

AGENDA

FOR THE COMMITTEE ON LIMITED JURISDICTION COURTS

Wednesday, October 28, 2015

10:00 a.m. to 3:00 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: **0832**

<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
10:05	Approval of August 26, 2015 Meeting Minutes <i>Action Item</i>	Judge Riojas
Business Items and Potential Action Items		
10:10	Domestic Violence Offender Treatment Workgroup	Judge Wendy Million <i>Tucson City Court</i>
10:30	R-14-0027: Rule 11, Rules of Procedure for Eviction Actions	Judge Mark Armstrong (Ret.) <i>Supreme Court Staff Attorney</i>
11:15	Mesa and Glendale Rule 11 Pilot Project	Judge Elizabeth Finn <i>Glendale Municipal Court</i> Paul Thomas <i>Mesa Municipal Court</i>
11:30	2016 Meeting Schedule	Susan Pickard
11:35	SB1116 and Community Restitution	Marretta Mathes <i>AOC Sr. Court Operations Specialist</i>
☞ Lunch ☞		
1:00 p.m.	2015 Rules Agenda	Mark Meltzer <i>AOC Senior Policy Analyst</i>
1:30	Legislative Update	Jerry Landau <i>AOC Government Affairs Director</i>
2:00	Call to the Public	Judge Riojas
	Next Meeting: TBD	
	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, August 26, 2015

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

Conference Room 119B

1501 West Washington Street

Phoenix, Arizona 85007

Present: Judge Steven McMurry, and Paul Thomas (proxy for Judge J. Matias “Matt” Tafoya from 11:00 a.m. to 12:00 p.m.)

Telephonic: Judge Antonio Riojas (chair), Judge Timothy Dickerson, Chief Dan Doyle, Julie Dybas, Judge Maria Felix, Judge Elizabeth R. Finn, Judge Eric Jeffery, Judge Dorothy Little, Marla Randall, Judge J. Matias “Matt” Tafoya (from 10:00 a.m. to 11:00 a.m.), and Sharon S. Yates

Absent/Excused: Pete Bromley, Jeffrey Fine, Christopher Hale, Judge James William Hazel, Jr., Judge Arthur Markham, and Laine P. Sklar

Presenters/Guests: Jennifer Greene, Marretta Mathes, Patrick Scott, 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 August 26, 2015, meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order at 10:04 a.m. by Judge Antonio Riojas, Chair. Judge Riojas announced the appointment of new members, Judge Elizabeth Finn and Laine Sklar, and welcomed them to the committee.

B. Approval of Minutes

The draft minutes from the April 29, 2015, meeting of the LJC were presented for approval.

Motion: To approve the April 29, 2015, meeting minutes, as presented. **Action:** Approve. **Moved by:** Judge Maria Felix. **Seconded by:** Judge Dorothy Little. Motion passed unanimously.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Language Access Update

Amy Wood, Court Services Division, Case Flow Management, introduced the new language access coordinator, David Svoboda, and reviewed changes to the language access plans. Highlights of Ms. Wood’s presentation included:

- New template for language access plans (LAP) were sent out
- A new language access complaint form and process was created

- Access to court-ordered services was included in the LAP for persons with limited English proficiency (LEP)
- The number of resources was expanded on the Interpreter Information webpage

Next, Ms. Wood discussed the proposed language interpreter credentialing program that is in keeping with Goal 1 from the Strategic Agenda “to develop strategies for increasing the availability and quality of interpreters.” The proposed program would establish tiered credentialing for all individuals providing interpretation services within the courtroom. She described the program’s recommended elements, structure, expectations, development timeline and budgetary impact.

- Tier 1, would establish ethical standards and ensure interpreters have a basic understanding of courts, and a command of English and the target language. The National Center for State Courts’ (NCSC) written examination would have to be passed.
- Tiers 2-4, would require interpreters to successfully complete all steps in Tier 1, and test interpreting skills using NCSC’s oral examination, which evaluates sight, consecutive and simultaneous interpretation. The different tiers would be associated with a pass rate on the oral examination.

It is anticipated that courts may likely receive requests to pay for credentialing and test fees. Ms. Wood’s proposal envisions that courts would use their preferred qualified interpreters and handle complaints locally, while the AOC would manage the program’s registration, training, and testing. She sought feedback from the committee and requested approval to move forward with the credentialing program in concept.

Member comments included:

- Several members raised concerns about the costs for courts and the implementation timeline. The program would hopefully begin in early 2016 and apply to part-time and full-time interpreters.
- Members recommended phasing in the program and starting with only court staff interpreters, followed by registry interpreters and contract interpreters, then IRC and Language Line, and finally rare language interpreters.
- Members suggested waiving the overview of courts, if a staff interpreter has worked in the court for a certain number of years.
- How can we encourage contract interpreters to obtain the credentials? How would courts communicate that they will be using credentialed over non-credentialed interpreters?
- Would the program influence the use of IRC and Language Line interpreters?
- Members inquired whether the tiered program could result in an appellate issue regarding equal protection when multiple parties require an interpreter for the same rare language and each is provided with an interpreter with a different level of credentialing.

Motion: To support moving forward in general subject to the committee's concerns.
Action: Approve. **Moved by:** Julie Dybas. **Seconded by:** Judge Timothy Dickerson.
Motion passed unanimously.

B. Motor Vehicle Department (MVD) Code 45

Judge Dorothy Little discussed the use of MVD Code 45, which may allow law enforcement to withdraw, cancel or dismiss civil traffic citations in the absence of a prosecutor at the hearing. She inquired whether the code should be eliminated as an acceptable disposition code.

Members agreed that if a law enforcement officer can issue the citation, the officer should also be able to withdraw the citation without needing to be a party to the case.

C. Evidence Based Pretrial in Arizona Courts (*item out of order*)

Kathy Waters, AOC Adult Probation Division Director, provided an overview of Arizona pretrial services describing pretrial foundational concepts intended to balance individual rights with the need to protect the public, and assist judges.

Ms. Waters discussed how the AOC has been working on establishing structure for pretrial services, and expanding the use of evidence-based pretrial practices by:

- applying new research;
- implementing validated pretrial risk assessments; and
- establishing pretrial services in adult probation departments as well as a model for limited jurisdiction courts.

Ms. Waters reported that the Arizona Judicial Council recently authorized statewide implementation of the Arnold Foundation's Public Safety Assessment (PSA), which is a pretrial risk assessment tool that has been test-piloted in Arizona since last year. The PSA is intended to help judges determine release conditions during the pretrial stage by providing additional information that uses non-interview factors and predicts failure to appear, new criminal activity, and the risk of new violent criminal activity. The AOC is currently working on statewide training and education, and preparing the remaining counties to use the PSA.

Member comments included:

- How are previous failures to appear determined when rule warrants are not currently captured in NCIC? According to Patrick Scott, the AOC has been working with the Department of Public Safety to implement a new repository that would capture and retain historical information about the entered warrants.
- Paul Thomas described some challenges when implementing the model in limited jurisdiction courts, including the significant staff resources required to scan criminal history reports before hearings and concerns about the staff's level of education. However, the tool provides extensive reporting capabilities and is useful for pretrial services and officer safety.

D. Determining Eligibility for Appointment of Counsel under Rule 6, Arizona Rules of Criminal Procedure (*item out of order*)

David Withey, AOC Chief Counsel, discussed how a defendant might be determined to be indigent for the purpose of representation after a limited jurisdiction court's determination of non-indigence was overturned by the superior court. Mr. Withey noted that indigence under Criminal Rule 6.4 refers to the financial inability to employ counsel and requires the defendant to be examined under oath by the judge regarding the defendant's financial resources; however, the examination may often be expedited and limited to the financial questionnaire. He inquired whether additional guidance should be provided in the LJC bench book, and if the current financial questionnaire should be amended.

Members did not feel amendments were necessary because the practice is not to deny the appointment of counsel.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

Judge Finn and Paul Thomas announced that Mesa Municipal Court and Glendale Municipal Court have been working as Superior Court sites to facilitate Rule 11 hearings for misdemeanor cases. They asked to be added to next agenda.

B. Next Committee Meeting Date

Wednesday, October 28, 2015
10:00 a.m. to 3:00 p.m.
State Courts Building, Room 119
1501 West Washington Street
Phoenix, Arizona 85007

Meeting adjourned at 12:02 p.m.

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: October 28, 2015	This agenda item is for: [x] Formal Action/Request [] Information Only [] Other	Subject: COURT APPROVAL OF DOMESTIC VIOLENCE OFFENDER TREATMENT PROGRAMS
--	---	---

Presenter: Judge Wendy Million, Tucson City Court

Discussion: [SB1035](#), a bill authorizing courts to approve domestic violence offender treatment programs, was passed and signed into law during the 2015 legislative session. The bill amended A.R.S. § 13-3601.01 and takes effect January 1, 2016. Court approval of a DV offender treatment program is subject to rules adopted by the Arizona Supreme Court.

After the bill was signed, a workgroup was formed to draft language for a code section to establish standards for courts to apply in approving programs not otherwise approved by Arizona Department of Health Services (ADHS), a probation department, or the U.S. Department of Veterans Affairs. The 14-member workgroup includes limited jurisdiction court judges, prosecutors, non-profit victim advocates, a superior court probation officer, a retired licensed behavioral health professional, and an ADHS representative.

Judge Million will present a draft code section and will seek comment and a recommendation from the Limited Jurisdiction Committee. The workgroup will also circulate the proposal to the Committee on Superior Court and the Committee on the Impact of Domestic Violence and the Courts before submitting a final draft to the Arizona Judicial Council in December.

Recommended Action or Request: Recommend adoption of a proposed code section that sets standards for courts to follow in approving domestic violence offender treatment programs that are not otherwise approved by the Arizona Department of Health Services, a probation department, or the U.S. Department of Veterans Affairs.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet

Part 5: Court Operations

Chapter 2: Programs and Standards

Section 5-209: Court-Approved Domestic Violence Offender Treatment Programs

1. **Effect of the proposal:** The purpose of this section is to implement the provisions of Laws 2015, Ch. 194, § 1, which authorizes courts to approve facilities that provide domestic violence offender treatment programs. This section establishes minimum standards that a court must follow when approving an alternative provider of domestic violence offender treatment that is not otherwise approved by the Arizona Department of Health Services (ADHS), a probation department, or the U.S. Department of Veterans Affairs (VA).
2. **Significant new or changed provisions:** The proposed code section is entirely new. Until passage of SB1035 in the 2015 legislative session, courts were required to send defendants convicted of misdemeanor domestic violence offenses to facilities approved by the Arizona Department of Health Services or a probation department. A.R.S. § 13-3601.01, as amended, now allows courts to approve domestic violence offender treatment programs, subject to rules established by the Arizona Supreme Court. Another bill passed in the 2015 session added facilities approved by the U.S. Department of Veterans Affairs.

Following the signing of the bill, a workgroup was formed to draft language for a code section to establish standards for courts to apply in approving programs not otherwise approved by ADHS, a probation department, or the VA. The workgroup was comprised of judges from both urban and rural courts, prosecutors, non-profit advocates, a superior court probation officer, a retired licensed behavioral health professional, and an ADHS representative.

The SB1035 fact sheet offered no explanation for amending A.R.S. § 13-3601.01. Without knowing the legislature's intent, the workgroup surmised that rural parts of Arizona have fewer ADHS-approved providers, and this bill may have been an attempt to increase the number of eligible programs to which domestic violence offenders could be sent. In addition, existing statutory language—approval by “a probation department”—is ambiguous. Most domestic violence misdemeanants are convicted in limited jurisdiction courts. Many limited jurisdiction courts do not have access to probation services, but some may contract with superior court probation departments or private probation departments. It is unclear from the statute whether probation department approval applies to superior court departments, private probation departments, or both.

Early in its process, the workgroup analyzed the current ADHS regulations and A.R.S. § 13-3601.01. The workgroup met three times between August and October 2015. David Withey, AOC chief legal counsel, assisted the workgroup in understanding the requirements of Title 32, A.R.S., regarding the scope of counseling or treatment that can be performed only by a licensed behavioral health specialist.

The workgroup carefully considered this information in drafting a code section proposal. The workgroup recognized the merits of treatment programs provided by licensed behavioral health specialists and had no wish to circumvent these programs. But to overcome the issue of lack of ADHS-approved programs in rural areas, the workgroup was pressed to consider other options.

The workgroup felt it was important to include a safeguard that would require careful deliberation about the appropriateness of a particular program for a specific defendant. Therefore, the draft proposal includes a requirement that the judge make a finding on the record as to why a program offered by an alternative provider is more appropriate for a specific defendant than an ADHS-approved program.

As the workgroup's draft proposal evolved, three themes became apparent. The first focused on a differential approach, depending on the relationship between the defendant and the victim. The second concentrated on providing access to appropriate services in rural communities, and the third aimed at ensuring ongoing evaluation of alternative providers.

The differential approach can be identified by a closer look at A.R.S. § 13-3601, the statute that defines domestic violence. Under this statute, any one of seven relationships, in combination with any one of 30 enumerated crimes, constitutes "domestic violence." The statutory relationships include not only intimate partners but also extend to family relationships and roommates, relationships that are far outside the realm of any research by domestic violence treatment program experts. This proposed code section, if adopted, will allow a judicial officer to sentence a defendant who has committed domestic violence in the context of a non-intimate partner relationship to the most appropriate program. Such a program could take the form of therapy, anger management, or family mediation, all the while ensuring that the issue of domestic violence, in the context of the defendant's particular relationship to the victim, is addressed and reported to the court.

Domestic violence committed against an intimate partner can pose higher risks of re-offense or lethality. The "power and control" dynamic—where the defendant feels a need to exercise power and authority over the intimate partner, reinforced by physical abuse or threats of physical abuse—is often present. Domestic violence in the context of an intimate relationship is subject to stricter standards under this proposed code, yet not limited to licensed behavioral health professionals. This code allows a judicial officer to refer a defendant to an alternative program and still assure that the issue of intimate partner violence is addressed in an appropriate manner.

Many domestic violence offender programs are based in psychoeducation, rather than focused on therapy. These models do not assume that domestic violence is caused by mental or behavioral health problems, substance use, anger, stress, or dysfunctional relationships. This type of curriculum concentrates on providing group-facilitated exercises that challenge a person's perception of entitlement to control and dominate an intimate partner. The curriculum in this type of course is designed to help abusers look more closely at their actions, intentions, and beliefs and the effect their actions have on their partners and others. By helping them get to the core of their actions and beliefs, this technique focuses on providing an improved and broadened

understanding of the causes and effects of the underlying problems experienced by offenders.

Many ADHS-approved providers rely on this type of curriculum as a best practice for domestic violence treatment in Arizona today. But because the nature of this curriculum is education-based instead of therapy-based, other professionals can and have taught these courses in other states and in several programs approved by probation departments in Arizona.

These psychoeducational programs have often been designed by victim service agencies or professionals working with input from victim services agencies to ensure that the curriculum is centered on keeping victims safe by changing the offender behavior. They are implemented as part of a coordinated community response that includes review hearings by the sentencing judge. Adoption of this code section has the potential to allow non-profit victim service agencies, with the appropriate training and personnel, in partnership with judges conducting compliance reviews, to offer offender programs in rural areas where ADHS providers are scarce.

This proposal retains important requirements from the ADHS regulations regarding the number of classes that a defendant who has an intimate partner relationship with the victim must attend. Regardless of whether the alternative provider is educating a non-intimate partner or intimate defendant, the provider must comply with specific notice, reporting, and recordkeeping requirements.

The purpose of domestic violence offender treatment is to hold offenders accountable, challenge their beliefs, and teach new skills that will facilitate changes in their behaviors. An offender treatment program also must be cognizant of safety issues in domestic violence cases, recognizing that in many cases, the defendant has continuing contact with the victim. Ensuring that alternative providers have experience, education, and training in issues relevant to the unique dynamics of domestic violence cases, while giving individual courts some options in determining alternative providers, will assure that defendants are held accountable for their behaviors while victims are kept safe.

If a judicial officer makes a finding that good cause exists to refer a defendant to an alternative provider, the judicial officer's adherence to this code ensures that the alternative provider is qualified to offer a program that is supported by research and addresses the issues of domestic violence.

3. **Committee actions and comments:** None yet received. This proposal will be presented to the Committee on Limited Jurisdiction Courts on October 28; the Committee on Superior Court on November 6; and the Committee on the Impact of Domestic Violence and the Courts on November 17.

4. **Controversial issues:**

In trying to make more options available in rural areas, the workgroup opted to propose a code section that does not require counseling or treatment by a licensed behavioral health specialist. Rather, an alternative provider can offer a program that

provides education to help abusive people look more closely at their actions, intentions and beliefs and the effect their actions have on their partners and others while keeping victims safe.

Directing a defendant to a program that is presented by a non-licensed provider could be controversial. But directing defendants only to programs provided by a licensed behavioral health professional defeats the goal of making more programs accessible in rural areas.

5. **Recommendation:** To recommend adoption of proposed ACJA § 5-209: Court-Approved Domestic Violence Offender Treatment Programs.

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 5: Court Operations

Chapter 2: Programs and Standards

Section 5-209: Court-Approved Domestic Violence Offender Treatment Programs

A. Definitions. In this section, the following definitions apply:

“Alternative provider” means an entity that offers a domestic violence offender program and is not otherwise approved by the Arizona Department of Health Services, a probation department, or the United States Department of Veterans Affairs.

“Court” means the superior court or any court of limited jurisdiction.

“Domestic violence” has the meaning given in A.R.S. § 13-3601.

“Domestic violence specialist” means a person who has specific training, knowledge, and experience in the fields of partner abuse, child abuse, sexual abuse, and the dynamics of violence and abuse; has at least six months of full-time work experience with domestic violence offenders or other criminal offenders; and uses a curriculum that is supported by research and has been specifically developed for domestic violence offenders;

“Intimate partner relationship” means a relationship between a defendant and a victim who, in the present or the past, have been married to each other; have lived together intimately; have had a romantic or sexual relationship with each other; have a child in common; or a relationship in which one person currently is pregnant with the other’s child.

B. Applicability. This code section applies to any court that approves an alternative domestic violence offender treatment provider that is not otherwise approved by the Arizona Department of Health Services, a probation department, or the United States Department of Veterans Affairs.

C. Purpose. The purpose of this section is to implement the provisions of Laws 2015, Ch. 194, § 1, which authorizes courts to approve facilities that provide domestic violence offender treatment programs. This section establishes minimum standards that a court must follow when approving an alternative provider that is not otherwise approved by the Arizona Department of Health Services, a probation department, or the United States Department of Veterans Affairs.

This section acknowledges that differential responses are appropriate, based on relationship between the defendant and the victim; creates access to appropriate services in rural communities, and ensures the on-going evaluation of alternative providers.

D. General Administration.

1. A court that orders a defendant to participate in domestic violence offender treatment must order the defendant to attend a program that is approved by the Arizona Department of

Health Services, a probation department, or the United States Department of Veterans Affairs, unless the court makes findings on the record that good cause exists to order the defendant to attend a program with an alternative provider.

2. A court that orders a defendant to attend a domestic violence offender program offered by an alternative provider must ensure that the program meets the minimum standards in subsection (F). If the defendant and the victim have an intimate partner relationship or if the defendant has a history of domestic violence within an intimate partner relationship, the court must ensure that the alternative provider's program also meets the additional standards defined in subsection (G). The attached Questionnaire for Alternative Domestic Violence Program Providers must be completed and submitted to the court by an authorized representative of the alternative provider.
3. If a court approves an alternative provider, the court must issue written approval to the provider. The court must reassess the program every 12 months and issue another written approval.
4. Where practicable, a court that sentences a defendant to a program offered by an alternative provider should conduct periodic review hearings to ensure program compliance and effectiveness.

E. Minimum Standards for All Court-Approved Alternative Providers. If the court approves an alternative provider, the court must ensure that the alternative provider:

1. Has a program description that includes a method for providing domestic violence education;
2. Provides domestic violence education, using a curriculum that is supported by published research;
3. Ensures that its program does not disproportionately or exclusively include one or more of the following:
 - a. Anger or stress management,
 - b. Conflict resolution,
 - c. Education or information about family violence, or
 - d. Education or information about domestic violence;
4. Ensures that its program emphasizes personal responsibility.
5. Complies with the notification, recordkeeping, and reporting requirements in subsection (H).

G. Additional Standards for Court-Approved Alternative Providers. If the defendant and the victim have had, in the present or the past, any of the following intimate partner relationships—married to each other; lived together intimately; a romantic or sexual relationship with each other; have a child in common; or one person currently is pregnant with the other’s child—or if the defendant has a history of domestic violence within an intimate partner relationship, then the court must ensure that the alternative provider’s program also meets the following criteria:

1. Provides documentation to the court that it has conducted domestic violence offender programs for at least one year;
2. Identifies domestic violence as a means of asserting power and control over another individual;
3. Uses a curriculum that is supported by published research and has been specifically developed for domestic violence offenders;
4. Does not require the participation of a victim of domestic violence;
5. Is not provided at a location where a victim of domestic violence is sheltered;
6. Includes individual classes, group classes, or a combination of individual and group classes that are:
 - a. Conducted by a domestic violence specialist who has licensed personnel in the field of human behavior available for consultation and direction, and
 - b. Documented in the defendant’s record.
7. Does not include more than 15 persons in group classes; and
8. Provides classes that meet the following minimum number and duration requirements:
 - a. The program includes, at a minimum, the following number of sessions, to be completed after the applicable offense for which the defendant was required to complete a domestic violence offender program:
 - i. For a first offense, 26 sessions;
 - ii. For a second offense, 36 sessions; and
 - iii. For a third offense or any subsequent offense, 52 sessions.
 - b. The duration of a session is:
 - i. For an individual session, not less than 50 minutes; and
 - ii. For a group session, not less than 90 minutes and not longer than 180 minutes.

H. Notices, Recordkeeping, and Reporting Requirements. The court must ensure that an alternative provider has developed, documented, and implemented policies and procedures that give notice to the defendant of the program's expectations, require the maintenance of specific records, and require specific reporting to the court regarding the defendant's progress.

1. Notices to Defendant. The provider's policies and procedures must include notices to the defendant of the following:
 - a. At the time of admission:
 - i. The process for a defendant to begin and complete the program;
 - ii. The timeline for a defendant to begin the program;
 - iii. The timeline for a defendant to complete the program, which cannot exceed 12 months;
 - iv. The criteria for successful completion of the program, including attendance, conduct, and participation requirements;
 - v. The consequences to the defendant if the defendant fails to successfully complete the program.
 - b. At the time of completion, an original of the defendant's certificate of completion that includes the required information in subsection H(2)(e).
2. Recordkeeping. The court must ensure that the alternative provider maintains the following records:
 - a. All notices to the defendant as identified in H(1);
 - b. Attendance records;
 - c. Records of individual classes;
 - d. Any reports submitted to the court;
 - e. A certificate of completion that includes:
 - i. The case number or identification number assigned to the defendant by the referring court or, if the provider has made three documented attempts to obtain the case number or identification number without success, the defendant's date of birth;
 - ii. The defendant's name;

- iii. The date of completion of the program;
 - iv. The name, address, and telephone number of the provider; and
 - v. The signature of an individual authorized to sign on behalf of the provider.
3. Reporting to the Court. The court must ensure that the alternative provider will submit a written report to the court that ordered the defendant into the program, within a timeline established by the referring court, when any of the following occurs:
- a. A defendant has not reported for admission to the program;
 - b. A defendant is ineligible or inappropriate for the program;
 - c. A defendant is admitted to the program;
 - d. A defendant is voluntarily or involuntarily discharged from the program;
 - e. A defendant fails to comply with the program; or
 - f. A defendant completes the program, including a copy of the defendant's certificate of completion that meets the requirements in subsection H(2)(e).

Questionnaire for Alternative Domestic Violence Program Providers

Program name _____

Address _____ Telephone _____

Authorized program representative _____

1. Describe your program, including a method for providing domestic violence education.
2. Does your program provide domestic violence education, using a curriculum that is supported by published research? YES___ NO___
3. Does your program address each of these topics?
 - a. Anger or stress management? YES___ NO___
 - b. Conflict resolution? YES___ NO___
 - c. Education or information about family violence? YES___ NO___ or
 - d. Education or information about domestic violence? YES___ NO___
 - e. Emphasize personal responsibility? YES___ NO___
4. If your program also provides classes for defendants who have committed intimate partner violence, does your program:
 - a. Have documentation to provide to the court that you have conducted domestic violence offender programs for at least one year? YES___ (Please attach to this form.) NO___
 - b. Identify domestic violence as a means of asserting power and control over another individual? YES___ NO___
 - c. Use a curriculum that is supported by published research and has been specifically developed for domestic violence offenders? YES___ NO___
 - d. Require the participation of a victim of domestic violence? NO___ YES___
 - e. Provide classes at a location where a domestic violence victim is sheltered? NO___ YES___
 - f. Include individual, group, or a combination of classes that:
 - i. Are conducted by a domestic violence specialist who has licensed personnel in the field of human behavior available for consultation and direction? (“Domestic violence specialist” means a person who has specific training, knowledge, and experience in the fields of partner abuse, child abuse, sexual abuse, and the dynamics of violence and abuse; has at least six months of full-

- time work experience with domestic violence offenders or other criminal offenders; and uses a curriculum that is supported by research and has been specifically developed for domestic violence offenders.) **YES**___ **NO**___
- ii. Are documented in the defendant's record? **YES**___ **NO**___
 - iii. Include more than 15 persons in group classes? **NO**___ **YES**___

5. To be considered for approval by the court as an alternative provider, you must meet the following requirements regarding notices, recordkeeping, and reporting.

NOTICES TO DEFENDANT. Your policies and procedures must include notices to the defendant of the following:

- a. At the time of admission:
 - i. The process for a defendant to begin and complete the program;
 - ii. The timeline for a defendant to begin the program;
 - iii. The timeline for a defendant to complete the program, which cannot exceed 12 months;
 - iv. The criteria for successful completion of the program, including attendance, conduct, and participation requirements;
 - v. The consequences to the defendant if the defendant fails to successfully complete the program.
- b. At the time of completion, an original of the defendant's certificate of completion that includes the required information in ACJA § 5-209(H)(2)(e).

RECORDKEEPING. Your program must maintain the following records:

- a. All notices to the defendant as identified in ACJA § 5-209(H)(1);
- b. Attendance records;
- c. Records of individual classes;
- d. Any reports submitted to the court;
- e. A certificate of completion that includes:
 - i. The case number or identification number assigned to the defendant by the referring court or, if the provider has made three documented attempts to obtain the case number or identification number without success, the defendant's date of birth;
 - ii. The defendant's name;
 - iii. The date of completion of the program;
 - iv. The name, address, and telephone number of the provider; and
 - v. The signature of an individual authorized to sign on behalf of the provider.

REPORTING. The program must submit a written report to the court that ordered the defendant into the program, within a timeline established by the referring court, when any of the following occurs:

- a. A defendant has not reported for admission to the program;
- b. A defendant is ineligible or inappropriate for the program;

- c. A defendant is admitted to the program;
- d. A defendant is voluntarily or involuntarily discharged from the program;
- e. A defendant fails to comply with the program; or
- f. A defendant completes the program, including a copy of the defendant's certificate of completion that meets the requirements in subsection ACJA § 5-209(H)(2)(e).

Will your program comply with all of the requirements for notices, recordkeeping, and reporting? YES_____ NO_____

6. To be considered for approval by the court as an alternative provider of programs for defendants who have committed intimate partner violence, you must meet the following requirements regarding sessions:

SESSIONS. If the defendant and the victim have an intimate partner relationship (as defined in ACJA § 5-209(A)) or if the defendant has a history of domestic violence within an intimate partner relationship, you must provide classes that meet the following minimum number and duration requirements:

- a. The program includes, at a minimum, the following number of sessions, to be completed after the applicable offense for which the defendant was required to complete a domestic violence offender program:
 - i. For a first offense, 26 sessions;
 - ii. For a second offense, 36 sessions; and
 - iii. For a third offense or any subsequent offense, 52 sessions.
- b. The duration of a session is:
 - i. For an individual session, not less than 50 minutes; and
 - ii. For a group session, not less than 90 minutes and not longer than 180 minutes.

Will your program comply with all of the requirements for sessions for defendants who have committed intimate partner violence? YES_____ NO_____

I certify that the above statements are true to the best of my knowledge.

By: _____ **Date** _____
 Authorized Program Representative

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: October 28, 2015	This agenda item is for: [X] Formal Action/Request [] Information Only [] Other	Subject: R-14-0027: PETITION TO AMEND RULE 11 OF THE RULES OF PROCEDURE FOR EVICTION ACTIONS
--	---	---

Presenter(s): Judge Mark Armstrong (Ret.), Staff Attorney

Discussion: The Petition to Amend Rule 11 of the Rules of Procedure for Eviction Actions (RPEA) envisions telephonic appearance by parties and witnesses in an eviction action. Comments have been filed by Judge Gerald Williams on behalf of the Maricopa County Justice Court Bench and Ellen Katz, William E. Morris Institute for Justice. The issues noted in the comments, other than terminology and readability, involve:

1. Statutory time standards
2. Equal protections for both parties
3. Practicality of a written request
4. Alignment of filing deadlines for the request for telephonic appearance, objection to plaintiff's request for telephonic appearance and the Answer as associated with the trial.

The question for this Committee is: can a middle-ground be found that allows amended language to move forward?

The Petitioner, commenters and members of the Arizona Committee on Access to Justice will be present at the meeting to answer questions.

Recommended Action or Request (if any): Motion to:

1. support adoption of the amendments to Rule 11 as
 - a. proposed in the petition,
 - b. proposed in the comment by Maricopa County Justice Court Bench, or
 - c. developed during this meeting,
2. establish a workgroup that includes members of this Committee and Arizona Committee on Access to Justice to create language based upon today's discussion, or
3. oppose adoption of amendments to Rule 11.

STAFF ATTORNEYS
COPY

COPY

FILED
JUL 24 2014
JANET JOHNSON
CLERK SUPREME COURT
BY:

1 Douglas C. Fitzpatrick
2 49 Bell Rock Plaza
3 Sedona, Arizona 86351
4 (928) 284-2190
5 Bar ID #005152
6 fitzlaw@sedona.net
7 Petitioner

BEFORE THE ARIZONA SUPREME COURT

8 PETITION TO AMEND RULE 11)
9 OF THE RULES OF PROCEDURE)
10 FOR EVICTION ACTIONS.)
11 _____)

Supreme Court No. R-14-0027

12 PURSUANT TO Rule 28 of the Rules of the Supreme Court, undersigned
13 petitioner submits the following proposed addition to Rule 11 of the Rules of Procedure
14 for Eviction Actions as set forth in Appendix A hereto.

15 Nonresident landlords are disadvantaged in eviction actions in Arizona because
16 there is no rule or authority which allows them to appear telephonically at eviction
17 hearings. While some courts permit telephonic appearances for nonresident landlords,
18 many do not.

19 Counsel for a nonresident landlord can hope that an expedited motion for leave to
20 appear telephonically will be granted but there are no guarantees that the Court will be
21 sympathetic to such motion because there is no rule or statute which authorizes
22 telephonic appearances.

23 If the Court denies a nonresident landlord's motion for leave to appear
24 telephonically, the landlord is left to make last-minute travel plans, committing
25 substantial time and money for an appearance which may take no more than a few
26 minutes. Depending on the domicile of the landlord, he may need to commit a full day
27
28

1 or more to make the trip to the court house. All the while, there is no way to know
2 whether the tenant will even appear at the hearing. Because of the accelerated nature of
3 the eviction process, a landlord may not know until one or two days prior to the hearing
4 whether the motion for leave to appear telephonically is granted or denied.
5

6 A rule which allows parties or witnesses to appear telephonically if no substantial
7 prejudice would result and if the court finds that, as to such parties or witnesses, they are
8 reasonably prevented from attending the hearing or that attendance in person would result
9 in a burdensome expense would serve the interests of justice. Nonresident landlords and
10 their counsel could file eviction actions with the knowledge and comfort that they
11 won't be put to the inconvenience, expense and hassle of needing to make last minute
12 travel plans and dealing with an upset to their personal and business calendars.
13
14

15 The drafters of the Rules of Family Law Procedure fashioned a rule, similar to
16 that being proposed, which allows for telephonic appearances by parties and witnesses
17 upon a showing that they are "reasonably prevented from attending the hearing" or that
18 "attendance in person at hearing or trial would be a burdensome expense..." *Rule 8[A]*
19 *and [B], Arizona Rules of Family Law Procedure.* The concept adopted for family law
20 cases makes sense in the context of eviction hearings.
21

22 For these reasons, petitioner respectfully requests that this Court amend Rule 11
23 of the Rules of Procedure for Eviction Actions as set forth in Appendix A hereto.
24

25 DATED this 23rd day of July, 2014.

26 LAW OFFICE OF DOUGLAS C. FITZPATRICK

27 By /s/ Douglas C. Fitzpatrick
28 Douglas C. Fitzpatrick
Petitioner

1 An electronic copy filed with
2 the Clerk of the Supreme Court
3 this 23rd day of July, 2014.

4 /s/ Douglas C. Fitzpatrick

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPENDIX A

Proposed Rule 11[d][3], Rules of Procedure for Eviction Actions

Rule 11[d] [no change in text]

Rule 11[d][1] [no change in text]

Rule 11[d][2] [no change in text]

Rule 11[d][3] Upon request of a party or witness, or on its own motion, and upon a finding that no substantial prejudice will result to any party by allowing telephonic testimony, the court may allow a party or witness to give testimony at any evidentiary hearing telephonically if the court finds that the party or witness is reasonably prevented from attending the hearing or that attendance in person at the hearing would result in a burdensome expense to the party or witness.

Any documents a party wishes to introduce into evidence through a party or witness appearing telephonically shall, where practicable, be provided in advance to the party or witness. Exact duplicates shall be provided to the opposing party with an affirmation on the record by the party introducing same that they are true and correct copies of the documents provided to the party or witness who will be appearing telephonically.

A party intending to have offer telephonic testimony at a hearing shall file a request for same with the filing of that party's complaint or answer as the case may be. Opposition to said request shall be made within two [2] days after service, following which the court may, in its discretion, rule upon said request with or without hearing. Unless otherwise ordered by the court, the party requesting telephonic testimony shall arrange and pay for same.

Gerald A. Williams
Arizona Bar No. 018947
North Valley Justice Court
14264 West Tierra Buena Lane
Surprise, AZ 85301

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	Supreme Court
)	No. R-14-0027
PETITION TO AMEND)	
RULE 11 OF THE RULES OF)	Response from Maricopa
PROCEDURE FOR)	County Justice Court Bench
EVICITION ACTIONS)	

BACKGROUND

The author of this pleading is the Associate Presiding Justice of the Peace for Maricopa County. After a discussion of the proposed amendment to the Rules of Procedure for Eviction Actions (RPEA), both over e-mail and in person, a vote was taken at our monthly bench meeting to authorize this response.

By any standard, the Justice Courts in Maricopa County have an extremely high eviction workload. Although some individual courts have eviction caseloads that are much higher than others, the system, as a whole, handles on average in excess of 5,000 cases per month. From July 2014 through April 2015, 52,916 eviction actions were filed in Justice Courts in Maricopa County.

The concerns raised by the Petitioner on behalf of out-of-state landlords have value; but, statewide, the party in a landlord and tenant case who is the most likely to request a telephonic appearance is a self-represented tenant. This is true both in rural areas, where the justice court may be on the other side of a geographically large county, and in urban areas. By way of example, the North Valley Justice Court has jurisdiction over Anthem, parts of Glendale and parts of Phoenix, but is located (along with three other Justice Courts) in Surprise, in a facility that is not served by any form of public transportation.

I.

AMENDING THE RULES OF PROCEDURE FOR EVICTION ACTIONS WITH A RULE OF PROCEDURE DESIGNED FOR FAMILY COURT CREATES PROBLEMS CONCERNING LEGAL TERMS OF ART, CONCERNING SCHEDULING, AND CONCERNING STATUTORY REQUIREMENTS.

Consistent with the Chief Justice’s strategic plan to promote access to justice and to our courts, we do not oppose a rule that would specifically authorize telephonic appearances in eviction actions. Many, if not most, Justice Courts already authorize such appearances. However, there are several problems with the language of the proposed amendment.

First, the proposed rule refers to an “evidentiary hearing.” That is a term of art and there are no evidentiary hearings in residential eviction

actions.¹ If the rules are amended in a way that adds this term to the RPEA, then parties will start demanding evidentiary hearings on potentially a variety of topics or points of law. The only limits would be the imagination of the party making the request.

Second, the proposed amendment does not require a written request to appear by phone. The Family Court rule that it is based on does have detailed pleading requirements.² A similar rule for Probate Courts also requires a written request to appear by phone.³ In its' current form, the suggested rule change would allow a party to call in at the time set for the initial appearance and verbally request to appear by phone. Allowing such a procedure would be impractical. In addition, the proposed language (“the court may, in its’ discretion, rule upon said request with or without a hearing”) arguably creates a new type of hearing on the issue of whether to allow telephonic testimony.

¹ There is an initial appearance and then a trial. RPEA 11. Although eligible for a jury trial, residential eviction actions are summary proceedings. A.R.S. § 12-1176; RPEA 12. A judgment can be signed after a brief conversation among the judge and the parties and often without the need for witness testimony or anything that looks like a formal trial. RPEA 11. The case will begin by the judge calling it and asking the tenant whether the allegations in the complaint are true. RPEA 11(b). If the tenant disputes the factual allegations, then the judge will make a decision after a trial has been held; however, that trial could be held that same day as the initial appearance.

² Arizona Rule of Family Law Procedure 8(D).

³ Arizona Rules of Probate Procedure 11(A). The rule begins, “Upon timely written motion or on the court’s own motion, a judicial officer may allow telephonic appearance or testimony ...” Id.

Third, the proposed language sets up a procedure that would likely violate the statutory time standards for residential eviction actions. In Arizona, residential actions are, by statute, designed to be resolved within an extremely short window in Justice Courts. When an eviction action is filed, the Justice Court must immediately issue a summons.⁴ The summons and complaint can then be served on the tenant by what is often called a “nail and mail” posting.⁵ This service need only be made two days before the initial appearance date.⁶ In a contested case, there is a preference for holding the trial on the initial appearance date⁷ and when a delay is requested, in justice court, it cannot be for longer than three days.⁸

Given the courtroom time demands for other types of cases, many Justice Courts have established calendars where eviction cases are heard two days each week. Under the proposed amendment, a party may have until two days after an answer is filed to object to a request for telephonic testimony (and perhaps to even request that a hearing be held on that

⁴ “The summons shall be issued on the day the complaint is filed and shall command the person against who the complaint is made to appear and answer at the time and place named which shall be not more than six nor less than three days from the date of the summons.” A.R.S. § 33-1377(B); *See also*, A.R.S. § 12-1175(A)(The summons must be issued “no later than the next judicial day”).

⁵ A.R.S. § 33-1377(B); RPEA 5(f).

⁶ A.R.S. § 12-1175(C); A.R.S. § 33-1377(B).

⁷ RPEA 11(c).

⁸ A.R.S. § 12-1177(C); A.R.S. § 33-1377(C); RPEA 11(c).

objection). If the answer is filed five minutes before a trial, and the case has already been delayed once because the trial was not held on the date of the initial appearance, it would be difficult for most Justice Courts to allow two days to respond without violating the required time standards.

II.

ANY AMENDMENT TO THE RULES OF PROCEDURE FOR EVICTION ACTIONS ALLOWING FOR TELEPHONIC APPEARANCES SHOULD CONTAIN CLEAR LANGUAGE AND A REFERENCE TO THE REQUIRED TIME STANDARDS.

The recommended language is consistent with what is used in other sets of court rules; but it is perhaps written in a style that is inconsistent with the goal of having self-represented litigants being able to read our rules and to be able to understand what is expected of them. For example, it begins with an 80 word sentence. It also contains arguably unnecessarily legalistic language, such as “shall file a request for same with the filing” and “Opposition to said request.” In addition to being simple, any amendment must make it clear that a request for telephonic testimony, in and of itself, will not delay a residential eviction case. Accordingly, we recommend the following language as a new RPEA 11(d)(3):

(3) Telephonic Appearance. A party may request, that either themselves or a witness, appear by telephone at either an initial appearance and/or a trial. This request must be in writing and must be made in advance of the time of the scheduled court date. The opposing party shall be given an opportunity to object to this request. A request for a telephonic appearance shall not delay the times set by statute for proceeding with an eviction action.

CONCLUSION

While we have no objection to the concept of allowing parties to eviction actions to request telephonic appearances for either themselves or their witnesses, we do have some significant concerns about the language of the proposed amendment. If the RPEA is to be amended to formalize the practice (that already exists in many if not most Justice Courts) of allowing telephonic testimony, then the amended language should be consistent both with the goals of the RPEA and with the time standards for eviction cases that are required by law.

RESPECTFULLY SUBMITTED, this ____ day of May 2015.

GERALD A. WILLIAMS
Justice of the Peace
North Valley Justice Court
14264 West Tierra Buena Lane
Surprise, AZ 85374

Copy Mailed To:
Douglas C. Fitzpatrick
Attorney-at-Law
49 Bell Rock Plaza
Sedona, AZ 86351

1 ELLEN SUE KATZ, AZ Bar. No. 012214
2 WILLIAM E. MORRIS INSTITUTE FOR JUSTICE
3 202 East McDowell Road, Suite 257
4 Phoenix, AZ 85004
5 (602) 252-3432
6 eskatz@qwestoffice.net

7 **IN THE SUPREME COURT**

8 **STATE OF ARIZONA**

9 **Petition to Amend Rule 11 of the Rules
10 of Procedure for Eviction Actions**

Supreme Court No. R-14-0027

11 **COMMENTS IN OPPOSITION TO
12 PETITION TO AMEND RULE 11
13 OF THE RULES OF PROCEDURE
14 FOR EVICTION ACTIONS**

15 Pursuant to Rule 28 of the Arizona Rules of the Supreme Court, the William E.
16 Morris Institute for Justice (“Institute”) submits these comments in opposition to the
17 Petition to Amend Rule 11 of the Rules of Procedure for Eviction Actions. The proposed
18 Rule would allow the parties and witnesses to appear telephonically upon request if
19 certain reasons are satisfied. In response, on May 18, 2015, the Maricopa County Justice
20 Court Bench submitted a comment that proposes an alternative rule for telephonic
21 appearances. The Institute also opposes the Bench’s proposal. As explained below, the
22 Institute would not oppose a rule that allows for telephonic appearances if the rule is fair
23 and may be of actual use by tenants. Unfortunately, neither the Petition, not the Bench’s
24 alternate proposal is. Therefore, in opposition to the Petition and the Bench’s alternative
25 proposal, the Institute states the following:

26 **I. Statements of Interest**

27 The Institute is a non-profit public interest program that works on issues of
28 importance to low-income Arizonans. The rights of tenants in eviction cases is such an
issue. In 2005, the Institute published a study of eviction cases in Maricopa County:

1 “Injustice In No Time: The Experience of Tenants in Maricopa County Justice Courts”
2 found at morrisinstituteforjustice.org.

3 The Institute works closely with federally funded civil legal services program for
4 low-income Arizonans. The legal services programs represent tenants in eviction actions
5 throughout the state. They typically are the only attorneys who represent tenants in
6 Justice Court. The Institute’s opposition is based on its knowledge of eviction practices
7 and information provided by legal services housing attorneys.

8 **II. Non-Resident Landlords Do Not Need the Proposed Rule**

9 This rule is being proposed by and for “nonresident landlords” who own
10 residential property in Arizona. These non-resident landlords want the “knowledge and
11 comfort” that they will not “be put to the inconvenience, expense and hassle” of coming
12 to court for an eviction case they filed. These non-resident landlords own property in
13 Arizona, are the party filing the eviction case, and are typically represented by an
14 attorney. In such circumstances, there is no “inconvenience” or “hassle” in coming to
15 court and any “expense” is part of doing business.

16 The non-resident landlord has other options. The Arizona Residential Landlord
17 and Tenant Act, A.R.S. § 33-1309(B) (“ARLTA”) provides:

18 If a landlord is not a resident of the state or is a corporation
19 not authorized to do business in this state and engages in any
20 conduct in this state governed by this chapter, or engages in
21 any transaction subject to this chapter, he may designate an
agent ...

22 If the non-resident landlord does not want to hire a local property manager who
23 could appear at the hearing as a witness, that is the landlord’s decision. The landlord has
24 a rental business and chose to operate the rental business in Arizona.

25 In support of the Petition, the non-resident landlord references a Rule of Family
26 Law Procedure, Rule 8(A) that allows for telephonic appearance by parties and witnesses.
27 An eviction case is markedly different than family court cases where jurisdiction of the
28 child remains in Arizona even if the parent moves out of state. Significantly, the Justice

1 Court Rules of Procedure do not have a rule pertaining to telephonic attendance. Neither
2 does the Superior Court Civil Rules of Procedure.

3 **III. The Proposed Rule Is Not Practical For Tenants And Will Only Benefit**
4 **Landlords**

5 The practicalities of the proposal render it only of use to landlords and of no use to
6 tenants. As proposed, in order for a tenant to request a telephonic appearance, the tenant
7 must “file” the request with the “filing” of the answer. In general, all pleadings in Justice
8 Court may be made orally. A.R.S. § 22-215.¹ Thus, currently tenant answers do not need
9 to be in writing and filed and neither do requests for telephonic appearances. If the
10 proposed rule is read to require written pleadings, which the Institute believes it does,
11 then it imposes additional pleading requirements on tenants that currently do not exist.

12 In marked contrast, as proposed, for the landlord, the request for telephonic
13 appearance would be “filed” with the complaint. The overwhelming majority of
14 landlords are represented by counsel. Therefore, such a written request filed with the
15 complaint will be relatively easy to accomplish.

16 For telephonic requests by landlords, the request would be served with the
17 complaint. Any tenant opposition would have to be filed two days after service. Given
18 the statutory time frames for service of process on a tenant, a tenant only needs to be
19 served 2 calendar days before the hearing. A.R.S. §33-1377(B). Thus in many
20 situations, if a tenant wanted to oppose the request, the tenant would have to come to
21 court, often on the day of the trial, to file an objection. Subsequently, the Court would
22 rule on the motion. That ruling could be at the time for trial or at some other time. How
23 the tenant would be notified whether the request was or was not granted is not clear.
24 Thus, as proposed, if a tenant wanted to object to a request, the tenant may have to come
25 to court 2 times, the date set for the trial and on another date after the ruling on the
26 motion.

27
28 ¹ Eviction claims and defenses do not fit within the limited exceptions to oral
pleadings in the justice court statute. A.R.S. § 22-216.

1 There are practical problems for the tenant who wants to appear by telephone. If
2 the tenant wanted to request to appear telephonically, given the short time frames for
3 service, as proposed, the practical result is that a tenant would have to come to court on
4 the date set for the trial to “file” the request to be allowed to appear by telephone at the
5 trial. The same concerns apply if a tenant wanted to request that a witness appear
6 telephonically. Often the tenant would be making the request at the initial court date.

7 While this proposed rule may work for landlords with attorneys, it certainly does
8 not work for tenants who rarely have attorneys. The proposed rule appears to be of no
9 practical use by tenants. For all of these reasons, the proposed rule should be rejected.

10 **IV. The Maricopa Justice Court Bench’s Untimely Alternative Proposal Should**
11 **Be Rejected**

12 On May 18, 2015, the Maricopa Justice Court Bench (“Bench”) filed a response
13 supporting the concept of telephonic appearances but not the wording of the Petition.
14 The Bench proposes an alternative rule. Unfortunately, as explained below, the Bench’s
15 untimely counter-proposal creates its own problems and should be rejected.

16 First, presented as a comment, the Bench did not submit its comment until 2 days
17 before the close of the public comment period. Thus, the public has not been given
18 adequate time to evaluate and respond to the proposal. For that reason alone, the
19 proposal should be rejected.²

20 Second, the proposal is seriously flawed. The Bench claims that self-represented
21 tenants are the “most likely” to request a telephonic appearance because of the large
22 geographical areas covered by many justice courts and because many justice courts “are
23 not served by any form of public transportation.” While the Institute may agree with the
24 obstacles that face many tenants in appearing in court, upon close examination, the
25 Bench’s proposal does not address any of these obstacles, and instead, creates more
26 obstacles for the unrepresented tenant.

27
28 ² The Justices may want to submit a petition for a rule change allowing telephonic
appearances next petition cycle that allows for adequate public comment.

1 The Bench’s proposal requires that any request “must be in writing and must be
2 made in advance of the time of the scheduled court date.” As explained above, there is
3 no statutory requirement in justice court that motions must be made in writing. *See*
4 A.R.S. § 22-215. The practical result of the Bench’s proposal for tenants, who almost
5 universally are unrepresented, will be that they will have to travel significant distances to
6 a court that often is not served by public transportation to file the written request to
7 appear by telephone. That is because after service of process, there is not sufficient time
8 to mail in the request. In addition, there is no online court filing in justice courts. Thus,
9 the only option left for the tenant is to come to court to file the request. If the justices are
10 concerned about tenant access to the courts, then a system should be developed where
11 requests to appear telephonically can be made without coming to court.

12 As explained above, tenants often only receive a few days notice of the eviction
13 prior to the scheduled trial date. Thus, as with the non-resident landlord proposal, most
14 tenants would have to come to court on the day set for trial to file a written request to
15 appear telephonically. That defeats the whole purpose of a process to request telephonic
16 appearances. Thus, the same tenants who will not be able to get to court to appear for
17 trial will not be able to get to court to file a written request for telephonic appearance.

18 The example of the Northwest Justice Court in Maricopa County is illustrative. A
19 tenant could live in the Anthem area over 40 miles from the justice court with no public
20 transportation available. Under either proposal, the tenant would have to find a ride to
21 court to either appear at trial or to file a written request for a telephonic appearance.

22 The timing concerns that arise with the Petition also arise with the Bench’s
23 proposal for tenant requests that a witness testify by telephone. A tenant will often have
24 to make the request for a witness to appear telephonically at the beginning of the trial.
25 The Institute has concerns whether the justices will grant these requests.

26 In addition, the Bench’s untimely proposal does not include a requirement that the
27 request to appear telephonically be made for good cause. The Institute is concerned that
28 without any articulated standards, the justices will be unduly strict with tenant requests

1 and deny a tenant's request to appear telephonically when the tenant has good cause.

2 Finally, the Bench's proposal inserts wording about a request for telephonic
3 appearance not delaying the timeframes set by statute.³ Since landlords will file their
4 requests with the complaint, their requests will have less impact on any delay than the
5 tenant's request that is filed days later. Thus, this appears to be one more factor that will
6 weigh against the justices granting tenants' requests.

7 The Institute wants to make it clear that it does not oppose appearance by
8 telephone if there is a fair and adequate process to request telephonic appearances for
9 witnesses and parties that would allow tenants to actually be able to make the requests
10 and receive permission to appear telephonically without the necessity of always coming
11 to court first to make the request. As explained above, the Petition and the Bench's
12 untimely alternative proposal do not satisfy even that basic due process requirement.

13 **Conclusion**

14 For all the above reasons, the Institute respectfully requests that the Court deny
15 this Petition and deny the Bench's untimely alternative proposal.

16 RESPECTFULLY SUBMITTED this 20th day of May 2014.

17 WILLIAM E. MORRIS INSTITUTE FOR
18 JUSTICE

19
20 By /s/Ellen Sue Katz
21 Ellen Sue Katz
22 William E. Morris Institute for Justice
23 202 East McDowell, Suite 257
24 Phoenix, Arizona 85004

25
26 _____
27 ³ The Institute does not agree with the Bench's characterization of any statutory
28 time restraints. Regardless, these concerns will no doubt affect some justices' rulings on
the requests and are another example of why the Bench's alternative proposal should be
rejected.

1 Electronic copy filed with the Clerk
2 of the Supreme Court of Arizona this
3 20th day of May 2015

4 Copy of the foregoing emailed to

5 Douglas C. Fitzpatrick
6 49 Bell Rock Plaza
7 Sedona, Arizona 86351
8 fitzlaw@sedona.net

9 Attorneys for Petitioner

10 By /s/ Ellen Sue Katz

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: October 28, 2015	This agenda item is for: [] Formal Action/Request [X] Information Only [] Other	Subject: MESA AND GLENDALE RULE 11 PILOT PROJECT
---	--	---

Presenter(s): Elizabeth R. Finn, Presiding Judge, Glendale City Court
Paul Thomas, Court Administrator, Mesa Municipal Court

Discussion: Mesa Municipal Court and Glendale City Court Pilot to Preside Over Their Own Rule 11 Proceedings.

Recommended Action or Request (if any):

Present information on pilot program for Glendale City Court and Mesa Municipal Court to have their Rule 11 proceedings held at their respective courthouses. A working group has been identifying and resolving the necessary processes for city court judges to act as Superior Court *judge pro tempore* to preside over their Rule 11 proceedings. This presentation will outline the processes identified and the benefit of holding these proceedings at their local courts.

Glendale City Court Mesa Municipal Court

Proposal to Resolve Rule 11 Competency Determinations in Limited Jurisdiction Courts

Supreme Court Strategic Goal #1

Access to Justice

“Our courts should work with others in government and our communities to assess the legal needs of modest to low income individuals and to develop strategies to better serve those needs.”

Supreme Court Strategic Goal #2

Protecting Children, Families, and Communities Problem-Solving Courts

“Problem-solving courts must also follow evidence-based practices to succeed. Although some Arizona courts have implemented problem-solving courts, there is a continuing need to create courts designated to serve the distinct needs of certain individuals, such as homeless courts, drug courts, veterans courts, and mental health courts.”

THE PROPOSAL

The proposal is to facilitate the Rule 11 competency evaluation and subsequent ruling at the local court level.

- A. Authorize Mesa Municipal Court and Glendale City Court to resolve the Rule 11 competency matters locally as Pro-tem judges in Superior Court
- B. Utilize doctors on the approved Superior Court list
- C. Judicial action remains as a Superior Court matter (no change in jurisdiction)

Supreme Court Action

- Appointed Workgroup
- Representatives from:
 - Clerks Office
 - Superior Court commissioner and administrative staff
 - Glendale City Court
 - Mesa Municipal Court
 - Maricopa County and Phoenix Public Defenders
 - Prosecutors

Process to Date

- City clerks trained by Clerks Office on minute entries
- City clerks trained by Superior Court administration on process
- City clerks sworn in as special deputies
- City judges observed Rule 11 process and consulted with judicial officer
- Protocol for transfer of recordings of Rule 11 proceedings held in city courts

Clerks Office

- All minute entries from cities will be filed in e filing portal
- Facilitating:
 - Electronic entry of warrants issued by cities in name of Superior Court
 - Distinguishing city court issued Superior Rule 11 warrants from Superior Court issued warrants
 - Access to sealed prior Rule 11 doctors reports

In Process...

- Superior Court drafting Administrative Orders for Superior Court and the Supreme Court
- Access to iCIS
- Finalize warrant process
- Finalize individual city listed on warrants for IA Commissioners
- MCSO process to release defendants to cities
- Have judges sworn in as Pro tem judges
- Select doctors

Process (continued)

- Sample minute entries
- What happens when defendant is on Court Ordered Treatment or needs Court Ordered Evaluation
- City prosecutor role in Court Ordered Evaluation process

City Courts

- Advise doctors and counsel of appointment of doctors
- Schedule doctor to appear at city courthouse
- Fiat rate per day
- Will schedule defendants to meet with doctors on site
- Monitor time line on doctor reports being submitted
- Public defenders will review doctor reports in advance of Rule 11 proceedings.
- Rule 11 proceedings will be shorter

BENEFITS

- Greatly improved service to defendants and the public
- Case processing times can be significantly reduced
- No show rates can be radically reduced
- Improved case management
- Significant cost savings
- Excellent response to increasing mental health demands
- Fulfills "Access to Justice"

Questions?

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: October 28, 2015	This agenda item is for: <input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: LJC 2016 MEETING SCHEDULE
--	---	---

Presenter(s): Susan Pickard, Staff

Discussion: Staff presents the following proposed dates as the LJC meeting schedule for 2016:

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

Recommended Action or Request (if any): To approve the 2016 meeting schedule as presented.

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: October 28, 2015	This agenda item is for: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: 2015 Rules Agenda
--	---	---

Presenter(s): Mark Meltzer
Court Services Division

Discussion: This presentation will highlight dispositions of rule petitions on the Court's August 2015 rules agenda that might be of interest to limited jurisdiction courts.

Recommended Action or Request (if any): Information only

2015 Rule Petitions
Petitions of Interest to the LJC

This table, without the dispositions, was presented to COSC on February 6, 2015. The table excludes a number of petitions concerning State Bar activities, attorney admissions, attorney ethics and the practice of law, and petitions continued from the previous rules cycle.

Several of the dispositions in the following table include a hyperlink to the “Order.” Clicking on the hyperlink will open the Order that adopted the rule amendments for the specified petition. The Order will include the full text of the rule change.

A complete list of Orders and amendments from the August 26, 2015 rules agenda, and the agenda minutes, are available by [clicking here](#).

The effective date of rules that were adopted, unless otherwise noted, is January 1, 2016.

Petition Number and Petitioner	Rule	Summary
CIVIL PROCEDURE		
1. R-15-0004 State Bar	Civil Rule 11	These amendments propose curbs on reported abuses of Rule 11. It would do this by adopting the federal rule provisions on “certification.” The amendments would also require that a motion for sanctions under the rule be filed separately from any other motion, and that the motion specifically describe the conduct that warrants a sanction.
1. Disposition: Continued.		
2. R-15-0007 AZ Foundation	Civil Rule 23	The Arizona Foundation filed a petition in the 2014 rules cycle (R-13-0061) that would have required 50% of the residual funds in a class action to go to the Foundation. That petition was denied. For the reasons cited in the prior petition, the current petition requests a discretionary distribution of residual funds to the Foundation.
2. Disposition: Denied.		
3. R-15-0021 State Bar	Civil Rule 55(a)	The petition seeks to clarify a void following the depublication of <i>Neeme Systems v Spectrum</i> (COA 1, 2011). To clarify the notice requirement in Rule 55(a)(1)(ii), the petition proposes language that would require notice to an attorney who represents the defaulting party either “in the action in which default is sought or in

		a related matter,” whether or not the attorney has formally appeared.
--	--	---

3. Disposition: Adopted.

Rule 55. Default

Rule 55(a). Application and entry

...

(1) *Notice.*

...

(ii) Represented Party. When a party claimed to be in default is known by the party requesting the entry of default to be represented by an attorney in the action in which default is sought or in a related matter, whether or not that attorney has formally appeared, a copy of the application shall also be sent to the attorney for the party claimed to be in default.

CRIMINAL PROCEDURE

Petition Number and Petitioner	Rule	Summary
4. R-14-0030 AOC Expedited effective date: 12/16/2014	Criminal Rule 7.2	<p>This rule petition concerns Criminal Rule 7.2(b) [right to release before conviction] and Form 4(a) of the Criminal Rules [law enforcement release questionnaire]. Amendments to this rule and form were adopted on an expedited basis, and became effective immediately (December 16, 2014). The amendments to Rule 7.2(b) include the following explanatory comment:</p> <p style="padding-left: 40px;">“Rule 7(b) was amended in 2014 to comply with <i>Lopez-Valenzuela v. Arpaio</i>, 770 F.3d 772 (9th Cir. 2014), <i>stay denied</i>, 135 S.Ct. 428 (Mem), which held unconstitutional A.R.S. Const. Art. 2, § 22(A)(4) and A.R.S. § 13-3961(A)(5) mandating that bail be denied to undocumented immigrants charged with a serious crime.”</p> <p>The petition is open for public comment until May 20, 2015.</p>

4. Disposition: Adopted on a permanent basis.

<p>5. R-14-0031 R. Jamarillo</p>	<p>Criminal Rule 32.2</p>	<p>This handwritten petition requests that the doctrine of preclusion not apply to subject matter jurisdiction because subject matter jurisdiction cannot be waived.</p> <p>See further R-13-0003, a State Bar petition to amend Rule 32.2(b), which also proposed that the doctrine of preclusion not apply to post-conviction claims involving a lack of subject matter jurisdiction; as well as a previous inmate rule petition, R-11-0006, which unsuccessfully raised a similar issue.</p>
<p>5. Disposition: Denied.</p>		
<p>6. R-15-0005 AOC</p>	<p>Criminal Rule 7.5</p>	<p>To enhance timeliness, the petition would allow the court having jurisdiction over the defendant to issue a warrant or summons under Rule 3.2 upon receiving a written report from pretrial services stating facts or circumstances constituting a breach of the conditions of release. There is no verification requirement. The amendments would require a copy of the report to be provided to the prosecutor and served with the warrant or summons.</p>
<p>6. Disposition: Adopted as modified.</p> <p>Rule 7.5. Review of conditions; revocation of release</p> <p>a. Issuance of warrant or summons <u>on prosecutor petition.</u> Upon verified petition by the prosecutor stating facts or circumstances constituting a breach of the conditions of release, the court having jurisdiction over the defendant released may issue a warrant or summons under Rule 3.2, to secure the defendant's presence in court <u>or issue a notice scheduling a hearing to consider the matters raised in the petition.</u> A copy of the petition shall be served with the warrant, or summons <u>or notice.</u></p> <p><u>b. Issuance of warrant or summons on written report.</u> <u>Upon receiving a written report from pretrial services stating facts or circumstances constituting a breach of the conditions of release, the court having jurisdiction over the defendant may issue a warrant or summons under Rule 3.2, to secure the defendant's presence in court or issue a notice scheduling a hearing to consider the matters raised in the report. A copy of the report shall be provided to the prosecutor and served with the warrant, summons or notice.</u></p> <p>...</p> <p>d. Hearing; review of conditions; revocation. (1) <i>Modification of conditions of release.</i> If, after a hearing on the matters set forth in the petition <u>or report...</u></p>		

<p>7. R-15-0011 Maricopa PD</p>	<p>Criminal Rules 15.5 and 39</p>	<p>The petition alleges that problems have arisen with the redaction of discovery in criminal proceedings, such as 1) the redactions themselves are not identifiable, making it unclear whether certain fields were redacted, or were simply never populated in the original document; 2) information is redacted that would otherwise be subject to disclosure and discovery; and 3) discovery is so extensively redacted as to render it virtually meaningless. The proposed changes to Rules 15.5 and 39, which are intended to address these problems, are modeled on Rule 26.1(f), Arizona Rules of Civil Procedure (“claims of privilege or protection of trial preparation materials.”)</p>
<p>7. Disposition: Adopted as modified.</p> <p>Rule 15.5. Excision and protective orders ... <u>e. Claims of Privilege or Protection.</u> All redactions must be identified in documents produced in discovery and the party making a redaction must state its legal basis if it is not clear from the context.</p> <p>Rule 39. Victims’ Rights <u>Note:</u> New Rule 15.5(e) applies to information withheld under the “victims’ rights” provisions of Rule 39(b)(10) (the right to require the prosecutor to withhold certain information during discovery and other proceedings, including the victim’s dob, ssn, driver’s license, home address, telephone number, place of employment, etc.)</p>		
<p>8. R-15-0028 COA Div. One</p>	<p>Criminal Rule 31.5</p>	<p>The petition is intended to address the Arizona Supreme Court’s opinion in <i>Coleman v. Johnsen, et al.</i>, 235 Ariz. 195, 330 P.3d 952 (2014), which held that the Arizona Constitution guarantees the right to self-representation on appeal, but that “defendants must give notice of their intent to exercise that right within thirty days of the filing of the notice of appeal.”</p> <p>These proposed amendments provide, in part, that a defendant may waive the right to appellate counsel by filing a written notice no later than thirty days after filing a notice of appeal. The defendant will be allowed to represent himself or herself on appeal if the court ascertains that the defendant knowingly, intelligently, and voluntarily desires to forego the right to appellate counsel. The court may appoint advisory counsel during any stage of the appellate proceedings for a defendant who has waived counsel. A defendant may withdraw a waiver of</p>

		the right to appellate counsel at any time by filing written notice of such withdrawal.
--	--	---

8. Disposition: Continued.

<p>9. R-15-0017 State Bar</p>	<p>Criminal Rules 9.1, 14.3, 26.11, and 41</p>	<p>A.R.S. § 13-4033(C) deprives a defendant of the right to appeal a guilty verdict in the event of a lengthy voluntary absence, by which a defendant is deemed to have waived a right to appeal. However, for that waiver to be valid, a court must have a sufficient record to show that the decision to be absent was made knowingly, intelligently and voluntarily and with fair warning that a prolonged absence could cost the defendant the right to appeal.</p> <p>The proposed changes would assure that criminal defendants are given proper notice that they lose their right to directly appeal a guilty verdict if they prevent sentencing from occurring by voluntarily failing to appear for sentencing within ninety days after conviction. The rule amendments would require additional notifications to defendants at various stages of the proceedings. The amendments also propose changes to certain forms, such as the release order, appearance bond, and notice of right to appeal.</p>
---------------------------------------	--	---

9. Disposition: Adopted as modified.

Rule 9.1. Defendant's waiver of right to be present

Except as otherwise provided in these rules, a defendant may waive the right to be present at any proceeding other than sentencing by voluntarily absencing himself or herself from it.

Rule 14.2. Presence of the defendant

The defendant shall be arraigned personally before the trial court or by video telephone, provided that, in the event the defendant has personally appeared at an initial appearance, the defendant may waive appearance at the arraignment by filing a written waiver of personal appearance at arraignment at least two (2) days prior to the date of the arraignment with the clerk of the court and the arraignment court. The written waiver shall be signed by the defendant and the defendant's lawyer, and shall be notarized. An affidavit signed by the defendant and notarized must be filed with the superior court within twenty (20) days after arraignment, stating that defendant has knowledge of all scheduled court appearances in this matter, and that the defendant understands the failure to appear at sentencing may result in the loss of the right to a direct appeal.

Rule 14.3. Proceedings at Arraignment

The court shall:

...

e. Advise the defendant of the right to be present at all future proceedings, that all proceedings other than sentencing may be held in the defendant's absence, or that defendant may be charged with an offense and a warrant issued for defendant's arrest without further notice.

f. Advise the defendant that, if the defendant's absence prevents sentencing from occurring within 90 days following conviction, the defendant may lose the right to have an appellate court review the proceedings by way of a direct appeal.

Rule 26.3. Date of sentencing; extension

a. Date of Sentencing [added to (a)(1)]:

...When the court sets a date for sentencing, the court shall notify the defendant that the defendant must be present for sentencing and, if the defendant fails to appear for sentencing, a warrant will be issued for his or her arrest. Additionally, following a conviction based on a trial, the court shall notify the defendant that, if the defendant's absence prevents the sentencing from occurring within 90 days, the defendant will lose the right to have an appellate court review the proceedings by way of a direct appeal.

Order: Also see the amendments to Rule 41, Form 6 [Release order]; Form 7 [Appearance bond]; Form 23 [Notice of rights of review after conviction in superior court"]; and Form 29 ["Entry of not guilty plea and advisements"]

10.
R-15-0024
AOC

Criminal Rule 41
(forms)

The petition notes that the lack of a single standard warrant form in the Arizona Rules of Criminal Procedure results in technological inefficiency for many Arizona courts and law enforcement agencies that are planning or implementing new technologies. Multiple versions of the same warrant forms leads to confusion and data entry problems for law enforcement agencies, rejections for lack of required data elements, and inaccurate criminal histories. The petition requests that the Court remove the eight existing warrant forms from the rule, and approve a new, single warrant form for mandatory use by Arizona courts. All the information collected by the current forms is included in the proposed new form.

The petition has modified comment periods:

April 27, 2015: First round of comments due

May 20, 2015: Amended petition due

June 15, 2015: Second round of comments due

July 13, 2015: Petitioner's reply to comments due

10. Disposition: Adopted.

Order: See the newly adopted form.

<p>11. R-15-0026 AOC</p>	<p>Criminal Rule 41</p>	<p>HB 2457 expanded the types of county-wide specialty courts the superior court presiding judge could establish in limited jurisdiction courts. These specialty courts include veterans and mental health courts, in addition to homeless courts.</p> <p>The current Form 4(a) does not include an inquiry about the defendant’s military service or homeless status. The petition states that inclusion of this information would better inform the court in making determinations of eligibility for specialty courts or referral to social services in the community.</p> <p>The petition also states that the proposed addition of questions in Form 4(a) concerning fingerprints and DNA samples would enhance the court’s ability to order a defendant, especially on initial appearance, to provide fingerprints in order to initiate criminal history or DNA samples as provided by law.</p> <p>The question concerning involvement of the Department of Child Safety, suggested by the Commission on Victims in the Courts, is meant to inform the court of the Department’s involvement in a case.</p> <p>The current Form 4(b) does not include an inquiry about the defendant’s English proficiency or the desire for an interpreter. The petition states that inclusion of this information will assist courts in scheduling interpreter services, resulting in increased efficiency in calendaring court hearings while safeguarding the individual’s constitution rights.</p> <p>This petition has modified comment periods:</p> <p>April 27, 2015: First round of comments due May 20, 2015: Amended petition due June 15, 2015: Second round of comments due July 13, 2015: Petitioner's reply to comments due</p>
----------------------------------	-------------------------	---

11. Disposition: Adopted as modified.

Order: See the revised form.

<p>12. R-15-0009 LJC</p>	<p>Criminal Rules 1, 2, and 3 (Also: Rules of Procedure in Traffic Cases and Boating Cases; and Rules of Procedure in Civil Traffic and Civil Boating Cases)</p>	<p>This petition proposes to align criminal and civil traffic procedures into demarcated and more understandable sets of rules. The petition recommends that the Rules of Procedure in Traffic and Boating Cases be repealed because they are adequately supplanted by the existing civil traffic or criminal rules, or they can be covered by straightforward amendments to the civil traffic and criminal rules. The petition proposes, among other things</p> <ul style="list-style-type: none"> - Moving the ATTC form from the repealed rules to a new form in the Civil Traffic Rules (and advising of the new location of this commonly used form by an amendment to Criminal Rule 2(b)); - Clarifying in an amendment to Civil Traffic Rule 10 that a defendant’s failure to admit or deny responsibility, or to appear at a scheduled court date, results in a default; - Changing the title of a “trial in absentia” to a “documentary hearing,” and reorganizing the procedures for that hearing in a new Civil Traffic Rule 10.2; - Clarifying the rules concerning the appeal of a civil traffic judgment; - Amending Criminal Rule 3 by adding a new section (e) that allows the court to issue warrants for failures to appear in ATTC cases.
----------------------------------	--	---

12. Disposition: Adopted.

Order: See the implementation Order and the revised rules. The implementation Order provides, in part, that these amendments to the civil traffic and criminal traffic rules apply (1) in all cases filed on or after January 1, 2016; and (2) “in all other cases pending on January 1, 2016, except to the extent that in the opinion of the court the application of an amended rule in a particular pending action or proceeding would not be feasible or would work an injustice, in which case the former rule applies.”

<p>13. R-15-0029 Judge Anagnost</p>	<p>Criminal Rule 32.13</p>	<p>The petition states that certain provisions in Rule 32, which apply to all ranges of criminal offenses, may not be proportionate to offenses heard by limited jurisdiction courts. The petition accordingly proposes a new Rule</p>
---	----------------------------	--

		32.13 that provides a PCR procedure in LJ courts. The proposed rule has five sections entitled (a) grounds, time limits, and preclusion; (b) commencement of proceedings, contents, length, response; (c) limited transcript use, right to court appointed counsel conditional on original charges; (d) oral argument and evidentiary hearings; and (e) summary disposition, no motion for rehearing, format, distribution, notices. The petition proposes inclusion of an explanatory comment following each of these five sections.
13. Disposition: Denied.		
14. R-15-0025 MCAO	Criminal Rule 15.4	This petition proposes to modify the disclosure provisions of Rule 15.4 to clarify that statements made pursuant to a “free talk” agreement are not discoverable unless the statements are exculpatory, or the person who made the statement becomes a witness for the prosecution at trial. The intent of the rule is to protect the safety of a “talking” defendant, and the integrity of on-going law enforcement investigations.
14. Disposition: Denied.		
RULES OF PROCEDURE FOR JUVENILE COURT		
Petition Number and Petitioner	Rule	Summary
15. R-15-0013 AZ AG/DCS	Juvenile Rule 44	<p>Rule 44 provides procedures for disclosure and discovery of information in child welfare matters. DCS, who is the party most often responsible for initiating dependency, guardianship, and termination proceedings, has concerns that the current rule has unrealistic timelines for disclosure, and that the timeline for disclosure statements often does not coincide with the timeline for trial. The petition also addresses electronic disclosure and service, and the need for good-faith efforts to resolve disclosure disagreements without court involvement.</p> <p>The petition proposes a multiplicity of changes to Rule 44. Some of the changes are as follows.</p>

		<p>The proposed new rule differentiates between a party's initial disclosure obligation and its ongoing disclosure obligation. For the preliminary protective hearing, the parties are required to provide any of the documents, materials, or information listed in subsection A of the new rule. DCS must also provide a copy of its initial court report prepared by the child safety investigator. DCS has removed a subsection in the current requiring disclosure of this information twenty-four hours prior to the preliminary protective hearing because it is "often impractical."</p> <p>Rule 44(B)(2) currently mandates that the parties exchange disclosure statements within sixty days after the preliminary protective hearing or service of the petition on a party. The proposed rule moves the deadline for disclosure statements to thirty days prior to an adjudicatory hearing. The new rule also allows for electronic service of the disclosure statement on the other parties.</p> <p>The proposed rule change shortens the time before trial in which a party may supplement its list of witnesses and exhibits to five days prior to the contested hearing, rather than the ten days provided under current Rule 44(F). It also incorporates a former provision that failure to complete discovery prior to the date set for a trial or a hearing does not constitute good cause or extraordinary circumstances for purposes of continuing the hearing or trial.</p> <p>Although the new rule keeps the current rule's provision concerning sanctions for nondisclosure, it requires that any party seeking to compel disclosure demonstrate personal consultation with the party that failed to provide disclosure, and good faith efforts to resolve the disclosure dispute prior to resorting to litigation.</p> <p>The petition requests expedited adoption of the proposed changes.</p>
--	--	--

15. Disposition: Continued, with the exception of the proposed change to Rule 44(B)(2)(d), which is adopted effective January 1, 2016. Rule 44(B)(2)(d), concerning disclosure statements prior to a contested adjudication hearing in a dependency proceeding, was amended to require e-mail addresses of witnesses to be included in the disclosure.

RULES OF THE SUPREME COURT		
Petition Number and Petitioner	Rule	Summary
16. R-14-0028 J. Mitchell	SCR Rule 45	This petition proposes amendments to Rule 45, concerning mandatory continuing legal education, which would require advertisements by the State Bar to disclaim that the course “will approve any attorney’s competence or protect the public.”
16. Disposition: Denied.		
17. R-15-0014 J. Slater, et al	SCR Rule 81 (Arizona Code of Judicial Conduct)	The petition requests that the canon precluding judges from engaging in improper bias and prejudice conform to the corresponding ethics rule that governs lawyers. The petition notes that Judicial Canon 2.3 (“bias, prejudice, and harassment”) fails to provide protection for “gender identity”, which is expressly recognized in a comment to the corollary ethics rule applicable to lawyers (i.e. paragraph 3 of the 2003 comments regarding Ethics Rule 8.4, Ariz.R.Sup.Ct.42).
17. Disposition: Denied. “The Court notes that existing Rule 2.3 broadly prohibits judges from manifesting bias or prejudice, and the Rule’s list of protected classifications is illustrative, not exhaustive.”		
18. R-15-0020 A. Jensen, et al	SCR Rule 81 (Arizona Code of Judicial Conduct)	The petition requests that subsections (B) and (C) of Rule 2.3 prohibiting improper bias and prejudice by judges be conformed to the corresponding attorney ethics rule by adding the phrase “gender identity.” The petition also requests that subsection (A) of Rule 3.6 (“affinity with discriminatory organizations”), which prohibits judicial membership in organizations that practice certain types of “invidious discrimination,” be amended to include gender identity.
18. Disposition: Denied. “The Court notes that existing Rule 2.3 broadly prohibits judges from manifesting bias or prejudice, and Rule 3.6 broadly prohibits membership in any organization that practices invidious discrimination, and the Rule’s list of protected classifications is illustrative, not exhaustive.”		
19. R-15-0027 AOC	SCR Rule 123	This petition proposes amendments to: (1) Rule 123(b) and 123(e)(1), clarifying access to personnel records; (2) Rule 123(e)(2), limiting access to job applicant records; (3) Rule 123(e)(3), reflecting recent changes to ACJA §

		<p>1-402: Procurement Code for the Judicial Branch; and (4) Rule 123(g)(5), establishing deadlines for removing online access to case documents and information.</p> <p>With regard to number (2), note that with certain redactions for home address and contract information, resumes of applicants for “high-level administrative positions” would be open to the public. The proposed rule would add this definition:</p> <p style="padding-left: 40px;"><i>“High-Level Administrative Positions.</i> In the superior, justice, and municipal courts, ‘high-level administrative positions’ means court administrators, chief probation officers, and juvenile court directors. In the appellate courts, it means the clerks of the court and the administrative director.”</p> <p>The proposed rule provides that “All other records concerning applicants for employment or volunteer services are closed.”</p> <p>This petition has a modified comment period:</p> <p>April 27, 2015: First round of comments due May 20, 2015: Amended petition due June 15, 2015: Second round of comments due July 13, 2015: Petitioner's reply to comments due</p>
--	--	--

19. Disposition: Adopted as modified.

Order: See the amendments to Rule 123.

RULES OF FAMILY LAW PROCEDURE

Petition Number and Petitioner	Rule	Summary
20. R-15-0002 Advisory Cte on Rules of Evid	ARFLP Rule 2	The petition proposes that Rule 2(B)(2) be restyled to be as consistent as possible with restyled Arizona Rule of Evidence 403, upon which it is partially based. This proposal was presented to the State Bar of Arizona Family Practice and Procedure Committee, which raised no objection.

20. Disposition: Adopted as modified. The adopted amendments include the following new comment: “The changes to Rule 2(B)(2) are purely stylistic and are made to conform to the 2012 restyling of the Arizona Rules of Evidence.”

<p>21. R-15-0006 Ad Hoc Parent’g Coord Workgp</p>	<p>ARFLP Rule 74</p>	<p>This petition addresses multiple issues in several areas concerning parenting coordinators.</p> <p><i>Fees:</i> The proposed amendments to Rule 74 provide that the court cannot appoint a parenting coordinator on its own motion unless the court first determines that the parents can afford the parenting coordinator’s fees. In determining the parents’ ability to pay, the court must look at the parents’ financial obligations, including any child support or spousal maintenance obligations. The amendments to the rule, if adopted, will also provide that if one of the parents cannot afford a parenting coordinator, then the court cannot appoint one unless the other parent agrees to pay all of the parenting coordinator’s fees.</p> <p><i>Recourse:</i> The proposed amendments would allow parents to file a motion asking the court to discharge the parenting coordinator or appoint another parenting coordinator. The moving parent must establish good cause for the requested relief. Mere disagreement with the parenting coordinator’s recommendations does not constitute good cause for replacing the parenting coordinator. The proposed amendments would allow parents at any time during the parenting coordination process to file a motion regarding any alleged impropriety or unethical conduct by the parenting coordinator. The proposed rule clarifies that parents have the right to file an objection regarding any recommendation made to the court by the parenting coordinator.</p> <p><i>Qualifications:</i> The proposed rule amendments set forth more clearly who can be a parenting coordinator. Those professionals include an attorney licensed to practice law in Arizona; a psychiatrist or psychologist licensed in Arizona; a person licensed by the Arizona Board of Behavioral Health Examiners who can practice independently; professional staff of a court’s conciliation services department; and a person otherwise deemed qualified for service as a parenting coordinator by the court’s presiding judge or presiding judge’s designee.</p>
---	----------------------	---

		<p><i>Authority:</i> The amendments propose that unless an imminent risk of harm to the child exists, parenting coordinators cannot unilaterally change or recommend a change to court-ordered legal decision-making. Additionally, the parenting coordinator would be prohibited from unilaterally making a substantial change in parenting time. Any change made based on the existence of an imminent risk of harm to the child must be reported to and heard by the court on an accelerated basis. The proposed amendments also provide that if a parenting coordinator is going to interview or request documents from persons other than school personnel or members of the immediate or extended family or household of the parents and children, they must notify each parent and the court before doing so.</p> <p><i>Also:</i> Other proposed amendments address a determination of the need to appoint a parenting coordinator; the manner of appointment and selection of the parenting coordinator; the coordinator’s term of service, including reappointment; confidentiality; the coordinator’s report [“must not file its report with the clerk of the court”]; court action [interim orders that become final orders]; and parents’ grievances or complaints.</p> <p>This petition has a modified comment period:</p> <p>April 27, 2015: First round of comments due May 20, 2015: Amended Petition due June 15, 2015: Second round of comments due July 13, 2015: Petitioner's reply to comments due</p>
<p>21. Disposition: Adopted as modified.</p> <p><u>Order:</u> See the amendments to this rule.</p>		
<p>22. R-15-0019 Uniform Law Commission</p>	<p>ARFLP Rule 67.1</p>	<p>The petition proposes to implement the Uniform Collaborative Law Rule in Arizona as a new ARFLP Rule 67.1. The proposed rule addresses, among other subjects, minimum requirements for collaborative law participation agreements, including informed consent; disqualification rules; screening (e.g., for domestic violence) and alternatives (e.g., litigation, arbitration, and mediation); and privilege.</p>

22. Disposition: Adopted as modified.

Order: See the amendments.

OTHER RULE PETITIONS THAT MAY BE OF INTEREST

Petition Number and Petitioner	Rule	Summary
23. R-15-0001 Advisory Cte on Rules of Evid	Probate Rule 3	The petition proposes a restyling of Rule 3(D) consistent with the restyling of Arizona Rule of Evidence 403. Rule 3(D) currently uses a standard that is not identical to Arizona Rule of Evidence 403. The suggested restyling would retain that difference but, where applicable, would use language adopted in the restyling of Evidence Rule 403. Petitioner presented the proposed amendment to the State Bar of Arizona Probate & Trust Executive Council, which had no objection.
23. Disposition: Adopted as modified. The adopted amendments include the following new comment: “Rule 3(D)(1) has been amended to recognize that there may be a jury in contested proceedings; the other changes are purely stylistic and are made to conform to the 2012 restyling of the Arizona Rules of Evidence.”		
24. R-15-0015 State Bar	RPEA Rule 9	For eviction cases in the superior court, Rule 1 of the RPEA applies and permits a change of judge as a matter of right and for cause as provided in Rule 42(f), Ariz. R. Civ. P. There is no corresponding provision for eviction cases in justice courts. The petition proposes two alternatives to provide these challenges in justice courts. One alternative would be an amended RPEA 9(c) (which would require renumbering of subsequent sections in Rule 9.) This amendment would be modeled on the change of judge provisions of JCRCP Rule 133(d). It would provide for a change of judge of right and for cause. The second alternative suggests a new RPEA Rule 9.1. It would provide only for a change of judge of right, as follows: “If, because other judges are readily available, it can be granted without causing a day’s delay in the proceeding, a single request for a change of judge as a matter of right shall be granted.”

24. Disposition: Denied.

<p>25. R-15-0010 CIDVC</p>	<p>ARPOP (All rules)</p>	<p>This petition proposes to “restyle, simplify, and clarify” the entire set of ARPOP rules. The proposed rules follow the “Garner” restyling conventions. The proposed ARPOP rules are reorganized into 10 parts with 42 rules, rather than the current 10 rules with 49 subparts. The petition also includes substantive changes, including new definitions and a provision on confidentiality of address information. General support and specific comments concerning a draft version were offered by COSC and the LJC prior to the filing of the petition.</p>
------------------------------------	--------------------------	---

25. Disposition: Adopted as modified.

Order: See the modified rules. Please note a conforming change that was made to ARFLP Rule 13 shown on page 53.

<p>26. R-15-0016 V. Timm</p>	<p>ARPOP Rule 6(E)(4)</p>	<p>Relying on the Arizona Supreme Court’s 2014 opinion in State v Serna (a criminal case), the petition proposes the repeal of ARPOP 6(E)(4)(e)(2). This ARPOP provision allows a judicial officer to prohibit a defendant’s possession or purchase of firearms or ammunition during the duration of an injunction against harassment.</p>
--------------------------------------	---------------------------	--

26. Disposition: Denied.

<p>27. R-14-0032 AZ Assn of Superior Court Clerks</p>	<p>Rules of Proc. Re: Enforcement of Tribal Court Judgments and Orders</p>	<p>The petition proposes to amend Rule 5(a) of the Arizona Rules of Procedure for Enforcement of Tribal Court Involuntary Commitment Orders, and Rule 5(b) of the Arizona Rules of Procedure for the Recognition of Tribal Court Civil Judgments, by removing requirements that the Clerks of superior court certify that no objections to tribal court orders or judgments have been filed after the time for objections has passed.</p> <p>The petition states that current requirements of administrative oversight by the Clerks are unnecessary, and that the proposed amendments bring these rules in line with the practice in civil and family law default judgments that have been in effect statewide for two years.</p>
---	--	--

27. Disposition: Adopted as modified.

Order: See the rule amendments and changes to forms.

<p>28. R-14-0029 JPR Commission</p>	<p>JPR Rules, Rule 2</p>	<p>The rule change proposes that the Commission -- currently composed of members of the public, attorneys, judges, and legislators – no longer have legislator members; and that the chair may not be a judge member.</p>
<p>28. Disposition: Adopted as modified.</p> <p><u>Order:</u> See the rule amendments.</p>		
<p>29. R-15-0018 Cte on the Review of SCR re Prof Conduct</p>	<p>Supreme Court Rules 31, 34, 38, 39, and 43</p>	<p>In June 2014, the Supreme Court established the 13-member Committee on the Review of Supreme Court Rules Governing Professional Conduct and the Practice of Law, chaired by Justice Timmer. Changes in the practice of law, the emergence of global law firms, the evolution of technology, and other factors affecting the modernized law office led the Committee to recommend rule changes. In some cases, the rules petition adds clarifying language while maintaining the text and intent of the rules. Some of the recommended amendments include rules:</p> <ul style="list-style-type: none"> • Allowing flexibility for new forms of legal teams, for example, allowing teams of lawyers from different firms to share responsibility and fees, while still ensuring adequate protections for the public; • Proposing language governing the admission of lawyers who relocate to Arizona due to a military spouse’s service commitment; • Providing guidance on safeguarding the storage, transmission, and security of client data in the modern digital law practice.
<p>29. Disposition: Adopted as modified, except that consideration of ER 1.6 (confidentiality of information “relating to the representation”) is continued. Further ordered promulgating SCR 40 (“Provision of Legal Services Following Determination of Major Disaster.”)</p> <p><u>Order:</u> See a copy of the implementation Order with rule amendments.</p>		

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-15-0017
RULES 9.1, 14.3, 26.11 & 41,)
RULES OF CRIMINAL PROCEDURE)
) FILED 08/27/2015
)
)
)
)
_____)

ORDER

AMENDING RULES 9.1, 14.2, 14.3, 26.3, ARIZONA RULES OF CRIMINAL
PROCEDURE, AND RULE 41, FORMS 6, 7, 23, AND 29

A petition having been filed proposing to amend Rules 9.1, 14.3, 26.3, Arizona Rules of Criminal Procedure, and Rule 41, Forms 6, 7, and 23, and to promulgate a new Form 19(a), and comments having been received, upon consideration,

IT IS ORDERED amending Rules 9.1, 14.2, 14.3, 26.3(a)(1), and 41, Forms 6, 7, 23, and 29, in accordance with the attachment hereto, effective January 1, 2016.

DATED this 27th day of August, 2015.

SCOTT BALES
Chief Justice

Arizona Supreme Court No. R-15-0017

TO:

Rule 28 Distribution

John A Furlong

Patricia A Sallen

Mark C Faull

David J Euchner

ATTACHMENT*

RULES OF CRIMINAL PROCEDURE

Rule 9.1. Defendant's waiver of right to be present

Except as otherwise provided in these rules, a defendant may waive the right to be present at any proceeding other than sentencing by voluntarily absenting himself or herself from it. The court may infer that an absence is voluntary if the defendant had personal notice of the time of the proceeding, the right to be present at it, and a warning that the proceeding would go forward in his or her absence should he or she fail to appear.

Rule 14.2. Presence of the defendant

The defendant shall be arraigned personally before the trial court or by video telephone, provided that, in the event the defendant has personally appeared at an initial appearance, the defendant may waive appearance at the arraignment by filing a written waiver of personal appearance at arraignment at least two (2) days prior to the date of the arraignment with the clerk of the court and the arraignment court. The written waiver shall be signed by the defendant and the defendant's lawyer, and shall be notarized. An affidavit signed by the defendant and notarized must be filed with the superior court within twenty (20) days after arraignment, stating that defendant has knowledge of all scheduled court appearances in this matter, and that the defendant understands the failure to appear at sentencing may result in the loss of the right to a direct appeal.

Rule 14.3. Proceedings at Arraignment

The court shall:

a. Ascertain the defendant's plea of not guilty, guilty, or no contest. Unless the defendant pleads guilty or no contest, the court shall enter a plea of not guilty.

b. Hear and decide motions concerning the conditions of release under Rule 7. Unless the arraignment is held in conjunction with the defendant's initial appearance before a magistrate under Rule 4.2, a contested release motion shall be heard upon at least 5 days prior notice, unless such time is waived by all parties.

c. Set the date for trial or pretrial conference.

* Additions to text are shown by underlining, deletions by ~~strikeouts~~.

d. Advise the parties in writing of the dates set for further proceedings and other important deadlines.

e. Advise the defendant of the right to be present at all future proceedings, that all proceedings other than sentencing may be held in the defendant's absence, or that defendant may be charged with an offense and a warrant issued for defendant's arrest without further notice.

f. Advise the defendant that, if the defendant's absence prevents sentencing from occurring within 90 days following conviction, the defendant may lose the right to have an appellate court review the proceedings by way of a direct appeal.

fg Advise the defendant of the right to jury trial, if applicable.

gh. For misdemeanors, inform the defendant of the right to counsel and the right to court-appointed counsel if eligible. As necessary, the court shall appoint counsel.

hi. For summoned defendants charged with a felony offense, a violation of Title 13, Chapter 14, or Title 28, Chapter 4¹, or a domestic violence offense as defined in § 13-3601, if the defendant does not present a completed mandatory fingerprint compliance form to the court, or if the court has not received the process control number, the court shall order that within twenty calendar days, the defendant be ten-print fingerprinted at a designated time and place by the appropriate law enforcement agency.

Rule 26.3. Date of sentencing; extension

a. Date of Sentencing

(1) *Superior Court.* Upon a determination of guilt, the court shall set a date for sentencing. Sentence shall be pronounced not less than 15 nor more than 30 days after the determination of guilt unless the court, after advising the defendant of his or her right to a pre-sentence report, grants his or her request that sentence be pronounced earlier. When the court sets a date for sentencing, the court shall notify the defendant that the defendant must be present for sentencing and, if the defendant fails to appear for sentencing, a warrant will be issued for his or her arrest. Additionally, following a conviction based on a trial, the court shall notify the defendant that, if the defendant's absence prevents the sentencing from occurring within 90 days, the defendant will lose the right to have an appellate court review the proceedings by way of a direct appeal.

Rule 41. Forms

Form 6. Release Order

_____ COURT , _____ County, Arizona

STATE OF ARIZONA, Plaintiff -vs- _____ Defendant (FIRST, MI, LAST)	_____ Booking Number	_____ Date of Birth	RELEASE ORDER
---	-----------------------------	----------------------------	--------------------------

LINE #	COMPLAINT NO.	VIOLATION CODE	NF	OR	3P	BOND	BA	U	S	C	NB
1						\$					
2						\$					
3						\$					
4						\$					
5						\$					

(NF = charge not filed; OR = own recognizance release; 3P = 3rd party custody; BA= bond applies; U = unsecured app. bond; S = secured app. bond; C = cash only; NB = non-bondable)

BOND: If you cannot post a bond of \$ _____ you will remain in custody until your next court hearing on _____. If you are released from jail, you must follow all release conditions and appear at court as indicated below:

MANDATORY AND STANDARD CONDITIONS OF RELEASE:

- 1. Appear at _____ Court on: _____.
Court name, and address or see attached sheet for Court location at _____ a.m. / p.m., Courtroom: _____ for _____ and attend all future court hearings.
- 2. Violate no federal, state or local criminal law.
- 3. Not leave the state of Arizona without written permission from the court.
 Defendant may leave the state of Arizona provided defendant returns for court dates.
- 4. Diligently pursue any appeal if released from custody after judgment and sentence have been imposed.
- 5. Maintain contact with your attorney.
- 6. Provide a current address and phone number to the Court and to your attorney and immediately notify both of any changes.
- 7. Not threaten or initiate any type of contact with the alleged victim(s).
- 8. Not drive a motor vehicle without a valid driver's license in your possession.

OTHER CONDITIONS OF RELEASE:

- 9. Not threaten or initiate any type of contact with any person as specified here: _____.
- 10. Not possess weapons as specified here: _____.
- 11. Not consume any alcoholic beverages.
- 12. Not go to scene of the alleged crime:
 Not go to locations as specified here: _____.
- 13. Comply with the assigned pretrial supervision program as specified here: _____.
- 14. Comply with 3rd party custody release conditions as specified here: _____.
- 15. Contact probation or parole officer. See 3rd party obligations on back
- 16. Electronic monitoring, if available, (Mandatory if charged with a felony offense under Chapters 14 or 35.1 of Title 13)
- 17. Other: _____.

CONSEQUENCES OF VIOLATING THIS ORDER: You have the right to be present at your trial and at all other proceedings in your case. If you fail to appear the court may issue a warrant for your arrest and/or hold the trial or proceeding in your absence.

IF CONVICTED, YOU WILL BE REQUIRED TO APPEAR FOR SENTENCING. IF YOU FAIL TO APPEAR, YOU MAY LOSE YOUR RIGHT TO A DIRECT APPEAL.

If you violate any condition of an appearance bond, the court may order the bond and any related security deposit forfeited to the State of Arizona. In addition, the court may issue a warrant for your arrest upon

learning of any violation of the conditions of release. After a hearing, if the court finds that you have not complied with the release conditions, the court may modify the conditions or revoke the release altogether.

If you are released on a felony charge, and the court finds the proof evident or the presumption great that you committed a felony during the period of release, the court must revoke your release. You may also be subject to an additional criminal charge, and upon conviction you could be punished by imprisonment in addition to the punishment which would otherwise be imposable for the crime committed during the period of release. Upon finding that you violated conditions of release, the court may also find you in contempt of court and sentence you to a term of imprisonment, a fine, or both.

ACKNOWLEDGEMENT: I fully understand and will comply with all release conditions indicated above and further understand the consequences should I violate any part of this order.

_____ Apt. No. _____
rent address where you live Address where you receive mail if different from current address

_____ (____) _____ (____) _____
Phone No. Phone No.

X X

Defendant Signature Date Judicial Officer Date

DISTRIBUTION: WHITE--COURT YELLOW--SIMS OPERATOR PINK--DEFENDANT

Form 7. Appearance Bond

_____ COURT

_____ County, Arizona

STATE OF ARIZONA, Plaintiff -vs-	[CASE/COMPLAINT NO.]	APPEARANCE BOND
Defendant (FIRST, MI, LAST)		

In accordance with the terms of a release order or warrant issued on _____(month/day) 20____, by Judicial Officer of the _____ court, of _____(city, justice, or county), State of Arizona, the defendant, _____ and the defendant's surety _____(If none, so state) hereby promise to pay the State of Arizona the sum of dollars (\$_____), in the event the defendant fails to appear at _____ at _____ a.m./p.m. on _____(month/day) 20____, or during the pendency of the case to appear to answer the charges or to submit to the orders and process of the court having jurisdiction of the case.

SECURED APPEARANCE BOND

[] The defendant hereby deposits with the court cash or property of value in the full amount of this bond, the same to be forfeited in the event the defendant fails to comply with its conditions.

Depositor: _____

Address: _____

Phone Number: _____

OR

[]

(Name, Address)

surety for the defendant, hereby swears (or affirms) that the surety is not an attorney or person authorized to take bail, and that the surety owns property in this state (or is a resident of this state owning property) worth the amount of this bond, exclusive of property exempt from execution and above and over all liabilities, as detailed in Attachment A.

WARNING: IF YOU DO NOT APPEAR AS REQUIRED, THIS BOND MAY BE FORFEITED AND THE PROCEEDINGS BEGIN WITHOUT YOU.

IF CONVICTED, YOU WILL BE REQUIRED TO APPEAR FOR SENTENCING. IF YOU FAIL TO APPEAR, YOU MAY LOSE YOUR RIGHT TO A DIRECT APPEAL.

ACKNOWLEDGEMENTS

Date

Defendant

State of Arizona

)

Subscribed and sworn to before me on

) ss.

County of _____

)

My Commission Expires _____

Notary Public

Approved:

Date

Surety or Authorized Agent

Form 23. Notice of Rights of Review after Conviction in Superior Court

_____ COURT _____ County, Arizona

STATE OF ARIZONA, Plaintiff -vs- Defendant (FIRST, MI, LAST)	[CASE/COMPLAINT NO.]	NOTICE OF RIGHTS OF REVIEW AFTER SUPERIOR COURT* (Capital & Non-Capital)
--	----------------------	---

*In limited jurisdiction cases, see Superior Court Rules of Appellate Procedure--Criminal Form 1

RIGHT TO APPEAL (CAPITAL)

If you are a capital defendant and sentenced to death the clerk shall file a notice of appeal at the time of entry of judgment and sentence. This notice shall be sufficient as a notice of appeal with respect to all judgments entered and sentences imposed in this case (Rule 31.2b, Rules of Criminal Procedure).

RIGHT TO APPEAL (NON-CAPITAL)

You have a right to appeal from a final judgment of conviction, from an order denying a post-trial motion, or from a sentence which is illegal or excessive. Arizona Constitution art. 2, sec. 24; A.R.S. § 13-4031. YOU DO NOT HAVE A RIGHT TO DIRECT APPEAL IF YOU HAVE PLED GUILTY OR NO CONTEST OR HAVE ADMITTED A VIOLATION OF CONDITIONS OF PROBATION OR HAVE FAILED TO APPEAR AT SENTENCING CAUSING THE SENTENCING TO OCCUR MORE THAN 90 DAYS BEYOND THE DATE OF CONVICTION. IN THAT CASE, RELIEF MAY BE SOUGHT ONLY BY PETITION FOR POST-CONVICTION RELIEF. Rules 17.1, 17.2 and 27.8, Rules of Criminal Procedure, A.R.S. § 13-4033(B).

IN ORDER TO EXERCISE YOUR RIGHT TO APPEAL;

1. You must file a NOTICE OF APPEAL (Form 24(a)) within 20 days of the entry of judgment and sentence. If you do not file a notice of appeal within 20 days you will lose your right to appeal. The entry of judgment and sentence occurs at the time of sentencing.
2. To file a Notice of Appeal you should contact your lawyer, by letter, telephone or in person, telling him or her that you want to appeal. You can file the notice of appeal before you leave the courtroom on the day you are sentenced if you wish.
3. If you do not have a lawyer, get copies of Form 5, Defendant's Financial Statement and Request for Appointment of Counsel and Form 24 (a), Notice of Appeal, either from the clerk of the court, jail, or the prison, fill them both out and file or send them to the clerk of the superior court in the county where you were tried and sentenced. They must arrive at the clerk's office within 20 days after you were sentenced.
4. You should have a lawyer handle your appeal.

You must file a NOTICE OF APPEAL (Form 24(a)) within 20 days of the entry of judgment and sentence. If you do not file a notice of appeal within 20 days you will lose your right to appeal. The entry of judgment and sentence occurs at the time of sentencing.

RIGHT TO POST-CONVICTION RELIEF (CAPITAL)

If you are a capital defendant and sentenced to death, the clerk of the Supreme Court shall file a notice of Post Conviction Relief with the Trial Court upon the issuance of a mandate affirming your conviction and sentence on direct appeal. If your death sentence is reduced to life on direct appeal, it is your responsibility to file your own Notice of Post Conviction Relief. (Please see Right to Post-Conviction Relief (Non-Capital) section below).

RIGHT TO POST-CONVICTION RELIEF (NON-CAPITAL)

You also have a right to petition the Superior Court for Post-Conviction Relief. Rule 32, Rules of Criminal Procedure.

In order to exercise your Post-Conviction Relief right;

1. You must file a NOTICE OF POST-CONVICTION RELIEF (Form 24(c)) within 90 days of the entry of judgment and sentence if you do not file, or you do not have the right to file, a Notice of Appeal. If you do appeal, the time you have to file a Notice of Post-Conviction Relief extends from the entry of judgment and sentence to 30 days after the issuance of the order and mandate affirming the judgment and sentence on direct appeal.

NOTE: If you do not timely file a Notice of Post-Conviction Relief, you may never have another opportunity to have any errors made in your case corrected.

2. To seek post-conviction relief, you must obtain a copy of Form 24(c) (Notice of Post-Conviction Relief), either from your attorney, the clerk of the court, or the jail or prison, fill it out and file or send it to the clerk of the Superior Court of the county where you were sentenced. The notice must arrive at the clerk's office within 90 days after you were sentenced or within 30 days after the issuance of the order and mandate affirming the judgment and sentence on direct appeal.
3. If you cannot afford to hire an attorney, you should execute the Affidavit of Indigency contained in the Notice of Post-Conviction Relief and request that an attorney be appointed to represent you.

If you want a full copy of the rules governing appeals and post-conviction relief, the clerk of the court in the county where you were convicted will send you one upon request.

RECEIPT BY DEFENDANT

I have received a copy of this notice explaining my right to appeal, my right to seek post-conviction relief and the procedures I must follow to exercise these rights.

Date

Defendant

Form 29. Entry of Not Guilty and Advisements

_____ COURT _____ County, Arizona

STATE OF ARIZONA, Plaintiff -VS-	[CASE/COMPLAINT NO.]	ENTRY OF NOT GUILTY PLEA AND ADVISEMENTS
Defendant (FIRST, MI, LAST)		

1. A plea of not guilty is hereby entered on the defendant's behalf to the following charge(s): _____

2. The parties are notified that the next court appearance in this matter is for _____, on _____, 20 ____, at ____ a.m., before Judge _____, located at _____, Arizona.

3. The defendant is advised that the defendant has the right to be present at all future proceedings. If the defendant fails to appear for any proceeding other than sentencing, that proceeding may be held regardless of the defendant's absence, the defendant may be charged with an offense for failure to appear, and a bench warrant may be issued for the defendant's arrest. If the defendant fails to appear for trial, trial may be held in the defendant's absence and the defendant may be convicted and sentenced.

4. The Defendant is advised that, if convicted, the defendant will be required to appear for sentencing. If the defendant chooses not to appear, and the defendant's absence prevents the defendant from being sentenced within ninety days from the conviction, the defendant may lose the right to a direct appeal.

4 The defendant is further advised of the right to (jury) trial in this matter.

5.

5 The defendant is further advised that discovery is available from the Prosecutor's office, as provided in
6. rule 15.1, Rules of Criminal Procedure.

6 The defendant is directed to contact his/her attorney within 72 hours of service of this notice.

7.

7 The defendant has requested an interpreter: [] Spanish [] Other Language _____

8.

I acknowledge that I have received a copy of this document.

Dated: _____

Defendant

Address

() _____
Telephone Number

Dated: _____

Defense Attorney Bar No.

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-15-0024
RULE 41, RULES OF)
CRIMINAL PROCEDURE)
)
)
)
)
) FILED 08/27/2015

ORDER

ABROGATING FORMS 2(a) THROUGH 2(h), RULE 41, ARIZONA RULES OF
CRIMINAL PROCEDURE, AND SUBSTITUTING A NEW FORM 2 IN THEIR PLACE

A petition having been filed proposing to amend Rule 41, Forms, Arizona Rules of Criminal Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 41, Forms, Arizona Rules of Criminal Procedure, be amended by abrogating existing Forms 2(a) through 2(h) and substituting a new Form 2 in their place, in accordance with the attachment hereto, effective January 1, 2016.

DATED this 27th day of August, 2015.

SCOTT BALES
Chief Justice

Arizona Supreme Court No. R-15-0024
Page 2 of 3

TO:
Rule 28 Distribution
David K Byers
Elizabeth B Ortiz

Arizona Supreme Court No. R-15-0026

TO:
Rule 28 Distribution
David K Byers
Elizabeth B Ortiz
John A Furlong

Form 4(a) Release Questionnaire/Law Enforcement

COURT [Precinct]

County, Arizona

<p>State of Arizona Plaintiff</p> <p>-vs-</p> <p>Defendant (FIRST, MI, LAST)</p>	<p>[CASE/COMPLAINT NO.]</p> <p>Booking No. _____</p>	<p>RELEASE QUESTIONNAIRE (To be completed by Law Enforcement)</p>
---	--	--

Alias (es) _____

A. GENERAL INFORMATION

Charges: _____

Offense Date: _____ Offense Time: _____

Location: _____

Arrest Date: _____ Arrest Time: _____

Arrest Location: _____

Pursuant to A.R.S. §41-1750, were ten-print fingerprints taken of the arrested Person? Yes No

Pursuant to §13-610 does one or more of the above charges require the arresting agency to secure a DNA sample from the arrested person? Yes No

If yes, does the defendant have a valid DNA sample on file with AZDPS? Yes No [Unknown]

If no, has the arresting agency taken the required sample? Yes No

2. The person entered or remained in the United States illegally. Explain in detail (e.g., admission of by the person, statements of co-defendants at the time of arrest, verification of illegal presence or proceeding establishes illegal presence): _____

B. PROBABLE CAUSE STATEMENT

1. Summarize and include the facts which establish **probable cause for the crime(s) charged**. Certain felonies may be non-bondable and require facts which establish **proof evident or presumption great** for the crime(s) charged. These include (1) felonies involving a capital offense, sexual assault, sexual conduct with a minor who was under fifteen years of age, or molestation of a child who is under fifteen years of age, (2) any class 1, 2, 3, or 4 felony or any violation of § 28-1383 if the person has entered or remained in the United States illegally, and (3) felony offenses committed when the person charged is already admitted to bail on a separate felony charge.

Explain the crime(s) in detail (e.g., arresting officer or other law enforcement officers witnessed offense, physical evidence directly connects defendant to offense, multiple eyewitnesses, defendant admissions, victim statements, nature of injuries, incriminating photographic, audio, visual, or computer evidence, defendant attempted to flee or resist arrest):

3. The crime(s) occurred while the person was admitted to bail on any separate felony. Provide information on the separate felony: _____

Defendant's Name _____ DOB _____ Booking No. _____ Case No. _____

C. OTHER INFORMATION (Check if applicable)

1. Defendant is presently on probation, parole or any other form of release involving other charges or convictions.
Explain: _____

2. List any prior:
Arrests: _____

Convictions: _____

Failures to Appear (FTA): _____

Protective Orders: _____

3. There is an indication of:
 Alcohol Abuse Other Substance Abuse
 Mental Health Issues Physical Illness
 Developmental Disability
Explain: _____

4. Defendant is employed by: _____
Address: _____

Phone: _____
How long: _____

5. Defendant resides at: _____

With Whom: _____
How Long: _____
Alternate address for court notification: _____

6. Facts to indicate defendant will flee if released: _____

7. Reasons to oppose an unsecured release: _____

8. Defendant speaks a language other than English
Language spoken: _____
 American Sign Language
 Defendant requested an interpreter

D. CIRCUMSTANCES OF THE OFFENSE

1. Defendant used firearm or other weapon
Type: _____

2. Defendant injured someone.
Explain: _____

3. Medical attention was necessary
Nature of injuries: _____

4. Defendant threatened someone
Nature of threats: _____

5. Did the offense involve a child victim? Yes No
If yes, was DCS notified? Yes No

6. If property offense
a. Value of property taken/damaged: _____
b. Property was recovered

6 7. Names of co-defendant(s), if any: _____

E. CRIME(S) AGAINST PERSONS

1. Relationship of defendant to victim: _____

2. Victim(s) and defendant reside together.

3. Law enforcement learned of the situation by Victim
 Third Party Officer observation

4. Previous incidents involving these same parties
Explain: _____

5. Defendant is currently the subject of:
 Order of Protection
 Injunction against Harassment
 Other court order: _____

Defendant's Name _____ DOB _____ Booking No. _____ Case No. _____

- 6. Likelihood of inappropriate contact with victim(s)
Explain: _____
- 7. Victim(s) expressed an opinion on defendant's release.
Explain: _____

- 4. State whether defendant was under the influence of alcohol or drugs at the time of the offense
 Yes No Unknown
Type of substance: _____

F. DOMESTIC VIOLENCE DEFENDANT ISSUES

- Access to or use of weapons
 - Children/Vulnerable adults present
 - Crime occurred in public
 - Control/ownership/jealousy issues
 - Depression
 - Frequency/intensity of Domestic Violence increasing
 - Kidnapping
 - Potential for multiple violations of court orders
 - Prior history of Domestic Violence
 - Prior Protective Order
 - Recent separations
 - Stalking behavior
 - Threats of homicide/suicide/bodily harm
 - Violence against children, vulnerable adults or animals
- Explain: _____
- _____
- _____

H. DRUG OFFENSES

- 1. If the defendant is considered to be a drug dealer, state the supporting facts: _____
- 2. State quantities and types of illegal drugs directly involved with offense _____
- Methamphetamine was involved:
- Drug field test was positive
- Defendant admission of drug type: _____
- Approximate monetary value of drugs: _____
- 3. State whether money was seized
 Yes No
Amount: _____

G. CIRCUMSTANCES OF ARREST

- 1. Did defendant attempt to:
 Avoid arrest Resist arrest Self Surrender
Explain: _____
- 2. Defendant was armed when arrested
Type of weapon: _____
- 3. Evidence of the offense was found in defendant's possession
Explain: _____

If this is a fugitive arrest, complete the affidavit as required by the Uniform Criminal Extradition Act (ARS 13-3841 et seq.)

I certify that the information presented is true to the best of my knowledge:

Date

Departmental Report #

Arresting Officer/Agency/ Serial No.
Duty Phone No. _____

COURT _____

County, Arizona

State of Arizona Plaintiff -vs- _____ Defendant (FIRST, MI, LAST)	[CASE/COMPLAINT NO.] Booking No. _____	RELEASE QUESTIONNAIRE (To be completed by Defendant)
--	---	---

Alias(es) _____

The following information is for the purpose of determining the conditions under which you may be released at this time. You are not required to answer any question if you feel the answer might be harmful to you. The answers you give to the following questions will be used by the court for the purpose of determining the conditions of your release. However, your answers will be checked against the information supplied by the police, and with the references you yourself give on the form. Any discrepancies may result in higher bail or harsher conditions of release. **Any information you give may be used against you in this or any other matter.**

General Background

1. Background and Residence

Full Name: _____

Sex _____ Race _____ Date of Birth _____

Place of Birth [city, state, country] _____

Have you served in the military services of the United States? Yes No

Present Citizenship _____

If you are not a United States of America citizen, how long have you been in this country? _____

Do you need the court to provide an interpreter to help you communicate and to understand what is being said? Yes No

If so, what language are you most comfortable speaking?
 Spanish American Sign Language Other language : _____

Are you homeless? Yes No

Present Address _____

How long have you lived at the above address? _____

Telephone No. (____) _____ Cell No. (____) _____

Where else have you lived in the past year and for how long?

Where will you go if released today? _____

2. Family

Are you married/partnered If so, are you living with your spouse/partner? [] Yes [] No

Are you living with someone? Relationship: _____

How many other persons (including your children) are living with you? _____

How much do you contribute to their support? _____

Do you have regular contact with any other relatives? [] Yes [] No

Explain _____

3. Employment

Are you presently employed? [] Yes [] No If not, what is your principal means of support?

Explain: _____

Employer's Name _____

Address: _____

Telephone No. (____) _____

What is the nature of your job? _____

How long have you worked there? _____

4. Criminal Record

Do you have any previous criminal record? [] Yes [] No

Explain _____

5. Record of Appearance

Have you ever been released on bail or other conditions pending trial? [] Yes [] No

Did you ever fail to appear as required? [] Yes [] No

Explain _____

6. Supervision

Is there any organization or any person who might agree to supervise you and be responsible for your return to court as required? [] Yes [] No

Organization or person to contact _____

_____ ()
Address City State Zip Telephone

7. Other Circumstances

Are there any other matters (such as your health or illness in your family) which you feel the court should consider in making its decision? _____

8. Verification

Is there any other friend, relative, neighbor or other person who can be called as a reference to this information?

_____ ()
Name Address City State Zip Telephone

_____ ()
Name Address City State Zip Telephone

_____ ()
Name Address City State Zip Telephone

I certify, under penalty of perjury, that the information presented is true and correct to the best of my knowledge.

Date

Defendant Signature
Contact Telephone No. _____

Arizona Supreme Court No. R-15-0027
Page 2 of 5

TO:
Rule 28 Distribution
David K Byers
Hon. Richard E. Gordon
Jennifer A Greene

ATTACHMENT*

RULES OF THE SUPREME COURT

* * *

Rule 123. Access to the Judicial Records of the State of Arizona

(a) Authority and Scope of Rule. [No change in text.]

(b) Definitions.

(1) - (9) [No change in text.]

(10) *High-Level Administrative Positions.* In the superior, justice, and municipal courts, “high-level administrative positions” means court administrators, chief probation officers, and juvenile court directors. In the appellate courts, it means the clerks of the court and the administrative director.

~~(10)~~ (11) *Information.* [No change in text.]

~~(11)~~ (12) *Judge.* [No change in text.]

~~(12)~~ (13) *Law.* [No change in text.]

~~(13)~~ (14) *Presiding Judge.* [No change in text.]

~~(14)~~ (15) *Private Organization Serving a Public Purpose.* [No change in text.]

~~(15)~~ (16) *Public.* [No change in text.]

~~(16)~~ (17) *Record.* [No change in text.]

(18) *Records Maintained for Human Resources Purposes.* “Records maintained for human resources purposes” means records relating to employees and volunteers such as the official personnel file, and records of employee benefits, investigations, EEOC complaints, reclassifications, supervisors’ working files, employee relations guidance, counseling notes, and similar matters.

* Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

(17) (19) *Remote Electronic Access*. [No change in text.]

(18) (20) *Sensitive Data*. [No change in text.]

(c) **General Provisions**. [No change in text.]

(d) **Access to Case Records**. [No change in text.]

(e) **Access to Administrative Records**

(1) *Employee Records*. Records maintained for human resources purposes concerning individuals who are employees or who perform volunteer services are closed except for the following information:

(A) ~~Full~~ full name of individual;

(B) ~~Date~~ date of employment;

(C) ~~Current~~ current and previous job titles and descriptions, and effective dates of employment;

(D) ~~Name~~ name, location and phone number of court and/or office to which the individual has been assigned;

(E) ~~Current~~ current and previous salaries and dates of each change;

(F) ~~Name~~ name of current or last known supervisor;

(G) ~~Information~~ information authorized to be released by the individual to the public unless prohibited by law.

(H) records concerning employee misconduct or discipline, but only on a showing of good cause for release of a record as determined in the process provided in paragraph (f)(5) of this rule; such records may be accessed by court personnel for official purposes and by an employee who is the subject of the discipline, to the extent such access is permitted or required by applicable personnel policies.

(2) *Applicant Records*. Unless otherwise provided by law, ~~records concerning applicants for employment or volunteer services are the names and resumes of final candidates for high-level administrative positions shall be open to the public, after the names, home addresses, telephone numbers, and other contact information~~ social

~~security numbers, and all other personally identifying information have been redacted, except that the names of applicants who are final candidates shall be disclosed. All other records concerning applicants for employment or volunteer services are closed.~~

(3) - (4) [No change in text.]

(5) *Procurement Records.* Procurement and bid records are open to the public except as provided herein:

(A) Sealed Bids. [No change in text.]

(B) Invitation for Bid. Bid records submitted under ~~Rule 18 of the Judicial Branch Procurement Code~~ section (H) of ACJA § 1-402: Procurement Code for the Judicial Branch or equivalent rules shall remain closed to the public after opening until a contract is signed, except that the amount of each bid and the name of each bidder shall be recorded and available for public inspection.

(C) Competitive Sealed Proposals and Requests for Qualifications. Records containing competitive sealed proposals and requests for qualification submissions under ~~Rules 26 or 35 of the Judicial Branch Procurement Code~~ section (I) or (J) of ACJA § 1-402: Procurement Code for the Judicial Branch or equivalent rules, shall remain closed to the public after opening until a contract is signed, except that the name of each bidder shall be publicly read and recorded.

(D) Trade Secrets. [No change in text.]

(6) - (14) [No change in text.]

~~(15) *Employee Discipline Records.* All records concerning employee misconduct or discipline are closed except on a showing of good cause for release of a record as determined in the process provided in paragraph (f)(5) of this rule. These records may be accessed by court personnel for official purposes and by an employee who is the subject of the discipline, to the extent such access is permitted or required by applicable personnel policies.~~

(f) - (j) [No change in text.]

TO:

Rule 28 Distribution
Hon. Ann A. Scott Timmer
Hon. Daniel A Washburn
Denise M Blommel
Kathy McCormick
Hon. Janet E Barton
Elizabeth B Ortiz
Gary Krcmarik
Scott M Drucker
Susan Pickard
C Steven McMurry
Kenneth Mann
Hon. Sarah R Simmons
Hon. Kathleen A Quigley
Hon. Jeffrey T Bergin
John R Lopez IV
John A Furlong
Hon. David L Mackey
E Hardy Smith
D Greg Sakall
Lee D Stein
Mark Brnovich
Hon. Karl C Eppich
Art Hinshaw
Hon. Kathleen A Quigley
Mark D Wilson
Mark C Faull
Joshua Halversen
Mark I Harrison
Keith A Swisher
Jerome Allan Landau
David C. Tierney
Richard B Murphy
Hon. Lawrence Winthrop

ATTACHMENT*

RULES OF THE ARIZONA SUPREME COURT

RULE 31. REGULATION OF THE PRACTICE OF LAW

(a) Supreme Court Jurisdiction Over the Practice of Law

1. [No change in text.]

2. *Definitions.*

A – C. [No change in text.]

D. “Mediator” means an impartial individual who is appointed by a court or government entity or engaged by disputants through written agreement, ~~signed by all disputants,~~ to mediate a dispute. Serving as a mediator is not the practice of law.

E. [No change in text.]

(b) – (c) [No change in text.]

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

1. – 24. [No change in text.]

25. Nothing in these rules shall prohibit a mediator as defined in these rules from ~~facilitating a mediation between parties,~~ preparing a written mediation agreement, or filing such agreement with the appropriate court, provided that:

(A) the mediator is employed, appointed or referred by a court or government entity and is serving as a mediator at the direction of the court or government entity; or

(B) the mediator is participating without compensation in a non-profit mediation program, a community-based organization, or a professional association.

In all other cases, a mediator who is not an active member of the state bar and who prepares or provides legal documents for the parties without the supervision of an attorney must be certified

* Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

as a legal document preparer in compliance with the Arizona Code of judicial Administration, Part 7, Chapter 2, Section 7-208.

26. – 31. [No change in text.]

RULE 34. APPLICATION FOR ADMISSION

(a) [No change in text.]

(b) Applicant Requirements and Qualifications.

1. No applicant will be recommended for admission to the practice of law in Arizona by the Committee on Character and Fitness unless the Committee is satisfied that:

A. – C. [No change in text.]

D. the applicant is a graduate with a juris doctor from a law school provisionally or fully approved by the American Bar Association at the time of graduation or the applicant is a graduate with a juris doctor and has been actively engaged in the practice of law in some other state or states for at least five ~~three~~ of the last ~~seven~~ five years prior to filing an application for admission to practice in Arizona; and

E. – F. [No change in text.]

2. An applicant may be allowed to sit for the Arizona uniform bar examination prior to the award of a juris doctor degree if the applicant:

A. – E. [No change in text.]

F. provides by the deadline to the Committee on Character and Fitness, on a form provided by the Committee, an affidavit attested to by the applicant and the law school that they meet the above criteria. The law school's decision whether to certify that the student meets the criteria is final and shall not be subject to review by the Committee or the Court.

No applicant shall be recommended to practice law until graduation or satisfaction of all requirements for graduation, and completion of all requirements for admission to the practice of law under these rules. If an applicant under this subsection has not graduated with a juris doctor within one hundred twenty (120) days of the first day of early exam administration, all parts of the Arizona uniform bar examination, including the score, are void and the applicant's examination scores shall not be disclose for any purpose. Scores may not be released until such time as satisfactory proof of award of juris doctor, as determined by the Court, is provided to the Committee. An early examination which is voided shall count as an an examination attempt under Rule 35(c)(1).

COMMITTEE ON LIMITED JURISDICTION COURTS

Date of Meeting: October 28, 2015	This agenda item is for: <input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input checked="" type="checkbox"/> Other	Subject: Legislative Update
--	--	--

Presenter(s): Jerry Landau, AOC Director of Government Affairs

Discussion: Mr. Landau will discuss the 2016 Legislative Proposals.

Recommended Action or Request (if any): As appropriate following a discussion of these items