.
PHOTO RADAR PROHIBITION; STATE HIGHWAYS 2/1 stricken from Senate consent calendar by Pierce.

PHOTO RADAR PROHIBITION; STATE HIGHWAYS 2/1 to Senate consent calendar.
PHOTO RADAR PROHIBITION; STATE HIGHWAYS 1/27 from Senate trans do pass.
PHOTO RADAR PROHIBITION; STATE HIGHWAYS 1/26 Senate trans do pass; report awaited.
PHOTO RADAR PROHIBITION; STATE HIGHWAYS 1/21 referred to Senate trans.

S1257: MISCONDUCT INVOLVING WEAPONS; PUBLIC PLACES

A person who possesses a valid concealed weapons permit is exempt from the prohibition on carrying a concealed weapon in a public establishment other than a vehicle or craft or at a public event. Some exceptions, including for public establishments or events that are a "secured facility" (defined), that are the licensed premises of a liquor licensee, or that are an educational institution.

ARS Titles Affected: 13

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

Adopted amendment expands exceptions from allowing firearms in public places to also include facilities operated by the Arizona state hospital.

S1257 Daily History

Date Action

MISCONDUCT INVOLVING WEAPONS; PUBLIC PLACES 2/15 retained on Senate COW calendar.
MISCONDUCT INVOLVING WEAPONS; PUBLIC PLACES 2/9 from Senate rules okay.
MISCONDUCT INVOLVING WEAPONS; PUBLIC PLACES 2/4 from Senate gov with amend #4086.
MISCONDUCT INVOLVING WEAPONS; PUBLIC PLACES 1/26 referred to Senate gov.

S1295: DUI; WATERCRAFT; MEDICAL PRACTITIONER; AUTHORIZATION

A person using a drug prescribed by a licensed medical practitioner "who is authorized to prescribe the drug," instead of who is licensed under specified chapters of statute, is not guilty of violating the prohibition on operating a motorized watercraft or vehicle while there is any drug or its metabolite in the person's body.

ARS Titles Affected: 5 28

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

S1295 Daily History

Date Action

DUI; WATERCRAFT; MEDICAL PRACTITIONER; AUTHORIZATION 2/18 referred to House jud.
DUI; WATERCRAFT; MEDICAL PRACTITIONER; AUTHORIZATION 2/11 passed Senate 28-1; ready for House.
DUI; WATERCRAFT; MEDICAL PRACTITIONER; AUTHORIZATION 2/9 from Senate rules okay.
DUI; WATERCRAFT; MEDICAL PRACTITIONER; AUTHORIZATION 2/8 to Senate consent calendar.
DUI; WATERCRAFT; MEDICAL PRACTITIONER; AUTHORIZATION 2/4 from Senate jud do pass.
DUI; WATERCRAFT; MEDICAL PRACTITIONER; AUTHORIZATION 1/26 referred to Senate jud.

S1510: JUDICIAL PRODUCTIVITY CREDITS; CALCULATION; SALARY

The formula for determining the total judicial productivity credits of each court, which is used to determine the annual salary of each justice of the peace, is repealed and replaced. Beginning July 1, 2017, the Arizona Supreme Court is required to annually perform the calculations in each justice court for the previous 12-month period ending on June 30 and report the total judicial productivity credits to the applicable board of supervisors by November 1 of each year. Any adjustment to the salary of a justice of the peace is effective on the following January 1.

ARS Titles Affected: 22

NOTE: Measure was originally sponsored by the member(s) shown here. If it has been changed by amendment the sponsor(s) may or may not still support the measure.

General Comments (all lists):

Authorizes parole for a person who committed an offense before attaining eighteen years of age who was sentenced to life in prison after serving twenty-five years of the sentence and must maintain on parole for life.

S1510 Daily History

Date Action

JUDICIAL PRODUCTIVITY CREDITS; CALCULATION; SALARY 2/23 from Senate rules okay.
JUDICIAL PRODUCTIVITY CREDITS; CALCULATION; SALARY 2/22 from Senate jud with amend #4409.
JUDICIAL PRODUCTIVITY CREDITS; CALCULATION; SALARY 2/18 Senate jud amended; report awaited.
JUDICIAL PRODUCTIVITY CREDITS; CALCULATION; SALARY 2/2 referred to Senate jud.

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