

ARIZONA JUDICIAL COUNCIL

Arizona State Courts Building
1501 W. Washington Street, Suite 119
Phoenix, AZ 85007

December 10, 2015

Meeting Minutes

Council Members Present:

Chief Justice Scott Bales
Judge Janet Barton
Judge Michael Brown
Jim Bruner
Judge Kyle Bryson
David Byers
Judge Rachel Torres Carrillo
Judge Louis F. Dominguez
Judge Peter Eckerstrom
Victor Flores
Athia Hardt
Mike Hellon
Yvonne R. Hunter, J.D.

Michael Jeanes
Jack Jewett
Lisa Loo *for Geoffrey Trachtenberg*
Judge David Mackey
Gary Krcmarik
William J. Mangold, M.D., J.D.
Judge John Nelson
R. Tony Penn
Judge Antonio Riojas, Jr.
Judge Monica Stauffer
George Weisz
Judge David Widmaier

Council Members Absent (excused):

None

Administrative Office of the Courts (AOC) Staff Present:

Jennifer Albright
Stewart Bruner
Mike Baumstark
Theresa Barrett
Eric Ciminski
Susan Hunt
Jerry Landau
Amy Love
Mark Meltzer
Heather Murphy

Alicia Moffatt
Nick Olm
Kay Radwanski
Marcus Reinkensmeyer
Kathy Sekardi
Lorraine Smith
Kathy Waters
David Withey
Amy Wood
Judge Ron Reinstein

Presenters and Guests Present:

Pete Dunn
Karen Gehres

Judge Jay Polk
David Rosenbaum

Janet Johnson
William Klain
Justice John Pelander
John Phelps

Judge Sam Thumma
Dr. John Vivian
Judge Lawrence F. Winthrop

Chief Justice Scott Bales, Chair, called the meeting to order at 9:30 a.m. and welcomed those in attendance.

Approval of Minutes

The Chair called for any corrections to the minutes from the Council's October 22, 2015, meeting.

MOTION: To approve the minutes from the October 22, 2015, meeting of the Arizona Judicial Council with the amendment to change the words "Judge Pro Tempores" to "Judges Pro Tempore" on page 2 of the minutes. The motion was seconded and passed. AJC 2015-35.

Arizona Commission on Access to Justice

Judge Larry Winthrop, Chair, provided an update on the work of the Commission to include the Maricopa County Court Navigator Program, AZCourtHelp, Law4AZ Library Project, legal information v. legal advice, judge and judicial staff training regarding self-represented litigants, Arizona State charitable tax credit, and other ongoing projects.

Judge Winthrop stated he is available to speak to groups statewide, and he will report back to the Council with an update early next year.

5th Statewide Equitable Treatment of Minority Youth Report Card

Dr. John Vivian, member of the Commission on Minorities in the Judiciary, presented the report card designed to analyze each major decision point in the juvenile justice continuum to determine whether all youth are receiving similar treatment.

Discussion took place regarding a community education component and additional training to include sensitivity training. Mr. Byers suggested this issue be included on an upcoming Council agenda to talk more broadly about juvenile justice issues in Arizona.

Task Force on the Arizona Rules of Civil Procedure

Mr. William Klain and Mr. David Rosenbaum, Co-Chairs of the Task Force, provided an overview of the project, accomplishments, and next steps. They will provide an update at the Council's October 2016 meeting.

MOTION: To approve the filing of the rule petition in January 2016, as presented. The motion was seconded and passed. AJC 2015-36.

Committee on Time Periods for the Electronic Display of Superior Court Case Records

Mr. Marcus Reinkensmeyer, Director of the Court Services Division for the AOC, updated the Council on the work of the Committee and asked for the Council's support of the filing of a Rule 28 petition to amend Rule 123 and a petition to amend ACJA § 3-402: Superior Court Records Retention and Disposition Schedule, as presented.

MOTION: To approve the filing of a Rule 28 petition to amend Rule 123 and a petition to amend ACJA § 3-402: Superior Court Records Retention and Disposition Schedule, as presented. The motion was seconded and passed. AJC 2015-37.

Arizona Code of Judicial Administration (ACJA)

§ 2-101: Supreme Court Records Retention and Destruction Schedule

Ms. Janet Johnson, Clerk of the Arizona Supreme Court, presented the proposed modifications and requested approval of § 2-101: Supreme Court Records Retention and Destruction Schedule, as presented.

MOTION: To approve ACJA § 2-101: Supreme Court Records Retention and Destruction Schedule, as presented. The motion was seconded and passed. AJC 2015-38 (1 opposed).

§ 2-201: Court of Appeals Records Retention and Destruction Schedule

Judge Sam Thumma, Court of Appeals, Division One, presented the proposed modifications and requested approval of § 2-201: Court of Appeals Records Retention and Destruction Schedule, as presented.

MOTION: To approve ACJA § 2-201: Court of Appeals Records Retention and Destruction Schedule, as presented. The motion was seconded and passed. AJC 2015-39 (1 opposed).

§ 6-103: Victims' Rights Requirements for Probation Personnel (amendment)

Ms. Kathy Waters, Director of the Adult Probation Services Division for the AOC, presented the proposed amendments and requested approval of § 6-103: Victims' Rights Requirements for Probation Personnel (amendment), as presented.

MOTION: To approve ACJA § 6-103: Victims' Rights Requirements for Probation Personnel (amendment), as presented. The motion was seconded and passed. AJC 2015-40.

Capital Case Oversight Committee

Judge Ronald Reinstein (Ret.), Chair, presented the Committee's proposed recommendations to include extending the Committee for an additional 3 years.

MOTION: To approve the recommendations from the Capital Case Oversight Committee, as presented. The motion was seconded and passed. AJC 2015-41.

Electronic eFiling Schedule

Ms. Amy Wood, Manager for the Court Services Division of the AOC, presented the proposed electronic eFiling schedule and recommendations.

With regard to forms, Mr. Byers stated the need to allow the public to choose between free and for-fee forms. He asked that this option be included on all county websites. Judge Barton noted that Maricopa County offers free forms. Judge Barton stated she would need to be clear on the website and disclose the difference between the 2 options (one costs money and the other is free).

Mr. Michael Jeanes urged the Council to continue to support the efforts to move towards electronic filing.

MOTION: To approve the reduction of the fee from \$49 to \$15 for the family law fees, and that all Superior Courts be asked to add a button to their court websites to access these forms. The motion was seconded and passed. AJC 2015-42 (1 opposed).

State Bar of Arizona Mission and Governance

Mr. John Phelps, Director of the State Bar of Arizona, updated the Council on the work of the Task Force and presented each of the proposed recommendations.

The Chair reported that a rules petition will be filed with the Court in January 2016.

Judicial Branch Legislative Update

Mr. Jerry Landau, Director of Government Affairs and Ms. Amy Love, Legislative Liaison for the AOC, reported that all 3 bills approved as part of the Judicial Branch Legislative package have been drafted and have sponsors.

Mr. Landau and Ms. Love presented the following bills for the Council to support, oppose, or take no action on:

2016-B: Judicial productivity credits

Discussion: The Presiding Judges voted to support the clean-up provisions, but take no position on the compensation provision. Issues discussed included salary disparity, timing, lack of vetting with county entities, cost implications, and the need for further discussion on the compensation provision.

MOTION: To support the clean-up provisions of 2016-B: Judicial productivity credits, as presented, and to take no action on the judges' compensation provision. The motion was seconded and passed. AJC 2015-43.

2016-C: Failure to appear; fingerprinting

MOTION: To support 2016-C: Failure to appear; fingerprinting, as presented. The motion was seconded and passed. AJC 2015-44.

2016-D: Public safety employees; omnibus

MOTION: To support 2016-D: Public safety employees; omnibus, as presented. The motion was seconded and passed. AJC 2015-45.

2016-F: Constables; duties; training; discipline

Discussion: Presiding Judges voted to take no position. Mr. Vince Roberts, Constable in Pima County provided public comment in support of the bill.

Judge Mackey noted that constables are under the authority of the Presiding Judge in each county. He stated that there are many issues taking place in this state i.e., some constables are currently unpaid, questions regarding work assignment (mail vs. service), etc. Judge Mackey recommended that the Council take no position and let the policy issues be sorted out through the legislature process without the involvement of the court.

MOTION: To take no position on 2016-F: Constables; duties; training; discipline, as presented. The motion was seconded and passed. AJC 2015-46.

2016-G: Presiding constable; selection; duties

Discussion: Mr. Roberts provided public comment to explain the intent of the legislation.

Judge Nelson stated that he opposes the bill because it adds more unneeded bureaucracy and expressed his concerns that the chain of command should go through the Presiding Judge and not the Board. He added that there are many existing problems that won't be solved by this legislation.

MOTION: To oppose 2016-G: Presiding constable; selection; duties, as presented. The motion was seconded and passed. AJC 2015-47.

2016-H: Criminal code; omnibus

MOTION: To support 2016-H: Criminal code; omnibus, as presented. The motion was seconded and passed. AJC 2015-48.

2016-02: Special needs/adult guardianship

Discussion: Judge Jay Polk, Superior Court in Maricopa County, provided public comment and explained that the proposal addresses decision making and parenting time.

MOTION: To support 2016-02: Special needs/adult guardianship, as presented. The motion was seconded and passed. AJC 2015-49.

2016-15: Mediation; confidentiality

Discussion: Judge Mackey explained the purpose of the proposal. He noted that mandatory reporting will take more vetting and time. Mr. Tony Penn stated this is an incremental step in the right direction.

MOTION: To support 2016-15: Mediation; confidentiality, as presented. The motion was seconded and passed. AJC 2015-50.

2016-I: Resources for juvenile dependent representation

MOTION: To support 2016-I: Resources for juvenile dependent representation, as presented. The motion was seconded and passed. AJC 2015-51.

2016-J: Transferred youth holding

MOTION: To support 2016-J: Transferred youth holding, as presented. The motion was seconded and passed. AJC 2015-52.

Call to the Public

The Chair made a call to the public; there were no public comments.

MOTION: To adjourn the meeting. The motion was seconded and passed. AJC 2015-53.

The meeting adjourned at 1:57 p.m.