**AGENDA**

**ARIZONA JUDICIAL COUNCIL**
Arizona State Courts Building
1501 W. Washington Street
Phoenix, AZ 85007

**December 11, 2014**

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**Room: 119**

9:30 a.m. Welcome ..... Chief Justice Scott Bales

Tab No.

(1) Approval of Minutes ..... Chief Justice Scott Bales

**Study / Update Session:** (Possible Adoption/Action of Various Reports)

9:35 a.m. (2) Capital Case Oversight Committee ..... Judge Ron Reinstein (ret.)

**Action Items:**

9:45 a.m. (3) Child Support Guidelines ..... Ms. Theresa Barrett & Ms. Kathy Sekardi

10:00 a.m. (4) Proposed Rule Petitions

- Parenting Coordinator's Workgroup ..... Judge Janet Barton
  ..... Mr. Jerry Landau, Ms. Theresa Barrett
- Limited Jurisdiction Court Traffic and ..... Judge Eric Jeffery
  Boating Rules
- Committee on Domestic Violence and the ..... Ms. Kay Radwanski
  Courts – AZ Rules of Protective Order Procedure Workgroup
- Rule 7.5. Review of Conditions; ..... Ms. Kathy Waters
  Revocation of Release

11:00 a.m. (5) Arizona Code of Judicial Administration

- 1-302: Education and Training (Amend) ..... Mr. Jeff Schrade
- 6-113: Firearms Standards (Amend) ..... Ms. Kathy Waters

11:15 a.m. Judicial Branch Budget Update ..... Mr. Kevin Kluge

11:25 a.m. (6) Judicial Branch Legislative Update ..... Mr. Jerry Landau
..... Ms. Amy Love

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|---|---|---|
| 12:00 p.m. | | Lunch |
| 12:30 p.m. | (7) | Report Re: HB 2310: Mental Health..... Mr. Marcus Reinkensmeyer<br>Courts and Statewide Standards |
| 1:00 p.m. | (8) | Business Court Advisory Committee..... Mr. David Rosenbaum |
| 1:15 p.m. | | Call to the Public / Adjourn |

*Please call Lorraine Smith*
*Staff to the Arizona Judicial Council*
*with any questions concerning this Agenda*
*(602) 452-3301*

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | _X_ Formal Action/Request<br>___ Information Only<br>___ Other | Approval of Minutes |

**FROM:**

Lorraine Smith, Staff to the Arizona Judicial Council

**DISCUSSION:**

The minutes from the October 23, 2014 meeting of the Arizona Judicial Council are attached for your review.

**RECOMMENDED COUNCIL ACTION:**

Approve the minutes as written.

**ARIZONA JUDICIAL COUNCIL**

Phoenix Marriott Mesa
200 N. Centennial Way
Mesa, Arizona 85201

October 23, 2014

DRAFT Meeting Minutes

**Council Members Present:**

Chief Justice Scott Bales
Jim Bruner
David Byers
Judge Peter Cahill
Judge Norman Davis
Judge Peter Eckerstrom
Victor Flores
Yvonne R. Hunter, J.D.
Michael Jeanes
Jack Jewett
Judge Diane Johnsen
Gary Krcmarik
Judge David Mackey
William J. Mangold, M.D., J.D.
Judge John Nelson
Richard Platt
Janet K. Regner
Judge Antonio Riojas, Jr.
Judge Sally Simmons
Judge Roxanne Song Ong
George Weisz
Judge David Widmaier

**Council Members Absent (excused):**

Judge Rachel Torres Carrillo
Athia Hardt
Mike Hellon

**Administrative Office of the Courts (AOC) Staff Present:**

Mike Baumstark
Cindy Cook
Melinda Hardman
Susan Hunt
Jerry Landau
Amy Love
Alicia Moffatt
Brittany Reed
Marcus Reinkensmeyer
Lorraine Smith
Kathy Waters
David Withey

**Presenters and Guests Present:**

Brian Armbruster
Barbara Broderick
Pete Dunn
Judge Pamela Gates
Marcie Kanefield
Lance Nickell
Vice Chief Justice John Pelander
John Phelps
Terry Stewart
Judge Larry Winthrop

Chief Justice Scott Bales, Chair, called the meeting to order at 9:05 a.m. in the Starlight Room at the Phoenix Marriott Mesa, 200 N. Centennial Way, Mesa, Arizona. The Chair welcomed those in attendance.

**Approval of Minutes**

The Chair called for any omissions or corrections to the minutes from the June 23, 2014, meeting of the Arizona Judicial Council. There were none.

> **MOTION: To approve the minutes from the June 23, 2014, meeting of the Arizona Judicial Council, as presented.** The motion was seconded and passed. AJC 2014-20.

**Approval of 2015 Meeting Dates**

The Chair asked for the Council members' approval of the proposed meeting dates for 2015: Thursday, March 26; Monday, June 15; Thursday, October 22; and Thursday, December 10.

> **MOTION: To approve the proposed 2015 meeting dates, as presented.** The motion was seconded and passed. AJC 2014-21.

**Arizona Commission on Access to Justice**

Judge Lawrence Winthrop, Chair of the Arizona Commission on Access to Justice, reported on the Commission's first meeting, mission, workgroups, and related events. Judge Winthrop shared an informational video from the Arizona State Bar Foundation regarding the availability of the state tax credit for donations to qualifying non-profit groups that provide legal services to the working poor. He noted this is a true tax credit and not a donation and can reduce taxes by $200 for an individual and $400 for a couple. Judge Winthrop asked that the Council members share this information with court staff, employees, family, friends, etc. and ask them to take advantage of this great program. Judge Winthrop noted that he, as well as Chief Justice Bales, is available to make presentations to courts, communities, businesses, etc.

Ms. Janet Regner stated there is an effort underway to double this tax credit by increasing the donation levels. She noted that currently only 5% of the people who are using tax credits are using this one. Ms. Yvonne Hunter raised concern that the more than $6 return on every $1 investment be Arizona specific and that the numbers are verified when it comes to defending it to the Legislature. Judge Winthrop stated the report referenced is Arizona specific, and he offered to provide a fact sheet explaining how the return on investment is calculated.

**Judicial Branch Legislative Package**

Mr. Jerry Landau, Director of Governmental Affairs and Ms. Amy Love, Legislative Liaison for the AOC, presented the Judicial Branch legislative package for 2015 and provided an update on the upcoming session.

2015-01, 2015-10: Courts; transaction of business *(swapping Columbus Day for the day after Thanksgiving)*

> **MOTION: To approve 2015-01 and 2015-10: Courts; transaction of business, as presented.** The motion was seconded and passed. AJC 2014-22.

2015-02, 2015-03: Court ordered treatment; veterans

> **MOTION: To approve 2015-02 and 2015-03: Court ordered treatment; veterans, as presented.** The motion was seconded and passed. AJC 2014-23.

2015-04, 2015-09: Aggravated assault, judicial officers

Discussion: Mr. Landau noted that the Committee on Superior Court and Superior Court Presiding Judges asked that court personnel also be included. Additionally, the Superior Court Presiding Judges asked that paid pro tem judges be included. Mr. Landau clarified that it would be in the scope of or as a result of judicial duties. Ms. Hunter raised concern with the scope of duties being the trigger that caused the assault. She suggested reviewing criteria for other individuals such as prosecutors and public defenders. Judge Diane Johnsen asked that part-time, paid and other court personnel be included and noted if they are performing their professional duties, it should not be limited to full-time or just because they are judicial officers. Mr. Michael Jeanes stated a possible scenario where a judge is at home and receives a death threat and questioned at what time is a judicial officer not performing their judicial duties. Mr. Byers suggested wording to the effect of "because you are a judicial officer or court employee or in the scope of their duties." Mr. Landau noted that he would rewrite the proposal to include these amendments and write it broad enough to capture the discussion today, but narrow enough to cover other circumstances.

> **MOTION: To approve 2015-04 and 2015-09: Aggravated assault; judicial officers with the drafting decisions discussed today.** The motion was seconded and passed. AJC 2014-24.

2015-05: Justice of the Peace; residency

Discussion: Judge David Widmaier stated that as much as this is an election bill, it is really a qualification bill. He noted that he would like to see the Council support the bill. Mr. Byers asked about new precincts and changing boundaries and how that would work. Discussion took place regarding the Justice of the Peace Association taking the lead on this bill and if the wording should be a year or at the time of election.

Mr. Jim Bruner stated that he thought the Justice of the Peace Association should handle it. Ms. Hunter expressed concern with the one-year requirement and noted the process does not seem appropriate.

**MOTION: To take no position on 2015-05: Justice of the Peace; residency, as presented.** The motion was seconded and passed. AJC 2014-25.

2015-08: Juvenile court; hearings

Discussion: Mr. Landau reported the Superior Court Presiding Judges supported the first part of the proposal, but took no action on the second part. Judge Cahill spoke on behalf of the Committee on Juvenile Courts regarding the second part of the proposal which shifts the burden of notification to the Attorney General's Office. He stated that the Department of Child Safety is in the best position to notify the foster parents. Judge Cahill noted the Committee feels strongly that the Council should support this legislative change. Judge Mackey stated this is just not a Maricopa County problem. He spoke to the second part of the proposal and noted he voted to take no action at the Superior Court Presiding Judges meeting because he is not sure who is the most appropriate and best party to provide notice to the foster parents. Judge Mackey stated the need to get the ball rolling with discussion on the second part.

**MOTION: To approve 2015-08: Juvenile court; hearings, as presented.** The motion was seconded and passed (one opposed). AJC 2014-26.

Mr. Landau noted that budget, structure of the judiciary, judicial selection, and retirement will all be issues on the table for the upcoming Legislative session.

**Arizona Code of Judicial Administration**

Judge Pamela Gates, Superior Court in Maricopa County, presented code section *3-402: Superior Court Records Retention and Disposition (Amendment)* for the Council members' consideration. She addressed a few outstanding issues raised during the Superior Court Presiding Judges meeting to include Mr. Michael Jeanes' concern regarding the logistical problems with keeping exhibits for landmark cases or historically significant cases for an extended period of time. Judge Gates noted that based on comments received during the Superior Court Presiding Judges meeting, Item 24 has been amended to read: "Upon dismissal, disposition, or final appellate ruling, whichever comes later, and then 30 days after mailing notice to responsible parties to claim the evidence, all unless otherwise ordered by the court." She stated that the following language was added to the remarks section under Item 24: "Clerks are encouraged to identify historically significant and landmark cases prior to the expiration of the retention period for exhibits." Judge Gates reported that additional changes were made based on some of the recommendations contained in a memorandum from Maricopa County to include the appropriateness of the retention period, a missing word, and grammar and spelling changes.

Mr. George Weisz thanked the Committee for doing a great job. He noted that in a perfect world and as a voice for investigators, they would like to be able to keep all records indefinitely.

Ms. Hunter stated the need for financial resources to be available for the Department of Library and Archives to handle the documents listed under this schedule.

**MOTION: To approve Code Section *3-402: Superior Court Records Retention and Disposition (Amendment)*, with the amendments offered by Judge Gates.** The motion was seconded and passed (one opposed). AJC 2014-27.

Ms. Melinda Hardman, Staff to the Court Services Division of the AOC, presented code section *4-302: [Limited Jurisdiction Court] Records Retention and Disposition (Amendment)* for the Council members' consideration. She reported on the vetting process and revisions made to the code section.

**MOTION: To approve Code Section *4-302: [Limited Jurisdiction Court] Records Retention and Disposition (Amendment)*, as presented.** The motion was seconded and passed (one opposed). AJC 2014-28.

Ms. Kathy Waters, Director of the Adult Probation Services Division of the AOC, presented code section *6-105.01: Powers and Duties of Officers Evidence-Based Practices (Amendment)* for the Council members' consideration.

**MOTION: To approve Code Section *6-105.01: Powers and Duties of Officers Evidence-Based Practices (Amendment)*, as presented.** The motion was seconded and passed. AJC 2014-29.

"**Our Courts Arizona" Update**

Vice Chief Justice John Pelander reported on a statewide initiative called "Our Courts Arizona." He noted that the plan is to use judges to go out into their communities, focus on adult audiences, and talk about the courts, rule of law, etc. Justice Pelander stated that the programs are interactive in nature and include the following subjects: how judges in Arizona are appointed, selected, retained, and held accountable; branches of government; how judges make decisions; rule of law; and the bill of rights. Justice Pelander stated they will be doing dry run presentations in the near future, training in early 2015 for judges who have signed up, and will launch this program statewide in the spring of 2015.

Chief Justice Bales encouraged the Council member to let Justice Pelander know if they have thoughts on what adult groups or community organizations around the state they could present to or if they just want to help.

**Arizona Case Processing Time Standards**

Mr. Marcus Reinkensmeyer, Director of the Court Services Division of the AOC, presented the Arizona Case Processing Standards Steering Committee's recommendation that the case processing time standards for the following three case types be adopted as final: juvenile dependency adjudication hearings; family law dissolution and allocation of parental responsibilities; and civil traffic. Mr. Reinkensmeyer recognized the Committee members in attendance. He reported on additional case types currently under review and noted the Committee will meet next April. Mr. Reinkensmeyer

provided information on the path to implementation and explained that no data will be requested from courts until 2016.

Chief Justice Bales noted that at the Superior Court Presiding Judges meeting, Judge Davis suggested the need to recognize where there are rules that might build in delay and make it difficult for us to achieve the identified standards. He noted we may need to identify and change rules as needed. Chief Justice Bales added that Judge David Mackey suggested that we need to look at courts that are reaching standards and think about best practices and training for other courts statewide. He stated staff would be working with the Education Services Division of the AOC on future training.

Judge Johnsen stated that her perception is that both the juvenile and family court are very busy and setting cases has become months out because of the caseloads. She asked what the Presiding Judges thought about this. Judge Sally Simmons stated that it will take some work, but Pima County can meet the standards. Judge Norman Davis stated there are heavy caseloads in juvenile, and he expressed concern with the guidelines being unattainable because of the current rules, and noted this may require a rule change. Judge Mackey stated they are currently not meeting standards, and until the standards are adopted, we won't know all the problems that we may run into, but the goals are reasonable and attainable, and it is all about improving our courts. Judge Simmons stated that particularly in family law cases (D or SP cases), measuring from the date the petition is filed is of concern because the case may get filed, but service may not get accomplished for some time. She noted this is an issue we can't resolve right now because we can't measure from the time of service, which is the better way to do it, but it would be nice if this could be figured out in the future. Judge Cahill reported that the Committee on Juvenile Courts strongly recommends adoption.

> **MOTION: To recommend that the Arizona Supreme Court adopt final case processing time standards for the following case types: juvenile dependency adjudication hearings, family law dissolution and allocation of parental responsibilities, and civil traffic, as presented.** The motion was seconded and passed. AJC 2014-30.

**Long Guns for Fugitive Apprehension Units**

Ms. Kathy Waters provided an overview of the issue and introduced the 2 presenters from the Maricopa County Fugitive Apprehension Unit: Mr. Brian Armbruster and Mr. Lance Nickell.

Mr. Armbruster presented information on the statement of need, statistics/what we know, best practices and standards, evolution, increased accuracy, and the fact that a rifle is a safer weapon. He noted the Unit's currently authorized firearm is a Glock .40 caliber pistol, and they are asking to replace it with an AR-15 rifle. Mr. Armbruster reported the use of the AR-15 rifle would be limited to only Pima, Maricopa, and Mohave counties because they have permanently assigned fugitive apprehension officers. He stated the use of the AR-15 rifle will not change how they currently do their job, but only serves to increase safety. He noted the AR-15 is the standard issue for law enforcement nationwide.

Mr. George Weisz stated he supports giving them the tools to do their job, assuming the training is there, as well as an escalation of use of force. It was noted the fugitive apprehension officers are not post certified because they are not police officers, however, they are certified by the Supreme Court.

Ms. Barbara Broderick, Maricopa County Chief Probation Officer, noted that policies to be put in place will be presented at the Council's December meeting. She welcomed any Council member to come to the shooting range to see the training.

Judge Simmons stated she has 2 officers who qualify, and that she supports moving forward. Judge Davis noted this will be safer for the officer and the public, and that he fully supports the proposal.

> **MOTION: To approve moving forward with the use of long guns for the fugitive apprehension units, as presented.** The motion was seconded and passed. AJC 2014-31.

**Call to the Public/Adjourn**

Mr. Anthony Sizer, President of Father Rights Club in Pima County representing a support group for Raytheon employees, provided public comment. He expressed his concern with the disconnect between leadership in Pima Superior Court and the community. Mr. Sizer stated that he has addressed his concerns to the Presiding Judge in Pima County and has not received a response. He spoke about a specific custody case in Pima involving drugs and possible gender discrimination. Mr. Sizer noted that accountability should mean what is in the best interest of children.

The Chair thanked Mr. Sizer for his comments on how fathers are being treated in domestic cases. He explained a court cannot take action on a particular case as a result of a communication that comes by letter, and stated it needs to be done by a proper filing. He noted that Mr. Sizer is well within his rights to voice his concerns to the Presiding Judge or the Commission on Judicial Conduct. Mr. Sizer indicated he has vetted all those avenues already and was told that he had to go through the appellate court process, which most fathers cannot afford to do.

The Chair recognized Council member Judge Song Ong and noted that she would be retiring from the City of Phoenix at the end of the month.

Chief Justice Bales introduced Marcie Kanefield, his Judicial Assistant.

The meeting adjourned at 11:53 a.m.

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | __ Formal Action/Request<br>_X_ Information Only<br>__ Other | Report of the Capital Case Oversight Committee |

**FROM:**

Judge Ronald Reinstein (ret.)
Chair, Capital Case Oversight Committee

**DISCUSSION:**

The Supreme Court established the Capital Case Oversight Committee in 2007 to monitor and to facilitate efforts to reduce the number of pending capital cases in Maricopa County, which at that time had reached a crisis level. The Oversight Committee's 2013 report to the Arizona Judicial Council noted that the number of capital cases in Maricopa County had been reduced to about half of what it was when the Committee was established.

Following that report, the Chief Justice entered Administrative Order number 2013-115, which extended the term of the Oversight Committee for two years. The Order directed the Oversight Committee to continue to identify issues affecting the administration of capital cases in Arizona.

The 2013 Order also directed the Oversight Committee to submit annual reports to the Arizona Judicial Council. Judge Reinstein will present the 2014 report. The report does not contain recommendations that require action by the Council.

**RECOMMENDED COUNCIL ACTION:**

None

# Capital Case Oversight Committee

## Interim Report to the Arizona Judicial Council
## December 11, 2014

**1. Introduction.** The Chief Justice entered Administrative Order 2013-115 on December 18, 2013 and extended the term of the Capital Case Oversight Committee for two years. This Order requires the Oversight Committee to submit annual reports to the Arizona Judicial Council. This report, the first of two, contains no recommendations.

**2. Data.** The Oversight Committee has collected basic data on capital cases in Maricopa County and statewide during the past six years. Current data is as follows.

***a. Pending cases in Maricopa County.*** As of September 2014, 67 capital cases were pending trial in Maricopa County. Over the past several years, Maricopa County has had between 60 and 70 capital cases pending trial. This range has remained fairly steady during 2011, 2012, 2013, and 2014. The narrowness of the range indicates an equilibrium, i.e., that the number of newly filed death penalty notices is roughly equivalent to the number of capital case dispositions.

This current level of pending cases is approximately one-half the number of cases pending at the peak of the capital case crisis in Maricopa County during 2007-2008 that gave rise to the establishment of this committee.

***b. Pending cases statewide.*** Statewide, the number of pending capital cases has risen slightly over the past year. As of September 2014, 99 capital cases were pending, compared to 94 pending cases in September 2013. However, the number of statewide cases currently pending is about one-third less than the number pending in 2008.

Nine of Arizona's counties have no capital cases pending. Cochise County, which had 2 capital cases a year ago, and Yuma County, each have 1 pending capital case at the present time. Pima County has 6 pending cases, and Yavapai has 7, the same numbers as a year ago.

Pinal has 17 pending capital cases, compared to 10 in September 2013 and 5 in September 2012. As well as requiring more judge time, Pinal County's increased capital caseload requires other human resources for staffing those cases, particularly additional, qualified court-appointed defense counsel and mitigation specialists. Pinal County is finding some of those human resources in Maricopa and Pima Counties. However, Pinal's resource needs may be approaching the "crisis" magnitude that Maricopa experienced several years ago.

***c. Death sentences.*** Automatic notices of appeal of a death sentence were filed in 4 cases, all arising from Maricopa County, since the Oversight Committee's last annual report to the Arizona Judicial Council. This statewide number is comparable to the preceding period (3 notices), but it is a substantial drop from the number of notices of appeal filed in 2009 (15 notices), 2010 (10 notices), and 2011 (8 notices).

***d. Pending appeals.*** There are currently 13 direct appeals in the Arizona Supreme Court, compared with 12 at this time last year. Since the Oversight Committee's 2013 report, the Court has issued opinions in 5 capital cases.

***e. Post-conviction relief proceedings.*** The Oversight Committee does not track the number of capital post-conviction relief ("PCR") proceedings in trial courts statewide. However, at the present time in Maricopa County, there are 39 pending capital PCRs, compared to 38 a year ago.

***f. Executions.*** One inmate under a death sentence was executed subsequent to the Oversight Committee's last annual report to the AJC. Since 2007, Arizona has had 15 executions, with the highest number, 6 executions, occurring in 2012.

**3.** **Procedure.** Under current capital case practice, the Arizona Supreme Court issues an execution warrant concurrently with its denial of a petition for review of the trial court's denial of a first petition for post-conviction relief. The Court upon issuing that warrant distributes it to a variety of stakeholders in the judicial and executive departments of state government and in the federal court system. A defendant typically seeks federal habeas relief within days after the Court issues a warrant, and when the federal district court assumes jurisdiction, it promptly stays the execution warrant and must notify these multiple stakeholders. An amendment to Rule 31.17(c)(1) of the Arizona Rules of Criminal Procedure was adopted in 2014, with an effective date of January 1, 2015 (R-13-0051). The amendment defers the Court's issuance of the execution warrant for 15 days after the denial of a petition for review on the PCR. This interim permits the defendant to request federal habeas relief, which as a practical matter makes the Arizona Supreme Court's issuance of the warrant unnecessary.

A petition and amended petition filed by the Arizona Attorney General in R-14-0010 requested amendments to various rules in the Rules of Criminal Procedure. The petition essentially requests that a post-conviction proceeding in a capital case precede the direct appeal. (The petition in part is in response to *Martinez v. Ryan*, 132 S. Ct. 1309 (2012).) The Capital Case Oversight Committee considered R-14-0010 at a meeting in March 2014. The committee members were profoundly and intractably divided on a

recommendation concerning this rule petition, and the committee therefore provided no formal comment to the Court. At its August rules agenda, the Court reopened the matter for further comment and asked for general information, data, or studies regarding the administration of capital cases in states with a unitary review procedure similar to the procedure proposed by the Attorney General. It appears at this time that among death penalty jurisdictions, only a few have a unitary procedure, and those that do have low capital case volumes. Accordingly, there is scant data on this process and the Oversight Committee does not anticipate filing a substantive comment before the reopened comment deadline of January 16, 2016.

**4. Appointment of counsel.** The appointment of trial and appellate counsel in capital cases is within the purview of the superior court. In 2012, the Superior Court in Maricopa County by local administrative order established a Capital Defense Review Committee. This Maricopa County committee is charged with reviewing and making recommendations to the presiding criminal judge concerning the qualifications of applicants for appointment as first and second chair defense counsel at trial, and as counsel on appeal. This nine-member committee does extensive reviews of applicants, which can take months to complete. During its first two years it has made recommendations, not always favorable, regarding more than two dozen first-chair attorneys and appellate applicants. Members of the capital defense bar outside of Maricopa County have suggested the creation of a parallel, statewide review committee for the remaining counties, but this has not been implemented.

The Arizona Supreme Court appoints defense counsel in a first petition for post-conviction relief in a capital case. In 2009, there were 18 defendants awaiting the appointment of counsel on a capital PCR. By October 2013, this number had been reduced to 6. At the present time, the Supreme Court has appointed counsel for every capital defendant with a pending first PCR proceeding; there is currently no backlog awaiting the appointment of counsel.

**5. Education.** The Judicial College of Arizona and the AOC's Education Services Division conducted a wide-ranging course on capital cases in November 2014. Over the course of two days, a stellar faculty of judges and subject matter experts covered, among other things, case management, discovery, motion practice, jury selection, all three phases in the trial of a capital case, settlement conferences, sentencing, media coverage, and appellate issues. The program was attended by more than three dozen judges.

**6. Conclusion.** The Oversight Committee will continue as directed by A.O. 2013-115, and pursuant to that Order it will present its second report to the Arizona Judicial Council in December 2015.

Respectfully submitted,

Hon. Ronald Reinstein (ret.)
Chair, Capital Case Oversight Committee

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

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| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | _X_ Formal Action/Request<br>__ Information Only<br>__ Other | CHILD SUPPORT GUIDELINES RECOMMENDATIONS REGARDING ARIZONA'S QUADRENNIAL REVIEW |

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**FROM:**

Court Services Division - Theresa Barrett, Court Programs Unit Manager; Kathy Sekardi, Sr. Court Policy Analyst

**DISCUSSION:**

Every four years federal laws require states to consider the economic evidence of the cost of raising children as part of the state's review of child support guidelines. At the onset of the review, recommendations from Superior Court Presiding Judges suggested no substantive changes were needed. Accordingly, it was determined that only a technical review was merited and no policy changes or shifts in the way child support is calculated would be considered.

The Administrative Office of the Courts hired a nationally recognized consultant, Dr. Jane Venohr, to assist in the development of an updated schedule for Arizona using current economic data. The Economic Review of the Arizona Child Support Schedule and the Arizona Child Support Guidelines Review: Findings from Case File Data can be viewed on the Arizona Judicial Branch webpage located at: http://www.azcourts.gov/familylaw/Home.aspx.

Staff will present decision points necessary to update the schedule for the Council's discussion and voting.

**RECOMMENDED COUNCIL ACTION:**

To adopt the updated BR3 schedule for Arizona using current economic data and the updated self-support reserve amount of $1,115. Additionally, recommend that AOC staff compile all substantive proposals received during this technical review until further study on these issues can be undertaken.

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 750 | 184 | 174 | -10 | -5.4% | 269 | 255 | -14 | -5.3% | 320 | 303 | -17 | -5.3% |
| 800 | 194 | 185 | -9 | -4.5% | 284 | 271 | -13 | -4.4% | 337 | 323 | -15 | -4.3% |
| 850 | 203 | 196 | -7 | -3.4% | 297 | 287 | -10 | -3.4% | 353 | 341 | -12 | -3.3% |
| 900 | 212 | 206 | -6 | -3.0% | 310 | 301 | -9 | -2.9% | 368 | 358 | -10 | -2.8% |
| 950 | 221 | 216 | -6 | -2.5% | 323 | 315 | -8 | -2.5% | 383 | 374 | -9 | -2.4% |
| 1000 | 230 | 225 | -5 | -2.1% | 336 | 329 | -7 | -2.1% | 399 | 391 | -8 | -2.0% |
| 1050 | 240 | 235 | -5 | -2.1% | 350 | 343 | -7 | -2.0% | 415 | 407 | -8 | -2.0% |
| 1100 | 250 | 245 | -5 | -2.1% | 365 | 357 | -7 | -2.0% | 432 | 424 | -9 | -2.0% |
| 1150 | 260 | 255 | -5 | -2.1% | 379 | 371 | -8 | -2.0% | 449 | 440 | -9 | -2.0% |
| 1200 | 270 | 264 | -6 | -2.1% | 393 | 385 | -8 | -2.0% | 466 | 457 | -9 | -2.0% |
| 1250 | 279 | 274 | -5 | -1.8% | 406 | 399 | -7 | -1.7% | 481 | 473 | -8 | -1.7% |
| 1300 | 289 | 284 | -5 | -1.7% | 421 | 414 | -7 | -1.7% | 498 | 490 | -8 | -1.7% |
| 1350 | 299 | 293 | -5 | -1.7% | 435 | 428 | -7 | -1.7% | 515 | 506 | -8 | -1.6% |
| 1400 | 308 | 303 | -5 | -1.7% | 449 | 442 | -7 | -1.7% | 531 | 523 | -9 | -1.6% |
| 1450 | 318 | 313 | -5 | -1.6% | 463 | 456 | -7 | -1.6% | 548 | 539 | -9 | -1.6% |
| 1500 | 327 | 323 | -5 | -1.4% | 476 | 470 | -7 | -1.4% | 563 | 556 | -8 | -1.4% |
| 1550 | 336 | 332 | -4 | -1.2% | 489 | 484 | -6 | -1.2% | 579 | 572 | -7 | -1.1% |
| 1600 | 346 | 342 | -3 | -1.0% | 503 | 498 | -5 | -1.0% | 594 | 589 | -6 | -0.9% |
| 1650 | 355 | 351 | -3 | -1.0% | 516 | 511 | -5 | -0.9% | 610 | 604 | -6 | -0.9% |
| 1700 | 364 | 360 | -3 | -0.9% | 529 | 524 | -5 | -0.9% | 625 | 620 | -6 | -0.9% |
| 1750 | 373 | 369 | -3 | -0.9% | 542 | 537 | -5 | -0.9% | 641 | 635 | -6 | -0.9% |
| 1800 | 382 | 379 | -3 | -0.9% | 555 | 551 | -5 | -0.9% | 656 | 651 | -6 | -0.8% |
| 1850 | 391 | 388 | -3 | -0.9% | 568 | 564 | -5 | -0.8% | 672 | 666 | -6 | -0.8% |
| 1900 | 400 | 397 | -3 | -0.9% | 582 | 577 | -5 | -0.8% | 687 | 681 | -6 | -0.8% |
| 1950 | 409 | 406 | -3 | -0.8% | 595 | 590 | -5 | -0.8% | 702 | 697 | -5 | -0.8% |
| 2000 | 418 | 415 | -3 | -0.7% | 607 | 603 | -4 | -0.7% | 717 | 712 | -5 | -0.7% |
| 2050 | 427 | 424 | -3 | -0.7% | 620 | 616 | -4 | -0.7% | 732 | 727 | -5 | -0.6% |
| 2100 | 436 | 433 | -3 | -0.7% | 633 | 629 | -4 | -0.7% | 747 | 742 | -5 | -0.6% |
| 2150 | 445 | 442 | -3 | -0.7% | 646 | 641 | -4 | -0.7% | 762 | 757 | -5 | -0.6% |
| 2200 | 454 | 450 | -3 | -0.7% | 658 | 654 | -4 | -0.7% | 777 | 772 | -5 | -0.6% |
| 2250 | 463 | 459 | -3 | -0.7% | 671 | 667 | -4 | -0.7% | 791 | 786 | -5 | -0.6% |
| 2300 | 471 | 468 | -3 | -0.7% | 684 | 679 | -5 | -0.7% | 806 | 801 | -5 | -0.6% |
| 2350 | 480 | 477 | -3 | -0.7% | 697 | 692 | -5 | -0.7% | 821 | 816 | -5 | -0.6% |
| 2400 | 489 | 486 | -3 | -0.7% | 709 | 705 | -5 | -0.7% | 836 | 831 | -5 | -0.6% |
| 2450 | 498 | 495 | -3 | -0.7% | 722 | 717 | -5 | -0.7% | 851 | 845 | -5 | -0.6% |
| 2500 | 507 | 503 | -4 | -0.7% | 735 | 730 | -5 | -0.7% | 866 | 860 | -6 | -0.6% |
| 2550 | 516 | 512 | -4 | -0.7% | 747 | 742 | -5 | -0.7% | 881 | 875 | -6 | -0.6% |
| 2600 | 525 | 521 | -4 | -0.7% | 760 | 755 | -5 | -0.7% | 895 | 890 | -6 | -0.6% |
| 2650 | 534 | 530 | -4 | -0.7% | 773 | 768 | -5 | -0.7% | 910 | 905 | -6 | -0.6% |
| 2700 | 542 | 539 | -4 | -0.7% | 786 | 780 | -5 | -0.7% | 925 | 919 | -6 | -0.6% |
| 2750 | 551 | 547 | -4 | -0.7% | 798 | 793 | -5 | -0.7% | 940 | 934 | -6 | -0.6% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 2800 | 560 | 556 | -4 | -0.7% | 811 | 806 | -5 | -0.7% | 955 | 949 | -6 | -0.6% |
| 2850 | 569 | 565 | -4 | -0.7% | 824 | 818 | -6 | -0.7% | 970 | 964 | -6 | -0.6% |
| 2900 | 578 | 574 | -4 | -0.7% | 837 | 831 | -6 | -0.7% | 985 | 978 | -7 | -0.7% |
| 2950 | 587 | 583 | -4 | -0.7% | 850 | 844 | -6 | -0.8% | 1001 | 993 | -8 | -0.8% |
| 3000 | 596 | 592 | -4 | -0.8% | 863 | 857 | -7 | -0.8% | 1016 | 1008 | -8 | -0.8% |
| 3050 | 605 | 601 | -5 | -0.8% | 876 | 870 | -7 | -0.8% | 1032 | 1024 | -8 | -0.8% |
| 3100 | 614 | 610 | -5 | -0.8% | 889 | 883 | -7 | -0.8% | 1047 | 1039 | -8 | -0.8% |
| 3150 | 623 | 619 | -5 | -0.8% | 902 | 896 | -7 | -0.8% | 1063 | 1055 | -8 | -0.8% |
| 3200 | 632 | 628 | -5 | -0.7% | 916 | 909 | -7 | -0.8% | 1078 | 1070 | -8 | -0.8% |
| 3250 | 641 | 637 | -5 | -0.7% | 929 | 922 | -7 | -0.8% | 1094 | 1085 | -8 | -0.8% |
| 3300 | 650 | 646 | -5 | -0.7% | 942 | 935 | -7 | -0.8% | 1109 | 1101 | -9 | -0.8% |
| 3350 | 659 | 655 | -5 | -0.7% | 955 | 948 | -7 | -0.8% | 1125 | 1116 | -9 | -0.8% |
| 3400 | 668 | 663 | -5 | -0.7% | 968 | 961 | -7 | -0.8% | 1141 | 1132 | -9 | -0.8% |
| 3450 | 676 | 672 | -4 | -0.6% | 980 | 974 | -6 | -0.6% | 1154 | 1147 | -7 | -0.6% |
| 3500 | 684 | 681 | -3 | -0.4% | 991 | 987 | -4 | -0.4% | 1167 | 1163 | -5 | -0.4% |
| 3550 | 692 | 690 | -1 | -0.2% | 1002 | 1000 | -2 | -0.2% | 1180 | 1178 | -2 | -0.2% |
| 3600 | 699 | 699 | 0 | 0.0% | 1013 | 1013 | 0 | 0.0% | 1193 | 1193 | 0 | 0.0% |
| 3650 | 707 | 708 | 2 | 0.2% | 1024 | 1026 | 2 | 0.2% | 1206 | 1209 | 2 | 0.2% |
| 3700 | 714 | 717 | 3 | 0.4% | 1035 | 1039 | 4 | 0.4% | 1219 | 1224 | 5 | 0.4% |
| 3750 | 722 | 726 | 4 | 0.6% | 1046 | 1052 | 6 | 0.6% | 1232 | 1240 | 7 | 0.6% |
| 3800 | 730 | 735 | 6 | 0.8% | 1057 | 1065 | 8 | 0.8% | 1246 | 1255 | 10 | 0.8% |
| 3850 | 737 | 744 | 7 | 1.0% | 1068 | 1078 | 10 | 1.0% | 1259 | 1270 | 12 | 0.9% |
| 3900 | 743 | 753 | 11 | 1.4% | 1075 | 1091 | 16 | 1.4% | 1267 | 1286 | 19 | 1.5% |
| 3950 | 748 | 760 | 12 | 1.7% | 1083 | 1101 | 18 | 1.7% | 1275 | 1297 | 22 | 1.7% |
| 4000 | 753 | 765 | 13 | 1.7% | 1090 | 1108 | 19 | 1.7% | 1283 | 1306 | 22 | 1.7% |
| 4050 | 758 | 771 | 13 | 1.7% | 1097 | 1115 | 19 | 1.7% | 1292 | 1314 | 22 | 1.7% |
| 4100 | 763 | 776 | 13 | 1.7% | 1104 | 1123 | 19 | 1.7% | 1300 | 1322 | 23 | 1.7% |
| 4150 | 768 | 781 | 13 | 1.7% | 1111 | 1130 | 19 | 1.7% | 1308 | 1330 | 23 | 1.7% |
| 4200 | 773 | 786 | 13 | 1.7% | 1118 | 1137 | 19 | 1.7% | 1316 | 1339 | 23 | 1.7% |
| 4250 | 778 | 791 | 13 | 1.7% | 1125 | 1144 | 19 | 1.7% | 1324 | 1347 | 23 | 1.7% |
| 4300 | 783 | 796 | 13 | 1.7% | 1132 | 1152 | 19 | 1.7% | 1332 | 1355 | 23 | 1.7% |
| 4350 | 789 | 802 | 13 | 1.7% | 1140 | 1159 | 19 | 1.7% | 1340 | 1363 | 23 | 1.7% |
| 4400 | 794 | 807 | 13 | 1.7% | 1147 | 1166 | 19 | 1.7% | 1348 | 1371 | 23 | 1.7% |
| 4450 | 799 | 812 | 13 | 1.6% | 1154 | 1173 | 19 | 1.7% | 1356 | 1379 | 23 | 1.7% |
| 4500 | 804 | 817 | 13 | 1.6% | 1161 | 1180 | 19 | 1.7% | 1364 | 1388 | 23 | 1.7% |
| 4550 | 809 | 822 | 13 | 1.6% | 1168 | 1188 | 19 | 1.7% | 1372 | 1396 | 23 | 1.7% |
| 4600 | 814 | 827 | 13 | 1.6% | 1175 | 1195 | 20 | 1.7% | 1381 | 1404 | 23 | 1.7% |
| 4650 | 819 | 833 | 13 | 1.6% | 1182 | 1202 | 20 | 1.7% | 1389 | 1412 | 23 | 1.7% |
| 4700 | 824 | 838 | 13 | 1.6% | 1190 | 1209 | 20 | 1.7% | 1397 | 1420 | 24 | 1.7% |
| 4750 | 829 | 843 | 13 | 1.6% | 1197 | 1216 | 20 | 1.6% | 1405 | 1428 | 24 | 1.7% |
| 4800 | 835 | 848 | 13 | 1.6% | 1204 | 1224 | 20 | 1.6% | 1413 | 1437 | 24 | 1.7% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 4850 | 840 | 853 | 13 | 1.6% | 1211 | 1231 | 20 | 1.6% | 1421 | 1445 | 24 | 1.7% |
| 4900 | 845 | 858 | 14 | 1.6% | 1218 | 1238 | 20 | 1.6% | 1429 | 1453 | 24 | 1.7% |
| 4950 | 850 | 863 | 14 | 1.6% | 1225 | 1245 | 20 | 1.6% | 1437 | 1461 | 24 | 1.7% |
| 5000 | 854 | 869 | 15 | 1.7% | 1231 | 1252 | 21 | 1.7% | 1444 | 1469 | 25 | 1.8% |
| 5050 | 858 | 874 | 16 | 1.9% | 1236 | 1259 | 23 | 1.9% | 1450 | 1477 | 27 | 1.9% |
| 5100 | 861 | 877 | 16 | 1.9% | 1241 | 1265 | 23 | 1.9% | 1456 | 1483 | 27 | 1.9% |
| 5150 | 865 | 881 | 16 | 1.9% | 1247 | 1270 | 23 | 1.9% | 1462 | 1489 | 27 | 1.9% |
| 5200 | 869 | 885 | 16 | 1.9% | 1252 | 1275 | 23 | 1.9% | 1468 | 1495 | 28 | 1.9% |
| 5250 | 872 | 889 | 16 | 1.8% | 1257 | 1281 | 23 | 1.9% | 1474 | 1502 | 28 | 1.9% |
| 5300 | 876 | 892 | 16 | 1.8% | 1262 | 1286 | 23 | 1.9% | 1480 | 1508 | 28 | 1.9% |
| 5350 | 880 | 896 | 16 | 1.8% | 1268 | 1291 | 23 | 1.9% | 1486 | 1514 | 28 | 1.9% |
| 5400 | 884 | 900 | 16 | 1.8% | 1273 | 1296 | 24 | 1.8% | 1492 | 1520 | 28 | 1.9% |
| 5450 | 887 | 903 | 16 | 1.8% | 1278 | 1302 | 24 | 1.8% | 1498 | 1526 | 28 | 1.9% |
| 5500 | 891 | 907 | 16 | 1.8% | 1283 | 1307 | 24 | 1.8% | 1504 | 1532 | 28 | 1.8% |
| 5550 | 895 | 911 | 16 | 1.8% | 1289 | 1312 | 24 | 1.8% | 1510 | 1538 | 28 | 1.8% |
| 5600 | 898 | 915 | 16 | 1.8% | 1294 | 1318 | 24 | 1.8% | 1516 | 1544 | 28 | 1.8% |
| 5650 | 902 | 918 | 16 | 1.8% | 1299 | 1323 | 24 | 1.8% | 1522 | 1550 | 28 | 1.8% |
| 5700 | 906 | 922 | 16 | 1.8% | 1304 | 1328 | 24 | 1.8% | 1528 | 1556 | 28 | 1.8% |
| 5750 | 909 | 926 | 16 | 1.8% | 1310 | 1333 | 24 | 1.8% | 1534 | 1563 | 28 | 1.8% |
| 5800 | 913 | 930 | 16 | 1.8% | 1315 | 1339 | 24 | 1.8% | 1541 | 1569 | 28 | 1.8% |
| 5850 | 917 | 933 | 16 | 1.8% | 1320 | 1344 | 24 | 1.8% | 1547 | 1575 | 28 | 1.8% |
| 5900 | 921 | 937 | 17 | 1.8% | 1325 | 1349 | 24 | 1.8% | 1553 | 1581 | 28 | 1.8% |
| 5950 | 924 | 941 | 17 | 1.8% | 1330 | 1354 | 24 | 1.8% | 1559 | 1587 | 28 | 1.8% |
| 6000 | 928 | 944 | 17 | 1.8% | 1336 | 1360 | 24 | 1.8% | 1565 | 1593 | 28 | 1.8% |
| 6050 | 932 | 948 | 17 | 1.8% | 1341 | 1365 | 24 | 1.8% | 1571 | 1599 | 28 | 1.8% |
| 6100 | 935 | 952 | 17 | 1.8% | 1345 | 1370 | 25 | 1.9% | 1576 | 1605 | 30 | 1.9% |
| 6150 | 938 | 956 | 18 | 1.9% | 1349 | 1376 | 26 | 2.0% | 1580 | 1611 | 32 | 2.0% |
| 6200 | 941 | 959 | 18 | 2.0% | 1353 | 1380 | 27 | 2.0% | 1584 | 1616 | 33 | 2.1% |
| 6250 | 943 | 962 | 18 | 1.9% | 1357 | 1384 | 27 | 2.0% | 1588 | 1620 | 33 | 2.1% |
| 6300 | 946 | 965 | 18 | 1.9% | 1361 | 1388 | 27 | 2.0% | 1592 | 1625 | 33 | 2.1% |
| 6350 | 949 | 968 | 18 | 1.9% | 1364 | 1392 | 27 | 2.0% | 1596 | 1629 | 33 | 2.0% |
| 6400 | 952 | 971 | 18 | 1.9% | 1368 | 1395 | 27 | 2.0% | 1600 | 1633 | 33 | 2.0% |
| 6450 | 955 | 973 | 18 | 1.9% | 1372 | 1399 | 27 | 2.0% | 1604 | 1637 | 33 | 2.0% |
| 6500 | 958 | 976 | 19 | 1.9% | 1376 | 1403 | 27 | 2.0% | 1608 | 1641 | 33 | 2.0% |
| 6550 | 961 | 979 | 19 | 1.9% | 1380 | 1407 | 27 | 2.0% | 1612 | 1645 | 33 | 2.0% |
| 6600 | 964 | 982 | 19 | 1.9% | 1383 | 1411 | 27 | 2.0% | 1616 | 1649 | 33 | 2.0% |
| 6650 | 966 | 985 | 19 | 1.9% | 1387 | 1415 | 27 | 2.0% | 1620 | 1653 | 33 | 2.0% |
| 6700 | 969 | 988 | 19 | 1.9% | 1391 | 1418 | 27 | 2.0% | 1624 | 1657 | 33 | 2.0% |
| 6750 | 972 | 991 | 19 | 1.9% | 1395 | 1422 | 27 | 2.0% | 1628 | 1661 | 33 | 2.0% |
| 6800 | 975 | 994 | 19 | 1.9% | 1399 | 1426 | 28 | 2.0% | 1632 | 1665 | 33 | 2.0% |
| 6850 | 978 | 997 | 19 | 1.9% | 1402 | 1430 | 28 | 2.0% | 1637 | 1670 | 33 | 2.0% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 6900 | 981 | 1000 | 19 | 1.9% | 1406 | 1434 | 28 | 2.0% | 1641 | 1674 | 33 | 2.0% |
| 6950 | 984 | 1002 | 19 | 1.9% | 1410 | 1438 | 28 | 2.0% | 1645 | 1678 | 33 | 2.0% |
| 7000 | 987 | 1005 | 19 | 1.9% | 1414 | 1442 | 28 | 2.0% | 1649 | 1682 | 33 | 2.0% |
| 7050 | 990 | 1008 | 19 | 1.9% | 1418 | 1445 | 28 | 2.0% | 1653 | 1686 | 33 | 2.0% |
| 7100 | 992 | 1011 | 19 | 1.9% | 1422 | 1449 | 28 | 1.9% | 1657 | 1690 | 33 | 2.0% |
| 7150 | 995 | 1014 | 19 | 1.9% | 1425 | 1453 | 28 | 1.9% | 1661 | 1694 | 33 | 2.0% |
| 7200 | 997 | 1017 | 20 | 2.0% | 1428 | 1457 | 29 | 2.0% | 1664 | 1698 | 34 | 2.1% |
| 7250 | 999 | 1020 | 21 | 2.1% | 1430 | 1461 | 31 | 2.1% | 1666 | 1702 | 37 | 2.2% |
| 7300 | 1000 | 1023 | 22 | 2.2% | 1432 | 1465 | 33 | 2.3% | 1667 | 1706 | 39 | 2.3% |
| 7350 | 1002 | 1024 | 23 | 2.2% | 1433 | 1466 | 33 | 2.3% | 1669 | 1708 | 39 | 2.3% |
| 7400 | 1003 | 1026 | 23 | 2.3% | 1435 | 1468 | 33 | 2.3% | 1671 | 1710 | 39 | 2.3% |
| 7450 | 1004 | 1027 | 23 | 2.3% | 1437 | 1470 | 33 | 2.3% | 1673 | 1712 | 39 | 2.3% |
| 7500 | 1006 | 1029 | 23 | 2.3% | 1439 | 1472 | 33 | 2.3% | 1674 | 1714 | 39 | 2.4% |
| 7550 | 1007 | 1030 | 23 | 2.3% | 1440 | 1474 | 33 | 2.3% | 1676 | 1716 | 40 | 2.4% |
| 7600 | 1009 | 1032 | 23 | 2.3% | 1442 | 1476 | 33 | 2.3% | 1678 | 1718 | 40 | 2.4% |
| 7650 | 1010 | 1033 | 23 | 2.3% | 1444 | 1478 | 34 | 2.3% | 1680 | 1719 | 40 | 2.4% |
| 7700 | 1011 | 1035 | 23 | 2.3% | 1446 | 1479 | 34 | 2.3% | 1681 | 1721 | 40 | 2.4% |
| 7750 | 1013 | 1036 | 23 | 2.3% | 1447 | 1481 | 34 | 2.3% | 1683 | 1723 | 40 | 2.4% |
| 7800 | 1014 | 1038 | 23 | 2.3% | 1449 | 1483 | 34 | 2.3% | 1685 | 1725 | 40 | 2.4% |
| 7850 | 1016 | 1039 | 23 | 2.3% | 1451 | 1485 | 34 | 2.3% | 1687 | 1727 | 40 | 2.4% |
| 7900 | 1017 | 1041 | 24 | 2.3% | 1453 | 1487 | 34 | 2.4% | 1688 | 1729 | 40 | 2.4% |
| 7950 | 1018 | 1042 | 24 | 2.3% | 1454 | 1489 | 34 | 2.4% | 1690 | 1731 | 40 | 2.4% |
| 8000 | 1020 | 1044 | 24 | 2.3% | 1456 | 1491 | 34 | 2.4% | 1692 | 1732 | 41 | 2.4% |
| 8050 | 1021 | 1045 | 24 | 2.3% | 1458 | 1492 | 35 | 2.4% | 1694 | 1734 | 41 | 2.4% |
| 8100 | 1023 | 1047 | 24 | 2.3% | 1460 | 1494 | 35 | 2.4% | 1695 | 1736 | 41 | 2.4% |
| 8150 | 1024 | 1048 | 24 | 2.4% | 1461 | 1496 | 35 | 2.4% | 1697 | 1738 | 41 | 2.4% |
| 8200 | 1025 | 1050 | 24 | 2.4% | 1463 | 1498 | 35 | 2.4% | 1699 | 1740 | 41 | 2.4% |
| 8250 | 1027 | 1051 | 24 | 2.4% | 1465 | 1500 | 35 | 2.4% | 1701 | 1742 | 41 | 2.4% |
| 8300 | 1028 | 1053 | 24 | 2.4% | 1467 | 1502 | 35 | 2.4% | 1702 | 1744 | 41 | 2.4% |
| 8350 | 1030 | 1054 | 24 | 2.3% | 1469 | 1504 | 34 | 2.3% | 1705 | 1745 | 40 | 2.4% |
| 8400 | 1035 | 1055 | 20 | 1.9% | 1476 | 1505 | 29 | 2.0% | 1713 | 1747 | 34 | 2.0% |
| 8450 | 1041 | 1058 | 17 | 1.7% | 1484 | 1509 | 25 | 1.7% | 1722 | 1751 | 29 | 1.7% |
| 8500 | 1046 | 1063 | 17 | 1.6% | 1491 | 1516 | 25 | 1.6% | 1730 | 1759 | 29 | 1.7% |
| 8550 | 1051 | 1068 | 17 | 1.6% | 1498 | 1522 | 24 | 1.6% | 1739 | 1767 | 28 | 1.6% |
| 8600 | 1056 | 1072 | 16 | 1.5% | 1506 | 1529 | 23 | 1.6% | 1747 | 1774 | 27 | 1.6% |
| 8650 | 1061 | 1077 | 16 | 1.5% | 1513 | 1536 | 23 | 1.5% | 1756 | 1782 | 27 | 1.5% |
| 8700 | 1067 | 1082 | 15 | 1.4% | 1520 | 1543 | 22 | 1.5% | 1764 | 1790 | 26 | 1.5% |
| 8750 | 1072 | 1087 | 15 | 1.4% | 1528 | 1549 | 22 | 1.4% | 1772 | 1798 | 25 | 1.4% |
| 8800 | 1077 | 1092 | 15 | 1.4% | 1535 | 1556 | 21 | 1.4% | 1781 | 1806 | 25 | 1.4% |
| 8850 | 1082 | 1096 | 14 | 1.3% | 1542 | 1563 | 21 | 1.3% | 1789 | 1813 | 24 | 1.3% |
| 8900 | 1087 | 1101 | 14 | 1.3% | 1550 | 1570 | 20 | 1.3% | 1798 | 1821 | 23 | 1.3% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 8950 | 1093 | 1106 | 13 | 1.2% | 1557 | 1576 | 19 | 1.2% | 1806 | 1829 | 23 | 1.3% |
| 9000 | 1098 | 1111 | 13 | 1.2% | 1564 | 1583 | 19 | 1.2% | 1815 | 1837 | 22 | 1.2% |
| 9050 | 1103 | 1116 | 13 | 1.1% | 1572 | 1590 | 18 | 1.2% | 1823 | 1844 | 21 | 1.2% |
| 9100 | 1106 | 1120 | 14 | 1.3% | 1577 | 1597 | 20 | 1.3% | 1829 | 1852 | 23 | 1.3% |
| 9150 | 1110 | 1125 | 15 | 1.4% | 1581 | 1603 | 22 | 1.4% | 1834 | 1860 | 26 | 1.4% |
| 9200 | 1113 | 1130 | 17 | 1.5% | 1586 | 1610 | 24 | 1.5% | 1840 | 1868 | 28 | 1.5% |
| 9250 | 1116 | 1134 | 17 | 1.6% | 1591 | 1616 | 25 | 1.6% | 1845 | 1874 | 29 | 1.6% |
| 9300 | 1120 | 1137 | 17 | 1.5% | 1596 | 1620 | 24 | 1.5% | 1851 | 1879 | 28 | 1.5% |
| 9350 | 1123 | 1140 | 17 | 1.5% | 1600 | 1624 | 24 | 1.5% | 1856 | 1884 | 28 | 1.5% |
| 9400 | 1126 | 1143 | 17 | 1.5% | 1605 | 1629 | 24 | 1.5% | 1862 | 1889 | 27 | 1.5% |
| 9450 | 1130 | 1146 | 16 | 1.4% | 1610 | 1633 | 23 | 1.4% | 1867 | 1894 | 27 | 1.4% |
| 9500 | 1133 | 1149 | 16 | 1.4% | 1614 | 1637 | 23 | 1.4% | 1873 | 1899 | 26 | 1.4% |
| 9550 | 1136 | 1152 | 16 | 1.4% | 1619 | 1642 | 23 | 1.4% | 1878 | 1904 | 26 | 1.4% |
| 9600 | 1140 | 1155 | 16 | 1.4% | 1624 | 1646 | 22 | 1.4% | 1884 | 1909 | 26 | 1.4% |
| 9650 | 1143 | 1158 | 15 | 1.3% | 1629 | 1650 | 22 | 1.3% | 1889 | 1914 | 25 | 1.3% |
| 9700 | 1146 | 1161 | 15 | 1.3% | 1633 | 1655 | 21 | 1.3% | 1895 | 1920 | 25 | 1.3% |
| 9750 | 1150 | 1164 | 15 | 1.3% | 1638 | 1659 | 21 | 1.3% | 1900 | 1925 | 24 | 1.3% |
| 9800 | 1153 | 1168 | 15 | 1.3% | 1643 | 1664 | 21 | 1.3% | 1906 | 1930 | 24 | 1.3% |
| 9850 | 1156 | 1171 | 15 | 1.3% | 1648 | 1669 | 21 | 1.3% | 1911 | 1936 | 24 | 1.3% |
| 9900 | 1160 | 1174 | 15 | 1.3% | 1652 | 1674 | 21 | 1.3% | 1917 | 1941 | 25 | 1.3% |
| 9950 | 1163 | 1178 | 15 | 1.3% | 1657 | 1678 | 21 | 1.3% | 1922 | 1947 | 25 | 1.3% |
| 10000 | 1166 | 1181 | 15 | 1.3% | 1662 | 1683 | 21 | 1.3% | 1928 | 1953 | 25 | 1.3% |
| 10050 | 1170 | 1185 | 15 | 1.3% | 1667 | 1688 | 21 | 1.3% | 1933 | 1958 | 25 | 1.3% |
| 10100 | 1173 | 1188 | 15 | 1.3% | 1671 | 1693 | 22 | 1.3% | 1939 | 1964 | 25 | 1.3% |
| 10150 | 1176 | 1191 | 16 | 1.3% | 1675 | 1698 | 23 | 1.3% | 1943 | 1969 | 26 | 1.3% |
| 10200 | 1178 | 1195 | 17 | 1.4% | 1679 | 1703 | 24 | 1.4% | 1947 | 1975 | 28 | 1.4% |
| 10250 | 1181 | 1198 | 17 | 1.5% | 1682 | 1707 | 25 | 1.5% | 1951 | 1981 | 29 | 1.5% |
| 10300 | 1183 | 1202 | 18 | 1.5% | 1686 | 1712 | 26 | 1.6% | 1955 | 1986 | 31 | 1.6% |
| 10350 | 1186 | 1205 | 19 | 1.6% | 1689 | 1717 | 27 | 1.6% | 1959 | 1992 | 32 | 1.7% |
| 10400 | 1188 | 1207 | 19 | 1.6% | 1693 | 1720 | 28 | 1.6% | 1963 | 1996 | 33 | 1.7% |
| 10450 | 1191 | 1210 | 19 | 1.6% | 1696 | 1724 | 28 | 1.6% | 1967 | 2000 | 33 | 1.7% |
| 10500 | 1193 | 1213 | 19 | 1.6% | 1700 | 1728 | 28 | 1.6% | 1971 | 2004 | 33 | 1.7% |
| 10550 | 1196 | 1215 | 19 | 1.6% | 1703 | 1731 | 28 | 1.6% | 1975 | 2008 | 33 | 1.7% |
| 10600 | 1199 | 1218 | 19 | 1.6% | 1707 | 1735 | 28 | 1.6% | 1979 | 2012 | 33 | 1.7% |
| 10650 | 1201 | 1220 | 19 | 1.6% | 1710 | 1738 | 28 | 1.6% | 1983 | 2016 | 33 | 1.7% |
| 10700 | 1204 | 1223 | 19 | 1.6% | 1714 | 1742 | 28 | 1.6% | 1987 | 2020 | 33 | 1.7% |
| 10750 | 1206 | 1226 | 19 | 1.6% | 1717 | 1745 | 28 | 1.6% | 1991 | 2024 | 33 | 1.7% |
| 10800 | 1209 | 1228 | 19 | 1.6% | 1721 | 1749 | 28 | 1.6% | 1995 | 2028 | 33 | 1.7% |
| 10850 | 1211 | 1231 | 19 | 1.6% | 1725 | 1753 | 28 | 1.6% | 1999 | 2032 | 33 | 1.7% |
| 10900 | 1214 | 1233 | 19 | 1.6% | 1728 | 1756 | 28 | 1.6% | 2003 | 2036 | 33 | 1.7% |
| 10950 | 1216 | 1236 | 19 | 1.6% | 1732 | 1760 | 28 | 1.6% | 2007 | 2040 | 33 | 1.7% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 11000 | 1219 | 1239 | 19 | 1.6% | 1735 | 1763 | 28 | 1.6% | 2011 | 2044 | 33 | 1.7% |
| 11050 | 1222 | 1241 | 20 | 1.6% | 1739 | 1767 | 28 | 1.6% | 2015 | 2048 | 33 | 1.7% |
| 11100 | 1224 | 1244 | 20 | 1.6% | 1742 | 1771 | 28 | 1.6% | 2019 | 2052 | 33 | 1.7% |
| 11150 | 1227 | 1246 | 20 | 1.6% | 1746 | 1774 | 28 | 1.6% | 2023 | 2056 | 33 | 1.7% |
| 11200 | 1229 | 1249 | 20 | 1.6% | 1749 | 1778 | 28 | 1.6% | 2027 | 2060 | 34 | 1.7% |
| 11250 | 1232 | 1251 | 20 | 1.6% | 1753 | 1781 | 29 | 1.6% | 2031 | 2064 | 34 | 1.7% |
| 11300 | 1234 | 1254 | 20 | 1.6% | 1756 | 1785 | 29 | 1.6% | 2035 | 2068 | 34 | 1.7% |
| 11350 | 1237 | 1257 | 20 | 1.6% | 1760 | 1788 | 29 | 1.6% | 2039 | 2072 | 34 | 1.7% |
| 11400 | 1239 | 1259 | 20 | 1.6% | 1763 | 1792 | 29 | 1.6% | 2042 | 2076 | 34 | 1.7% |
| 11450 | 1242 | 1262 | 20 | 1.6% | 1767 | 1796 | 29 | 1.6% | 2046 | 2080 | 34 | 1.7% |
| 11500 | 1245 | 1264 | 20 | 1.6% | 1770 | 1799 | 29 | 1.6% | 2050 | 2084 | 34 | 1.7% |
| 11550 | 1247 | 1267 | 20 | 1.6% | 1774 | 1803 | 29 | 1.6% | 2055 | 2088 | 34 | 1.6% |
| 11600 | 1250 | 1270 | 20 | 1.6% | 1778 | 1806 | 28 | 1.6% | 2059 | 2092 | 33 | 1.6% |
| 11650 | 1253 | 1272 | 19 | 1.5% | 1782 | 1810 | 28 | 1.6% | 2064 | 2096 | 32 | 1.6% |
| 11700 | 1256 | 1275 | 19 | 1.5% | 1786 | 1814 | 27 | 1.5% | 2069 | 2100 | 32 | 1.5% |
| 11750 | 1259 | 1277 | 19 | 1.5% | 1790 | 1817 | 27 | 1.5% | 2074 | 2105 | 31 | 1.5% |
| 11800 | 1262 | 1280 | 19 | 1.5% | 1795 | 1821 | 27 | 1.5% | 2078 | 2109 | 31 | 1.5% |
| 11850 | 1264 | 1283 | 19 | 1.5% | 1799 | 1825 | 27 | 1.5% | 2083 | 2114 | 31 | 1.5% |
| 11900 | 1267 | 1286 | 19 | 1.5% | 1803 | 1829 | 27 | 1.5% | 2088 | 2119 | 31 | 1.5% |
| 11950 | 1270 | 1289 | 19 | 1.5% | 1807 | 1833 | 27 | 1.5% | 2092 | 2123 | 31 | 1.5% |
| 12000 | 1273 | 1292 | 19 | 1.5% | 1811 | 1838 | 27 | 1.5% | 2097 | 2128 | 31 | 1.5% |
| 12050 | 1276 | 1295 | 19 | 1.5% | 1815 | 1842 | 27 | 1.5% | 2102 | 2133 | 31 | 1.5% |
| 12100 | 1279 | 1298 | 19 | 1.5% | 1819 | 1846 | 27 | 1.5% | 2107 | 2138 | 31 | 1.5% |
| 12150 | 1282 | 1301 | 19 | 1.5% | 1823 | 1850 | 27 | 1.5% | 2111 | 2143 | 31 | 1.5% |
| 12200 | 1285 | 1304 | 19 | 1.5% | 1827 | 1854 | 27 | 1.5% | 2116 | 2147 | 31 | 1.5% |
| 12250 | 1287 | 1306 | 19 | 1.5% | 1831 | 1858 | 27 | 1.5% | 2121 | 2152 | 31 | 1.5% |
| 12300 | 1290 | 1309 | 19 | 1.5% | 1835 | 1863 | 27 | 1.5% | 2125 | 2157 | 32 | 1.5% |
| 12350 | 1293 | 1312 | 19 | 1.5% | 1839 | 1867 | 27 | 1.5% | 2130 | 2162 | 32 | 1.5% |
| 12400 | 1296 | 1315 | 19 | 1.5% | 1843 | 1871 | 27 | 1.5% | 2135 | 2167 | 32 | 1.5% |
| 12450 | 1299 | 1318 | 19 | 1.5% | 1848 | 1875 | 27 | 1.5% | 2140 | 2171 | 32 | 1.5% |
| 12500 | 1302 | 1321 | 19 | 1.5% | 1852 | 1879 | 27 | 1.5% | 2144 | 2176 | 32 | 1.5% |
| 12550 | 1305 | 1324 | 19 | 1.5% | 1856 | 1883 | 28 | 1.5% | 2149 | 2181 | 32 | 1.5% |
| 12600 | 1307 | 1327 | 19 | 1.5% | 1860 | 1887 | 28 | 1.5% | 2154 | 2186 | 32 | 1.5% |
| 12650 | 1310 | 1330 | 19 | 1.5% | 1864 | 1891 | 28 | 1.5% | 2158 | 2190 | 32 | 1.5% |
| 12700 | 1313 | 1333 | 19 | 1.5% | 1868 | 1896 | 28 | 1.5% | 2163 | 2195 | 32 | 1.5% |
| 12750 | 1316 | 1336 | 19 | 1.5% | 1872 | 1900 | 28 | 1.5% | 2168 | 2200 | 32 | 1.5% |
| 12800 | 1319 | 1338 | 20 | 1.5% | 1876 | 1904 | 28 | 1.5% | 2173 | 2205 | 32 | 1.5% |
| 12850 | 1322 | 1341 | 20 | 1.5% | 1880 | 1908 | 28 | 1.5% | 2177 | 2210 | 32 | 1.5% |
| 12900 | 1325 | 1344 | 20 | 1.5% | 1884 | 1912 | 28 | 1.5% | 2182 | 2214 | 32 | 1.5% |
| 12950 | 1327 | 1347 | 20 | 1.5% | 1888 | 1916 | 28 | 1.5% | 2187 | 2219 | 32 | 1.5% |
| 13000 | 1330 | 1350 | 20 | 1.5% | 1892 | 1920 | 28 | 1.5% | 2191 | 2224 | 32 | 1.5% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 13050 | 1333 | 1353 | 20 | 1.5% | 1896 | 1924 | 28 | 1.5% | 2196 | 2229 | 32 | 1.5% |
| 13100 | 1336 | 1356 | 20 | 1.5% | 1901 | 1929 | 28 | 1.5% | 2201 | 2233 | 33 | 1.5% |
| 13150 | 1339 | 1359 | 20 | 1.5% | 1905 | 1933 | 28 | 1.5% | 2206 | 2238 | 33 | 1.5% |
| 13200 | 1342 | 1362 | 20 | 1.5% | 1909 | 1937 | 28 | 1.5% | 2210 | 2243 | 33 | 1.5% |
| 13250 | 1345 | 1365 | 20 | 1.5% | 1913 | 1941 | 28 | 1.5% | 2215 | 2248 | 33 | 1.5% |
| 13300 | 1348 | 1367 | 20 | 1.5% | 1917 | 1945 | 28 | 1.5% | 2220 | 2252 | 33 | 1.5% |
| 13350 | 1350 | 1370 | 20 | 1.5% | 1921 | 1949 | 28 | 1.5% | 2224 | 2257 | 33 | 1.5% |
| 13400 | 1353 | 1373 | 20 | 1.5% | 1925 | 1953 | 28 | 1.5% | 2229 | 2262 | 33 | 1.5% |
| 13450 | 1356 | 1376 | 20 | 1.5% | 1929 | 1958 | 28 | 1.5% | 2234 | 2267 | 33 | 1.5% |
| 13500 | 1359 | 1379 | 20 | 1.5% | 1933 | 1962 | 28 | 1.5% | 2239 | 2272 | 33 | 1.5% |
| 13550 | 1362 | 1382 | 20 | 1.5% | 1937 | 1966 | 28 | 1.5% | 2243 | 2276 | 33 | 1.5% |
| 13600 | 1365 | 1385 | 20 | 1.5% | 1941 | 1970 | 29 | 1.5% | 2248 | 2281 | 33 | 1.5% |
| 13650 | 1368 | 1388 | 20 | 1.5% | 1945 | 1974 | 29 | 1.5% | 2253 | 2286 | 33 | 1.5% |
| 13700 | 1370 | 1391 | 20 | 1.5% | 1950 | 1978 | 29 | 1.5% | 2257 | 2291 | 33 | 1.5% |
| 13750 | 1373 | 1393 | 20 | 1.5% | 1954 | 1982 | 29 | 1.5% | 2262 | 2295 | 33 | 1.5% |
| 13800 | 1376 | 1396 | 20 | 1.5% | 1958 | 1986 | 29 | 1.5% | 2267 | 2300 | 33 | 1.5% |
| 13850 | 1379 | 1399 | 20 | 1.5% | 1962 | 1991 | 29 | 1.5% | 2272 | 2305 | 33 | 1.5% |
| 13900 | 1382 | 1402 | 20 | 1.5% | 1966 | 1995 | 29 | 1.5% | 2276 | 2310 | 33 | 1.5% |
| 13950 | 1385 | 1405 | 20 | 1.5% | 1970 | 1999 | 29 | 1.5% | 2281 | 2315 | 33 | 1.5% |
| 14000 | 1388 | 1408 | 20 | 1.5% | 1974 | 2003 | 29 | 1.5% | 2286 | 2319 | 34 | 1.5% |
| 14050 | 1391 | 1411 | 20 | 1.5% | 1978 | 2007 | 29 | 1.5% | 2290 | 2324 | 34 | 1.5% |
| 14100 | 1393 | 1414 | 20 | 1.5% | 1982 | 2011 | 29 | 1.5% | 2295 | 2329 | 34 | 1.5% |
| 14150 | 1396 | 1417 | 20 | 1.5% | 1986 | 2015 | 29 | 1.5% | 2300 | 2334 | 34 | 1.5% |
| 14200 | 1399 | 1420 | 20 | 1.5% | 1990 | 2019 | 29 | 1.5% | 2305 | 2338 | 34 | 1.5% |
| 14250 | 1402 | 1422 | 21 | 1.5% | 1994 | 2024 | 29 | 1.5% | 2309 | 2343 | 34 | 1.5% |
| 14300 | 1405 | 1425 | 21 | 1.5% | 1998 | 2028 | 29 | 1.5% | 2314 | 2348 | 34 | 1.5% |
| 14350 | 1408 | 1428 | 21 | 1.5% | 2003 | 2032 | 29 | 1.5% | 2319 | 2353 | 34 | 1.5% |
| 14400 | 1411 | 1431 | 21 | 1.5% | 2006 | 2036 | 30 | 1.5% | 2323 | 2357 | 34 | 1.5% |
| 14450 | 1413 | 1434 | 21 | 1.5% | 2010 | 2040 | 30 | 1.5% | 2327 | 2362 | 35 | 1.5% |
| 14500 | 1416 | 1437 | 21 | 1.5% | 2014 | 2044 | 31 | 1.5% | 2331 | 2367 | 36 | 1.5% |
| 14550 | 1418 | 1440 | 21 | 1.5% | 2017 | 2048 | 31 | 1.5% | 2335 | 2372 | 37 | 1.6% |
| 14600 | 1421 | 1443 | 22 | 1.5% | 2021 | 2052 | 32 | 1.6% | 2339 | 2377 | 38 | 1.6% |
| 14650 | 1424 | 1446 | 22 | 1.6% | 2024 | 2056 | 33 | 1.6% | 2343 | 2381 | 39 | 1.6% |
| 14700 | 1426 | 1448 | 22 | 1.6% | 2027 | 2060 | 33 | 1.6% | 2346 | 2385 | 39 | 1.7% |
| 14750 | 1429 | 1451 | 23 | 1.6% | 2031 | 2064 | 33 | 1.6% | 2350 | 2390 | 39 | 1.7% |
| 14800 | 1431 | 1454 | 23 | 1.6% | 2034 | 2068 | 34 | 1.7% | 2354 | 2394 | 40 | 1.7% |
| 14850 | 1434 | 1457 | 23 | 1.6% | 2038 | 2072 | 34 | 1.7% | 2358 | 2398 | 40 | 1.7% |
| 14900 | 1436 | 1460 | 24 | 1.6% | 2041 | 2076 | 34 | 1.7% | 2362 | 2402 | 41 | 1.7% |
| 14950 | 1439 | 1463 | 24 | 1.7% | 2045 | 2079 | 35 | 1.7% | 2366 | 2407 | 41 | 1.7% |
| 15000 | 1441 | 1466 | 24 | 1.7% | 2048 | 2083 | 35 | 1.7% | 2369 | 2411 | 42 | 1.8% |
| 15050 | 1444 | 1468 | 24 | 1.7% | 2051 | 2087 | 36 | 1.7% | 2373 | 2415 | 42 | 1.8% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 15100 | 1446 | 1471 | 25 | 1.7% | 2055 | 2091 | 36 | 1.8% | 2377 | 2419 | 42 | 1.8% |
| 15150 | 1449 | 1474 | 25 | 1.7% | 2058 | 2095 | 36 | 1.8% | 2381 | 2424 | 43 | 1.8% |
| 15200 | 1452 | 1477 | 25 | 1.7% | 2062 | 2099 | 37 | 1.8% | 2385 | 2428 | 43 | 1.8% |
| 15250 | 1454 | 1480 | 26 | 1.8% | 2065 | 2102 | 37 | 1.8% | 2388 | 2432 | 44 | 1.8% |
| 15300 | 1457 | 1483 | 26 | 1.8% | 2069 | 2106 | 38 | 1.8% | 2392 | 2436 | 44 | 1.8% |
| 15350 | 1459 | 1485 | 26 | 1.8% | 2072 | 2110 | 38 | 1.8% | 2396 | 2441 | 45 | 1.9% |
| 15400 | 1462 | 1488 | 26 | 1.8% | 2076 | 2114 | 38 | 1.8% | 2400 | 2445 | 45 | 1.9% |
| 15450 | 1464 | 1491 | 27 | 1.8% | 2079 | 2118 | 39 | 1.9% | 2404 | 2449 | 46 | 1.9% |
| 15500 | 1467 | 1494 | 27 | 1.8% | 2082 | 2122 | 39 | 1.9% | 2408 | 2453 | 46 | 1.9% |
| 15550 | 1469 | 1497 | 27 | 1.9% | 2086 | 2125 | 40 | 1.9% | 2411 | 2458 | 46 | 1.9% |
| 15600 | 1472 | 1500 | 28 | 1.9% | 2089 | 2129 | 40 | 1.9% | 2415 | 2462 | 47 | 1.9% |
| 15650 | 1474 | 1502 | 28 | 1.9% | 2093 | 2133 | 40 | 1.9% | 2419 | 2466 | 47 | 2.0% |
| 15700 | 1477 | 1505 | 28 | 1.9% | 2096 | 2137 | 41 | 1.9% | 2423 | 2471 | 48 | 2.0% |
| 15750 | 1480 | 1508 | 28 | 1.9% | 2100 | 2141 | 41 | 2.0% | 2427 | 2475 | 48 | 2.0% |
| 15800 | 1482 | 1511 | 29 | 1.9% | 2103 | 2145 | 41 | 2.0% | 2430 | 2479 | 49 | 2.0% |
| 15850 | 1485 | 1514 | 29 | 2.0% | 2107 | 2148 | 42 | 2.0% | 2434 | 2483 | 49 | 2.0% |
| 15900 | 1487 | 1517 | 29 | 2.0% | 2110 | 2152 | 42 | 2.0% | 2438 | 2488 | 49 | 2.0% |
| 15950 | 1490 | 1519 | 30 | 2.0% | 2113 | 2156 | 43 | 2.0% | 2442 | 2492 | 50 | 2.0% |
| 16000 | 1492 | 1522 | 30 | 2.0% | 2117 | 2160 | 43 | 2.0% | 2446 | 2496 | 50 | 2.1% |
| 16050 | 1495 | 1525 | 30 | 2.0% | 2120 | 2164 | 43 | 2.0% | 2450 | 2500 | 51 | 2.1% |
| 16100 | 1497 | 1528 | 31 | 2.0% | 2124 | 2168 | 44 | 2.1% | 2453 | 2505 | 51 | 2.1% |
| 16150 | 1500 | 1531 | 31 | 2.1% | 2127 | 2171 | 44 | 2.1% | 2457 | 2509 | 52 | 2.1% |
| 16200 | 1502 | 1534 | 31 | 2.1% | 2131 | 2175 | 45 | 2.1% | 2461 | 2513 | 52 | 2.1% |
| 16250 | 1505 | 1536 | 31 | 2.1% | 2134 | 2179 | 45 | 2.1% | 2465 | 2517 | 52 | 2.1% |
| 16300 | 1508 | 1539 | 32 | 2.1% | 2137 | 2183 | 45 | 2.1% | 2469 | 2522 | 53 | 2.1% |
| 16350 | 1510 | 1542 | 32 | 2.1% | 2141 | 2187 | 45 | 2.1% | 2473 | 2526 | 53 | 2.1% |
| 16400 | 1513 | 1545 | 32 | 2.1% | 2145 | 2190 | 45 | 2.1% | 2478 | 2530 | 52 | 2.1% |
| 16450 | 1516 | 1547 | 31 | 2.1% | 2149 | 2194 | 45 | 2.1% | 2483 | 2534 | 51 | 2.1% |
| 16500 | 1519 | 1550 | 32 | 2.1% | 2154 | 2198 | 45 | 2.1% | 2487 | 2539 | 52 | 2.1% |
| 16550 | 1522 | 1553 | 32 | 2.1% | 2158 | 2202 | 45 | 2.1% | 2492 | 2544 | 52 | 2.1% |
| 16600 | 1524 | 1556 | 32 | 2.1% | 2162 | 2206 | 45 | 2.1% | 2496 | 2548 | 52 | 2.1% |
| 16650 | 1527 | 1559 | 32 | 2.1% | 2166 | 2211 | 45 | 2.1% | 2501 | 2553 | 52 | 2.1% |
| 16700 | 1530 | 1562 | 32 | 2.1% | 2170 | 2215 | 45 | 2.1% | 2506 | 2558 | 52 | 2.1% |
| 16750 | 1533 | 1565 | 32 | 2.1% | 2174 | 2219 | 45 | 2.1% | 2510 | 2562 | 52 | 2.1% |
| 16800 | 1536 | 1568 | 32 | 2.1% | 2178 | 2223 | 45 | 2.1% | 2515 | 2567 | 52 | 2.1% |
| 16850 | 1539 | 1570 | 32 | 2.1% | 2182 | 2227 | 45 | 2.1% | 2520 | 2572 | 52 | 2.1% |
| 16900 | 1541 | 1573 | 32 | 2.1% | 2186 | 2231 | 45 | 2.1% | 2524 | 2577 | 52 | 2.1% |
| 16950 | 1544 | 1576 | 32 | 2.1% | 2190 | 2235 | 45 | 2.1% | 2529 | 2581 | 52 | 2.1% |
| 17000 | 1547 | 1579 | 32 | 2.1% | 2194 | 2239 | 45 | 2.1% | 2533 | 2586 | 52 | 2.1% |
| 17050 | 1550 | 1582 | 32 | 2.1% | 2198 | 2243 | 46 | 2.1% | 2538 | 2591 | 53 | 2.1% |
| 17100 | 1553 | 1585 | 32 | 2.1% | 2202 | 2247 | 46 | 2.1% | 2543 | 2595 | 53 | 2.1% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 17150 | 1555 | 1588 | 32 | 2.1% | 2206 | 2251 | 46 | 2.1% | 2547 | 2600 | 53 | 2.1% |
| 17200 | 1558 | 1590 | 32 | 2.1% | 2210 | 2255 | 46 | 2.1% | 2552 | 2605 | 53 | 2.1% |
| 17250 | 1561 | 1593 | 32 | 2.1% | 2214 | 2259 | 46 | 2.1% | 2557 | 2609 | 53 | 2.1% |
| 17300 | 1564 | 1596 | 32 | 2.1% | 2218 | 2263 | 46 | 2.1% | 2561 | 2614 | 53 | 2.1% |
| 17350 | 1567 | 1599 | 32 | 2.1% | 2222 | 2267 | 46 | 2.1% | 2566 | 2619 | 53 | 2.1% |
| 17400 | 1569 | 1602 | 32 | 2.1% | 2226 | 2271 | 46 | 2.1% | 2570 | 2623 | 53 | 2.1% |
| 17450 | 1572 | 1605 | 32 | 2.1% | 2230 | 2276 | 46 | 2.1% | 2575 | 2628 | 53 | 2.1% |
| 17500 | 1575 | 1608 | 32 | 2.1% | 2234 | 2280 | 46 | 2.1% | 2580 | 2633 | 53 | 2.1% |
| 17550 | 1578 | 1610 | 33 | 2.1% | 2238 | 2284 | 46 | 2.1% | 2584 | 2638 | 53 | 2.1% |
| 17600 | 1581 | 1613 | 33 | 2.1% | 2242 | 2288 | 46 | 2.1% | 2589 | 2642 | 53 | 2.1% |
| 17650 | 1584 | 1616 | 33 | 2.1% | 2246 | 2292 | 46 | 2.1% | 2594 | 2647 | 53 | 2.1% |
| 17700 | 1586 | 1619 | 33 | 2.1% | 2250 | 2296 | 46 | 2.1% | 2598 | 2652 | 53 | 2.1% |
| 17750 | 1589 | 1622 | 33 | 2.1% | 2254 | 2300 | 46 | 2.1% | 2603 | 2656 | 53 | 2.1% |
| 17800 | 1592 | 1625 | 33 | 2.1% | 2258 | 2304 | 46 | 2.1% | 2607 | 2661 | 54 | 2.1% |
| 17850 | 1595 | 1628 | 33 | 2.1% | 2262 | 2308 | 46 | 2.1% | 2612 | 2666 | 54 | 2.1% |
| 17900 | 1598 | 1630 | 33 | 2.1% | 2266 | 2312 | 46 | 2.1% | 2617 | 2670 | 54 | 2.1% |
| 17950 | 1600 | 1633 | 33 | 2.1% | 2270 | 2316 | 47 | 2.0% | 2621 | 2675 | 54 | 2.0% |
| 18000 | 1603 | 1636 | 33 | 2.1% | 2274 | 2320 | 47 | 2.0% | 2626 | 2680 | 54 | 2.0% |
| 18050 | 1606 | 1639 | 33 | 2.0% | 2278 | 2324 | 47 | 2.0% | 2631 | 2684 | 54 | 2.0% |
| 18100 | 1609 | 1642 | 33 | 2.0% | 2282 | 2328 | 47 | 2.0% | 2635 | 2689 | 54 | 2.0% |
| 18150 | 1612 | 1645 | 33 | 2.0% | 2286 | 2332 | 47 | 2.0% | 2640 | 2694 | 54 | 2.0% |
| 18200 | 1614 | 1648 | 33 | 2.0% | 2290 | 2336 | 47 | 2.0% | 2644 | 2699 | 54 | 2.0% |
| 18250 | 1617 | 1650 | 33 | 2.0% | 2294 | 2340 | 47 | 2.0% | 2649 | 2703 | 54 | 2.0% |
| 18300 | 1620 | 1653 | 33 | 2.0% | 2298 | 2345 | 47 | 2.0% | 2654 | 2708 | 54 | 2.0% |
| 18350 | 1623 | 1656 | 33 | 2.0% | 2302 | 2349 | 47 | 2.0% | 2658 | 2713 | 54 | 2.0% |
| 18400 | 1626 | 1659 | 33 | 2.0% | 2306 | 2353 | 47 | 2.0% | 2663 | 2717 | 54 | 2.0% |
| 18450 | 1629 | 1662 | 33 | 2.0% | 2310 | 2357 | 47 | 2.0% | 2668 | 2722 | 54 | 2.0% |
| 18500 | 1631 | 1665 | 33 | 2.0% | 2314 | 2361 | 47 | 2.0% | 2672 | 2727 | 54 | 2.0% |
| 18550 | 1634 | 1667 | 33 | 2.0% | 2318 | 2365 | 47 | 2.0% | 2677 | 2731 | 54 | 2.0% |
| 18600 | 1637 | 1670 | 33 | 2.0% | 2322 | 2369 | 47 | 2.0% | 2681 | 2736 | 55 | 2.0% |
| 18650 | 1640 | 1673 | 33 | 2.0% | 2326 | 2373 | 47 | 2.0% | 2686 | 2741 | 55 | 2.0% |
| 18700 | 1643 | 1676 | 33 | 2.0% | 2330 | 2377 | 47 | 2.0% | 2691 | 2745 | 55 | 2.0% |
| 18750 | 1645 | 1679 | 33 | 2.0% | 2334 | 2381 | 47 | 2.0% | 2695 | 2750 | 55 | 2.0% |
| 18800 | 1648 | 1682 | 34 | 2.0% | 2338 | 2385 | 47 | 2.0% | 2700 | 2755 | 55 | 2.0% |
| 18850 | 1651 | 1685 | 34 | 2.0% | 2342 | 2389 | 48 | 2.0% | 2705 | 2759 | 55 | 2.0% |
| 18900 | 1654 | 1687 | 34 | 2.0% | 2346 | 2393 | 48 | 2.0% | 2709 | 2764 | 55 | 2.0% |
| 18950 | 1657 | 1690 | 34 | 2.0% | 2350 | 2397 | 48 | 2.0% | 2714 | 2769 | 55 | 2.0% |
| 19000 | 1660 | 1693 | 34 | 2.0% | 2354 | 2401 | 48 | 2.0% | 2718 | 2774 | 55 | 2.0% |
| 19050 | 1662 | 1696 | 34 | 2.0% | 2358 | 2405 | 48 | 2.0% | 2723 | 2778 | 55 | 2.0% |
| 19100 | 1665 | 1699 | 34 | 2.0% | 2362 | 2409 | 48 | 2.0% | 2728 | 2783 | 55 | 2.0% |
| 19150 | 1668 | 1702 | 34 | 2.0% | 2366 | 2414 | 48 | 2.0% | 2732 | 2788 | 55 | 2.0% |

| | One Child | | | | Two Children | | | | Three Children | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | | | UPDATED (BR3 & 2014 AZ Taxes & Price Levels) | Proposed Change | |
| Gross Income | Existing | | $ | % | Existing | | $ | % | Existing | | $ | % |
| 19200 | 1671 | 1705 | 34 | 2.0% | 2370 | 2418 | 48 | 2.0% | 2737 | 2792 | 55 | 2.0% |
| 19250 | 1674 | 1707 | 34 | 2.0% | 2374 | 2422 | 48 | 2.0% | 2742 | 2797 | 55 | 2.0% |
| 19300 | 1676 | 1710 | 34 | 2.0% | 2378 | 2426 | 48 | 2.0% | 2746 | 2802 | 55 | 2.0% |
| 19350 | 1679 | 1713 | 34 | 2.0% | 2382 | 2430 | 48 | 2.0% | 2751 | 2806 | 56 | 2.0% |
| 19400 | 1682 | 1716 | 34 | 2.0% | 2386 | 2434 | 48 | 2.0% | 2756 | 2811 | 56 | 2.0% |
| 19450 | 1684 | 1719 | 35 | 2.0% | 2389 | 2438 | 49 | 2.0% | 2759 | 2816 | 57 | 2.1% |
| 19500 | 1686 | 1722 | 35 | 2.1% | 2392 | 2442 | 50 | 2.1% | 2762 | 2820 | 58 | 2.1% |
| 19550 | 1689 | 1725 | 36 | 2.1% | 2395 | 2446 | 51 | 2.1% | 2766 | 2825 | 59 | 2.1% |
| 19600 | 1691 | 1727 | 37 | 2.2% | 2398 | 2450 | 52 | 2.2% | 2769 | 2830 | 61 | 2.2% |
| 19650 | 1693 | 1729 | 37 | 2.2% | 2401 | 2453 | 52 | 2.2% | 2772 | 2833 | 61 | 2.2% |
| 19700 | 1695 | 1732 | 37 | 2.2% | 2403 | 2456 | 52 | 2.2% | 2776 | 2836 | 61 | 2.2% |
| 19750 | 1697 | 1734 | 37 | 2.2% | 2406 | 2459 | 52 | 2.2% | 2779 | 2839 | 61 | 2.2% |
| 19800 | 1699 | 1736 | 37 | 2.2% | 2409 | 2462 | 52 | 2.2% | 2782 | 2843 | 61 | 2.2% |
| 19850 | 1701 | 1738 | 37 | 2.2% | 2412 | 2465 | 52 | 2.2% | 2785 | 2846 | 61 | 2.2% |
| 19900 | 1703 | 1740 | 37 | 2.2% | 2415 | 2467 | 52 | 2.2% | 2789 | 2849 | 61 | 2.2% |
| 19950 | 1705 | 1742 | 37 | 2.2% | 2418 | 2470 | 52 | 2.2% | 2792 | 2853 | 61 | 2.2% |
| 20000 | 1708 | 1744 | 37 | 2.2% | 2421 | 2473 | 52 | 2.2% | 2795 | 2856 | 61 | 2.2% |

| Change | | | | | | |
|---|---|---|---|---|---|---|
| Average | $ 18.30 | 1.3% | $ 26.29 | 1.3% | $ 30.73 | 1.3% |
| Median | $ 19.29 | 1.6% | $ 27.71 | 1.6% | $ 32.78 | 1.7% |
| Minimum | $ (9.85) | -5.4% | $ (14.33) | -5.3% | $ (16.94) | -5.3% |
| Maximum | $ 36.80 | 2.4% | $ 52.46 | 2.4% | $ 60.89 | 2.4% |

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# Proposed Updated Schedule of Basic Support Obligations

| Combined Adjusted Gross Income | One Child | Two Children | Three Children | Four Children | Five Children | Six Children |
|---|---|---|---|---|---|---|
| 750 | 174 | 255 | 303 | 312 | 372 | 404 |
| 800 | 185 | 271 | 323 | 360 | 396 | 431 |
| 850 | 196 | 287 | 341 | 381 | 419 | 456 |
| 900 | 206 | 301 | 358 | 399 | 439 | 478 |
| 950 | 216 | 315 | 374 | 418 | 460 | 500 |
| 1000 | 225 | 329 | 391 | 436 | 480 | 522 |
| 1050 | 235 | 343 | 407 | 455 | 500 | 544 |
| 1100 | 245 | 357 | 424 | 473 | 521 | 566 |
| 1150 | 255 | 371 | 440 | 492 | 541 | 588 |
| 1200 | 264 | 385 | 457 | 510 | 561 | 610 |
| 1250 | 274 | 399 | 473 | 528 | 581 | 632 |
| 1300 | 284 | 414 | 490 | 547 | 602 | 654 |
| 1350 | 293 | 428 | 506 | 565 | 622 | 676 |
| 1400 | 303 | 442 | 523 | 584 | 642 | 698 |
| 1450 | 313 | 456 | 539 | 602 | 662 | 720 |
| 1500 | 323 | 470 | 556 | 621 | 683 | 742 |
| 1550 | 332 | 484 | 572 | 639 | 703 | 764 |
| 1600 | 342 | 498 | 589 | 657 | 723 | 786 |
| 1650 | 351 | 511 | 604 | 675 | 742 | 807 |
| 1700 | 360 | 524 | 620 | 692 | 761 | 828 |
| 1750 | 369 | 537 | 635 | 709 | 780 | 848 |
| 1800 | 379 | 551 | 651 | 727 | 799 | 869 |
| 1850 | 388 | 564 | 666 | 744 | 818 | 889 |
| 1900 | 397 | 577 | 681 | 761 | 837 | 910 |
| 1950 | 406 | 590 | 697 | 778 | 856 | 931 |
| 2000 | 415 | 603 | 712 | 796 | 875 | 951 |
| 2050 | 424 | 616 | 727 | 812 | 894 | 971 |
| 2100 | 433 | 629 | 742 | 829 | 912 | 991 |
| 2150 | 442 | 641 | 757 | 845 | 930 | 1011 |
| 2200 | 450 | 654 | 772 | 862 | 948 | 1031 |
| 2250 | 459 | 667 | 786 | 878 | 966 | 1050 |
| 2300 | 468 | 679 | 801 | 895 | 984 | 1070 |
| 2350 | 477 | 692 | 816 | 911 | 1003 | 1090 |
| 2400 | 486 | 705 | 831 | 928 | 1021 | 1109 |
| 2450 | 495 | 717 | 845 | 944 | 1039 | 1129 |
| 2500 | 503 | 730 | 860 | 961 | 1057 | 1149 |
| 2550 | 512 | 742 | 875 | 977 | 1075 | 1169 |
| 2600 | 521 | 755 | 890 | 994 | 1093 | 1188 |
| 2650 | 530 | 768 | 905 | 1010 | 1111 | 1208 |
| 2700 | 539 | 780 | 919 | 1027 | 1130 | 1228 |
| 2750 | 547 | 793 | 934 | 1043 | 1148 | 1248 |
| 2800 | 556 | 806 | 949 | 1060 | 1166 | 1267 |
| 2850 | 565 | 818 | 964 | 1076 | 1184 | 1287 |
| 2900 | 574 | 831 | 978 | 1093 | 1202 | 1307 |
| 2950 | 583 | 844 | 993 | 1109 | 1220 | 1326 |
| 3000 | 592 | 857 | 1008 | 1126 | 1239 | 1347 |
| 3050 | 601 | 870 | 1024 | 1144 | 1258 | 1367 |
| 3100 | 610 | 883 | 1039 | 1161 | 1277 | 1388 |
| 3150 | 619 | 896 | 1055 | 1178 | 1296 | 1409 |
| 3200 | 628 | 909 | 1070 | 1195 | 1315 | 1429 |
| 3250 | 637 | 922 | 1085 | 1212 | 1334 | 1450 |

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# Proposed Updated Schedule of Basic Support Obligations

| Combined Adjusted Gross Income | One Child | Two Children | Three Children | Four Children | Five Children | Six Children |
|---|---|---|---|---|---|---|
| 3300 | 646 | 935 | 1101 | 1230 | 1353 | 1470 |
| 3350 | 655 | 948 | 1116 | 1247 | 1372 | 1491 |
| 3400 | 663 | 961 | 1132 | 1264 | 1391 | 1512 |
| 3450 | 672 | 974 | 1147 | 1281 | 1409 | 1532 |
| 3500 | 681 | 987 | 1163 | 1299 | 1428 | 1553 |
| 3550 | 690 | 1000 | 1178 | 1316 | 1447 | 1573 |
| 3600 | 699 | 1013 | 1193 | 1333 | 1466 | 1594 |
| 3650 | 708 | 1026 | 1209 | 1350 | 1485 | 1614 |
| 3700 | 717 | 1039 | 1224 | 1367 | 1504 | 1635 |
| 3750 | 726 | 1052 | 1240 | 1385 | 1523 | 1656 |
| 3800 | 735 | 1065 | 1255 | 1402 | 1542 | 1676 |
| 3850 | 744 | 1078 | 1270 | 1419 | 1561 | 1697 |
| 3900 | 753 | 1091 | 1286 | 1436 | 1580 | 1717 |
| 3950 | 760 | 1101 | 1297 | 1449 | 1594 | 1733 |
| 4000 | 765 | 1108 | 1306 | 1458 | 1604 | 1744 |
| 4050 | 771 | 1115 | 1314 | 1468 | 1614 | 1755 |
| 4100 | 776 | 1123 | 1322 | 1477 | 1625 | 1766 |
| 4150 | 781 | 1130 | 1330 | 1486 | 1635 | 1777 |
| 4200 | 786 | 1137 | 1339 | 1495 | 1645 | 1788 |
| 4250 | 791 | 1144 | 1347 | 1504 | 1655 | 1799 |
| 4300 | 796 | 1152 | 1355 | 1514 | 1665 | 1810 |
| 4350 | 802 | 1159 | 1363 | 1523 | 1675 | 1821 |
| 4400 | 807 | 1166 | 1371 | 1532 | 1685 | 1832 |
| 4450 | 812 | 1173 | 1379 | 1541 | 1695 | 1842 |
| 4500 | 817 | 1180 | 1388 | 1550 | 1705 | 1853 |
| 4550 | 822 | 1188 | 1396 | 1559 | 1715 | 1864 |
| 4600 | 827 | 1195 | 1404 | 1568 | 1725 | 1875 |
| 4650 | 833 | 1202 | 1412 | 1577 | 1735 | 1886 |
| 4700 | 838 | 1209 | 1420 | 1586 | 1745 | 1897 |
| 4750 | 843 | 1216 | 1428 | 1596 | 1755 | 1908 |
| 4800 | 848 | 1224 | 1437 | 1605 | 1765 | 1919 |
| 4850 | 853 | 1231 | 1445 | 1614 | 1775 | 1930 |
| 4900 | 858 | 1238 | 1453 | 1623 | 1785 | 1940 |
| 4950 | 863 | 1245 | 1461 | 1632 | 1795 | 1951 |
| 5000 | 869 | 1252 | 1469 | 1641 | 1805 | 1962 |
| 5050 | 874 | 1259 | 1477 | 1650 | 1815 | 1973 |
| 5100 | 877 | 1265 | 1483 | 1657 | 1822 | 1981 |
| 5150 | 881 | 1270 | 1489 | 1664 | 1830 | 1989 |
| 5200 | 885 | 1275 | 1495 | 1670 | 1837 | 1997 |
| 5250 | 889 | 1281 | 1502 | 1677 | 1845 | 2005 |
| 5300 | 892 | 1286 | 1508 | 1684 | 1852 | 2014 |
| 5350 | 896 | 1291 | 1514 | 1691 | 1860 | 2022 |
| 5400 | 900 | 1296 | 1520 | 1698 | 1867 | 2030 |
| 5450 | 903 | 1302 | 1526 | 1704 | 1875 | 2038 |
| 5500 | 907 | 1307 | 1532 | 1711 | 1882 | 2046 |
| 5550 | 911 | 1312 | 1538 | 1718 | 1890 | 2054 |
| 5600 | 915 | 1318 | 1544 | 1725 | 1897 | 2063 |
| 5650 | 918 | 1323 | 1550 | 1732 | 1905 | 2071 |
| 5700 | 922 | 1328 | 1556 | 1739 | 1912 | 2079 |
| 5750 | 926 | 1333 | 1563 | 1745 | 1920 | 2087 |
| 5800 | 930 | 1339 | 1569 | 1752 | 1927 | 2095 |

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# Proposed Updated Schedule of Basic Support Obligations

| Combined Adjusted Gross Income | One Child | Two Children | Three Children | Four Children | Five Children | Six Children |
|---|---|---|---|---|---|---|
| 5850 | 933 | 1344 | 1575 | 1759 | 1935 | 2103 |
| 5900 | 937 | 1349 | 1581 | 1766 | 1942 | 2111 |
| 5950 | 941 | 1354 | 1587 | 1773 | 1950 | 2120 |
| 6000 | 944 | 1360 | 1593 | 1779 | 1957 | 2128 |
| 6050 | 948 | 1365 | 1599 | 1786 | 1965 | 2136 |
| 6100 | 952 | 1370 | 1605 | 1793 | 1972 | 2144 |
| 6150 | 956 | 1376 | 1611 | 1800 | 1980 | 2152 |
| 6200 | 959 | 1380 | 1616 | 1805 | 1986 | 2159 |
| 6250 | 962 | 1384 | 1620 | 1810 | 1991 | 2164 |
| 6300 | 965 | 1388 | 1625 | 1815 | 1996 | 2170 |
| 6350 | 968 | 1392 | 1629 | 1819 | 2001 | 2175 |
| 6400 | 971 | 1395 | 1633 | 1824 | 2006 | 2181 |
| 6450 | 973 | 1399 | 1637 | 1828 | 2011 | 2186 |
| 6500 | 976 | 1403 | 1641 | 1833 | 2016 | 2192 |
| 6550 | 979 | 1407 | 1645 | 1837 | 2021 | 2197 |
| 6600 | 982 | 1411 | 1649 | 1842 | 2026 | 2203 |
| 6650 | 985 | 1415 | 1653 | 1847 | 2031 | 2208 |
| 6700 | 988 | 1418 | 1657 | 1851 | 2036 | 2213 |
| 6750 | 991 | 1422 | 1661 | 1856 | 2041 | 2219 |
| 6800 | 994 | 1426 | 1665 | 1860 | 2046 | 2224 |
| 6850 | 997 | 1430 | 1670 | 1865 | 2051 | 2230 |
| 6900 | 1000 | 1434 | 1674 | 1869 | 2056 | 2235 |
| 6950 | 1002 | 1438 | 1678 | 1874 | 2061 | 2241 |
| 7000 | 1005 | 1442 | 1682 | 1879 | 2066 | 2246 |
| 7050 | 1008 | 1445 | 1686 | 1883 | 2071 | 2252 |
| 7100 | 1011 | 1449 | 1690 | 1888 | 2077 | 2257 |
| 7150 | 1014 | 1453 | 1694 | 1892 | 2082 | 2263 |
| 7200 | 1017 | 1457 | 1698 | 1897 | 2087 | 2268 |
| 7250 | 1020 | 1461 | 1702 | 1901 | 2092 | 2274 |
| 7300 | 1023 | 1465 | 1706 | 1906 | 2097 | 2279 |
| 7350 | 1024 | 1466 | 1708 | 1908 | 2099 | 2281 |
| 7400 | 1026 | 1468 | 1710 | 1910 | 2101 | 2284 |
| 7450 | 1027 | 1470 | 1712 | 1912 | 2103 | 2286 |
| 7500 | 1029 | 1472 | 1714 | 1914 | 2106 | 2289 |
| 7550 | 1030 | 1474 | 1716 | 1916 | 2108 | 2291 |
| 7600 | 1032 | 1476 | 1718 | 1918 | 2110 | 2294 |
| 7650 | 1033 | 1478 | 1719 | 1921 | 2113 | 2296 |
| 7700 | 1035 | 1479 | 1721 | 1923 | 2115 | 2299 |
| 7750 | 1036 | 1481 | 1723 | 1925 | 2117 | 2301 |
| 7800 | 1038 | 1483 | 1725 | 1927 | 2119 | 2304 |
| 7850 | 1039 | 1485 | 1727 | 1929 | 2122 | 2306 |
| 7900 | 1041 | 1487 | 1729 | 1931 | 2124 | 2309 |
| 7950 | 1042 | 1489 | 1731 | 1933 | 2126 | 2311 |
| 8000 | 1044 | 1491 | 1732 | 1935 | 2129 | 2314 |
| 8050 | 1045 | 1492 | 1734 | 1937 | 2131 | 2316 |
| 8100 | 1047 | 1494 | 1736 | 1939 | 2133 | 2319 |
| 8150 | 1048 | 1496 | 1738 | 1941 | 2136 | 2321 |
| 8200 | 1050 | 1498 | 1740 | 1943 | 2138 | 2324 |
| 8250 | 1051 | 1500 | 1742 | 1946 | 2140 | 2326 |
| 8300 | 1053 | 1502 | 1744 | 1948 | 2142 | 2329 |
| 8350 | 1054 | 1504 | 1745 | 1950 | 2145 | 2331 |

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# Proposed Updated Schedule of Basic Support Obligations

| Combined Adjusted Gross Income | One Child | Two Children | Three Children | Four Children | Five Children | Six Children |
|---|---|---|---|---|---|---|
| 8400 | 1055 | 1505 | 1747 | 1952 | 2147 | 2333 |
| 8450 | 1058 | 1509 | 1751 | 1956 | 2152 | 2339 |
| 8500 | 1063 | 1516 | 1759 | 1965 | 2161 | 2349 |
| 8550 | 1068 | 1522 | 1767 | 1973 | 2171 | 2360 |
| 8600 | 1072 | 1529 | 1774 | 1982 | 2180 | 2370 |
| 8650 | 1077 | 1536 | 1782 | 1991 | 2190 | 2380 |
| 8700 | 1082 | 1543 | 1790 | 1999 | 2199 | 2391 |
| 8750 | 1087 | 1549 | 1798 | 2008 | 2209 | 2401 |
| 8800 | 1092 | 1556 | 1806 | 2017 | 2218 | 2411 |
| 8850 | 1096 | 1563 | 1813 | 2025 | 2228 | 2422 |
| 8900 | 1101 | 1570 | 1821 | 2034 | 2238 | 2432 |
| 8950 | 1106 | 1576 | 1829 | 2043 | 2247 | 2443 |
| 9000 | 1111 | 1583 | 1837 | 2051 | 2257 | 2453 |
| 9050 | 1116 | 1590 | 1844 | 2060 | 2266 | 2463 |
| 9100 | 1120 | 1597 | 1852 | 2069 | 2276 | 2474 |
| 9150 | 1125 | 1603 | 1860 | 2077 | 2285 | 2484 |
| 9200 | 1130 | 1610 | 1868 | 2086 | 2295 | 2494 |
| 9250 | 1134 | 1616 | 1874 | 2093 | 2302 | 2503 |
| 9300 | 1137 | 1620 | 1879 | 2099 | 2309 | 2509 |
| 9350 | 1140 | 1624 | 1884 | 2104 | 2315 | 2516 |
| 9400 | 1143 | 1629 | 1889 | 2110 | 2321 | 2523 |
| 9450 | 1146 | 1633 | 1894 | 2116 | 2327 | 2530 |
| 9500 | 1149 | 1637 | 1899 | 2121 | 2334 | 2537 |
| 9550 | 1152 | 1642 | 1904 | 2127 | 2340 | 2543 |
| 9600 | 1155 | 1646 | 1909 | 2133 | 2346 | 2550 |
| 9650 | 1158 | 1650 | 1914 | 2138 | 2352 | 2557 |
| 9700 | 1161 | 1655 | 1920 | 2144 | 2358 | 2564 |
| 9750 | 1164 | 1659 | 1925 | 2150 | 2365 | 2570 |
| 9800 | 1168 | 1664 | 1930 | 2156 | 2372 | 2578 |
| 9850 | 1171 | 1669 | 1936 | 2162 | 2379 | 2585 |
| 9900 | 1174 | 1674 | 1941 | 2169 | 2385 | 2593 |
| 9950 | 1178 | 1678 | 1947 | 2175 | 2392 | 2600 |
| 10000 | 1181 | 1683 | 1953 | 2181 | 2399 | 2608 |
| 10050 | 1185 | 1688 | 1958 | 2187 | 2406 | 2615 |
| 10100 | 1188 | 1693 | 1964 | 2194 | 2413 | 2623 |
| 10150 | 1191 | 1698 | 1969 | 2200 | 2420 | 2630 |
| 10200 | 1195 | 1703 | 1975 | 2206 | 2427 | 2638 |
| 10250 | 1198 | 1707 | 1981 | 2212 | 2434 | 2645 |
| 10300 | 1202 | 1712 | 1986 | 2219 | 2441 | 2653 |
| 10350 | 1205 | 1717 | 1992 | 2225 | 2447 | 2660 |
| 10400 | 1207 | 1720 | 1996 | 2229 | 2452 | 2665 |
| 10450 | 1210 | 1724 | 2000 | 2234 | 2457 | 2671 |
| 10500 | 1213 | 1728 | 2004 | 2238 | 2462 | 2676 |
| 10550 | 1215 | 1731 | 2008 | 2243 | 2467 | 2681 |
| 10600 | 1218 | 1735 | 2012 | 2247 | 2472 | 2687 |
| 10650 | 1220 | 1738 | 2016 | 2252 | 2477 | 2692 |
| 10700 | 1223 | 1742 | 2020 | 2256 | 2482 | 2698 |
| 10750 | 1226 | 1745 | 2024 | 2261 | 2487 | 2703 |
| 10800 | 1228 | 1749 | 2028 | 2265 | 2492 | 2708 |
| 10850 | 1231 | 1753 | 2032 | 2270 | 2497 | 2714 |
| 10900 | 1233 | 1756 | 2036 | 2274 | 2502 | 2719 |

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# Proposed Updated Schedule of Basic Support Obligations

| Combined Adjusted Gross Income | One Child | Two Children | Three Children | Four Children | Five Children | Six Children |
|---|---|---|---|---|---|---|
| 10950 | 1236 | 1760 | 2040 | 2279 | 2507 | 2725 |
| 11000 | 1239 | 1763 | 2044 | 2283 | 2511 | 2730 |
| 11050 | 1241 | 1767 | 2048 | 2288 | 2516 | 2735 |
| 11100 | 1244 | 1771 | 2052 | 2292 | 2521 | 2741 |
| 11150 | 1246 | 1774 | 2056 | 2297 | 2526 | 2746 |
| 11200 | 1249 | 1778 | 2060 | 2301 | 2531 | 2752 |
| 11250 | 1251 | 1781 | 2064 | 2306 | 2536 | 2757 |
| 11300 | 1254 | 1785 | 2068 | 2310 | 2541 | 2762 |
| 11350 | 1257 | 1788 | 2072 | 2315 | 2546 | 2768 |
| 11400 | 1259 | 1792 | 2076 | 2319 | 2551 | 2773 |
| 11450 | 1262 | 1796 | 2080 | 2324 | 2556 | 2778 |
| 11500 | 1264 | 1799 | 2084 | 2328 | 2561 | 2784 |
| 11550 | 1267 | 1803 | 2088 | 2333 | 2566 | 2789 |
| 11600 | 1270 | 1806 | 2092 | 2337 | 2571 | 2795 |
| 11650 | 1272 | 1810 | 2096 | 2342 | 2576 | 2800 |
| 11700 | 1275 | 1814 | 2100 | 2346 | 2581 | 2805 |
| 11750 | 1277 | 1817 | 2105 | 2351 | 2586 | 2811 |
| 11800 | 1280 | 1821 | 2109 | 2356 | 2591 | 2817 |
| 11850 | 1283 | 1825 | 2114 | 2361 | 2597 | 2823 |
| 11900 | 1286 | 1829 | 2119 | 2366 | 2603 | 2830 |
| 11950 | 1289 | 1833 | 2123 | 2372 | 2609 | 2836 |
| 12000 | 1292 | 1838 | 2128 | 2377 | 2615 | 2842 |
| 12050 | 1295 | 1842 | 2133 | 2383 | 2621 | 2849 |
| 12100 | 1298 | 1846 | 2138 | 2388 | 2627 | 2855 |
| 12150 | 1301 | 1850 | 2143 | 2393 | 2633 | 2862 |
| 12200 | 1304 | 1854 | 2147 | 2399 | 2638 | 2868 |
| 12250 | 1306 | 1858 | 2152 | 2404 | 2644 | 2874 |
| 12300 | 1309 | 1863 | 2157 | 2409 | 2650 | 2881 |
| 12350 | 1312 | 1867 | 2162 | 2415 | 2656 | 2887 |
| 12400 | 1315 | 1871 | 2167 | 2420 | 2662 | 2894 |
| 12450 | 1318 | 1875 | 2171 | 2425 | 2668 | 2900 |
| 12500 | 1321 | 1879 | 2176 | 2431 | 2674 | 2906 |
| 12550 | 1324 | 1883 | 2181 | 2436 | 2680 | 2913 |
| 12600 | 1327 | 1887 | 2186 | 2441 | 2686 | 2919 |
| 12650 | 1330 | 1891 | 2190 | 2447 | 2691 | 2926 |
| 12700 | 1333 | 1896 | 2195 | 2452 | 2697 | 2932 |
| 12750 | 1336 | 1900 | 2200 | 2457 | 2703 | 2938 |
| 12800 | 1338 | 1904 | 2205 | 2463 | 2709 | 2945 |
| 12850 | 1341 | 1908 | 2210 | 2468 | 2715 | 2951 |
| 12900 | 1344 | 1912 | 2214 | 2473 | 2721 | 2957 |
| 12950 | 1347 | 1916 | 2219 | 2479 | 2727 | 2964 |
| 13000 | 1350 | 1920 | 2224 | 2484 | 2732 | 2970 |
| 13050 | 1353 | 1924 | 2229 | 2489 | 2738 | 2977 |
| 13100 | 1356 | 1929 | 2233 | 2495 | 2744 | 2983 |
| 13150 | 1359 | 1933 | 2238 | 2500 | 2750 | 2989 |
| 13200 | 1362 | 1937 | 2243 | 2505 | 2756 | 2996 |
| 13250 | 1365 | 1941 | 2248 | 2511 | 2762 | 3002 |
| 13300 | 1367 | 1945 | 2252 | 2516 | 2768 | 3008 |
| 13350 | 1370 | 1949 | 2257 | 2521 | 2774 | 3015 |
| 13400 | 1373 | 1953 | 2262 | 2527 | 2779 | 3021 |
| 13450 | 1376 | 1958 | 2267 | 2532 | 2785 | 3028 |

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# Proposed Updated Schedule of Basic Support Obligations

| Combined Adjusted Gross Income | One Child | Two Children | Three Children | Four Children | Five Children | Six Children |
|---|---|---|---|---|---|---|
| 13500 | 1379 | 1962 | 2272 | 2537 | 2791 | 3034 |
| 13550 | 1382 | 1966 | 2276 | 2543 | 2797 | 3040 |
| 13600 | 1385 | 1970 | 2281 | 2548 | 2803 | 3047 |
| 13650 | 1388 | 1974 | 2286 | 2553 | 2809 | 3053 |
| 13700 | 1391 | 1978 | 2291 | 2559 | 2815 | 3059 |
| 13750 | 1393 | 1982 | 2295 | 2564 | 2820 | 3066 |
| 13800 | 1396 | 1986 | 2300 | 2569 | 2826 | 3072 |
| 13850 | 1399 | 1991 | 2305 | 2575 | 2832 | 3079 |
| 13900 | 1402 | 1995 | 2310 | 2580 | 2838 | 3085 |
| 13950 | 1405 | 1999 | 2315 | 2585 | 2844 | 3091 |
| 14000 | 1408 | 2003 | 2319 | 2591 | 2850 | 3098 |
| 14050 | 1411 | 2007 | 2324 | 2596 | 2856 | 3104 |
| 14100 | 1414 | 2011 | 2329 | 2601 | 2861 | 3110 |
| 14150 | 1417 | 2015 | 2334 | 2607 | 2867 | 3117 |
| 14200 | 1420 | 2019 | 2338 | 2612 | 2873 | 3123 |
| 14250 | 1422 | 2024 | 2343 | 2617 | 2879 | 3130 |
| 14300 | 1425 | 2028 | 2348 | 2623 | 2885 | 3136 |
| 14350 | 1428 | 2032 | 2353 | 2628 | 2891 | 3142 |
| 14400 | 1431 | 2036 | 2357 | 2633 | 2897 | 3149 |
| 14450 | 1434 | 2040 | 2362 | 2639 | 2903 | 3155 |
| 14500 | 1437 | 2044 | 2367 | 2644 | 2908 | 3161 |
| 14550 | 1440 | 2048 | 2372 | 2649 | 2914 | 3168 |
| 14600 | 1443 | 2052 | 2377 | 2655 | 2920 | 3174 |
| 14650 | 1446 | 2056 | 2381 | 2660 | 2926 | 3180 |
| 14700 | 1448 | 2060 | 2385 | 2665 | 2931 | 3186 |
| 14750 | 1451 | 2064 | 2390 | 2669 | 2936 | 3192 |
| 14800 | 1454 | 2068 | 2394 | 2674 | 2941 | 3197 |
| 14850 | 1457 | 2072 | 2398 | 2679 | 2947 | 3203 |
| 14900 | 1460 | 2076 | 2402 | 2684 | 2952 | 3209 |
| 14950 | 1463 | 2079 | 2407 | 2688 | 2957 | 3214 |
| 15000 | 1466 | 2083 | 2411 | 2693 | 2962 | 3220 |
| 15050 | 1468 | 2087 | 2415 | 2698 | 2968 | 3226 |
| 15100 | 1471 | 2091 | 2419 | 2703 | 2973 | 3231 |
| 15150 | 1474 | 2095 | 2424 | 2707 | 2978 | 3237 |
| 15200 | 1477 | 2099 | 2428 | 2712 | 2983 | 3243 |
| 15250 | 1480 | 2102 | 2432 | 2717 | 2988 | 3248 |
| 15300 | 1483 | 2106 | 2436 | 2722 | 2994 | 3254 |
| 15350 | 1485 | 2110 | 2441 | 2726 | 2999 | 3260 |
| 15400 | 1488 | 2114 | 2445 | 2731 | 3004 | 3266 |
| 15450 | 1491 | 2118 | 2449 | 2736 | 3009 | 3271 |
| 15500 | 1494 | 2122 | 2453 | 2741 | 3015 | 3277 |
| 15550 | 1497 | 2125 | 2458 | 2745 | 3020 | 3283 |
| 15600 | 1500 | 2129 | 2462 | 2750 | 3025 | 3288 |
| 15650 | 1502 | 2133 | 2466 | 2755 | 3030 | 3294 |
| 15700 | 1505 | 2137 | 2471 | 2760 | 3036 | 3300 |
| 15750 | 1508 | 2141 | 2475 | 2764 | 3041 | 3305 |
| 15800 | 1511 | 2145 | 2479 | 2769 | 3046 | 3311 |
| 15850 | 1514 | 2148 | 2483 | 2774 | 3051 | 3317 |
| 15900 | 1517 | 2152 | 2488 | 2779 | 3056 | 3322 |
| 15950 | 1519 | 2156 | 2492 | 2783 | 3062 | 3328 |
| 16000 | 1522 | 2160 | 2496 | 2788 | 3067 | 3334 |

Draft: May 28, 2014

# Proposed Updated Schedule of Basic Support Obligations

| Combined Adjusted Gross Income | One Child | Two Children | Three Children | Four Children | Five Children | Six Children |
|---|---|---|---|---|---|---|
| 16050 | 1525 | 2164 | 2500 | 2793 | 3072 | 3339 |
| 16100 | 1528 | 2168 | 2505 | 2798 | 3077 | 3345 |
| 16150 | 1531 | 2171 | 2509 | 2802 | 3083 | 3351 |
| 16200 | 1534 | 2175 | 2513 | 2807 | 3088 | 3356 |
| 16250 | 1536 | 2179 | 2517 | 2812 | 3093 | 3362 |
| 16300 | 1539 | 2183 | 2522 | 2817 | 3098 | 3368 |
| 16350 | 1542 | 2187 | 2526 | 2821 | 3103 | 3373 |
| 16400 | 1545 | 2190 | 2530 | 2826 | 3108 | 3379 |
| 16450 | 1547 | 2194 | 2534 | 2830 | 3114 | 3384 |
| 16500 | 1550 | 2198 | 2539 | 2836 | 3119 | 3391 |
| 16550 | 1553 | 2202 | 2544 | 2841 | 3125 | 3397 |
| 16600 | 1556 | 2206 | 2548 | 2846 | 3131 | 3403 |
| 16650 | 1559 | 2211 | 2553 | 2852 | 3137 | 3410 |
| 16700 | 1562 | 2215 | 2558 | 2857 | 3143 | 3416 |
| 16750 | 1565 | 2219 | 2562 | 2862 | 3148 | 3422 |
| 16800 | 1568 | 2223 | 2567 | 2867 | 3154 | 3429 |
| 16850 | 1570 | 2227 | 2572 | 2873 | 3160 | 3435 |
| 16900 | 1573 | 2231 | 2577 | 2878 | 3166 | 3441 |
| 16950 | 1576 | 2235 | 2581 | 2883 | 3172 | 3447 |
| 17000 | 1579 | 2239 | 2586 | 2888 | 3177 | 3454 |
| 17050 | 1582 | 2243 | 2591 | 2894 | 3183 | 3460 |
| 17100 | 1585 | 2247 | 2595 | 2899 | 3189 | 3466 |
| 17150 | 1588 | 2251 | 2600 | 2904 | 3195 | 3473 |
| 17200 | 1590 | 2255 | 2605 | 2909 | 3200 | 3479 |
| 17250 | 1593 | 2259 | 2609 | 2915 | 3206 | 3485 |
| 17300 | 1596 | 2263 | 2614 | 2920 | 3212 | 3491 |
| 17350 | 1599 | 2267 | 2619 | 2925 | 3218 | 3498 |
| 17400 | 1602 | 2271 | 2623 | 2930 | 3223 | 3504 |
| 17450 | 1605 | 2276 | 2628 | 2936 | 3229 | 3510 |
| 17500 | 1608 | 2280 | 2633 | 2941 | 3235 | 3516 |
| 17550 | 1610 | 2284 | 2638 | 2946 | 3241 | 3523 |
| 17600 | 1613 | 2288 | 2642 | 2951 | 3246 | 3529 |
| 17650 | 1616 | 2292 | 2647 | 2957 | 3252 | 3535 |
| 17700 | 1619 | 2296 | 2652 | 2962 | 3258 | 3541 |
| 17750 | 1622 | 2300 | 2656 | 2967 | 3264 | 3548 |
| 17800 | 1625 | 2304 | 2661 | 2972 | 3270 | 3554 |
| 17850 | 1628 | 2308 | 2666 | 2978 | 3275 | 3560 |
| 17900 | 1630 | 2312 | 2670 | 2983 | 3281 | 3567 |
| 17950 | 1633 | 2316 | 2675 | 2988 | 3287 | 3573 |
| 18000 | 1636 | 2320 | 2680 | 2993 | 3293 | 3579 |
| 18050 | 1639 | 2324 | 2684 | 2999 | 3298 | 3585 |
| 18100 | 1642 | 2328 | 2689 | 3004 | 3304 | 3592 |
| 18150 | 1645 | 2332 | 2694 | 3009 | 3310 | 3598 |
| 18200 | 1648 | 2336 | 2699 | 3014 | 3316 | 3604 |
| 18250 | 1650 | 2340 | 2703 | 3019 | 3321 | 3610 |
| 18300 | 1653 | 2345 | 2708 | 3025 | 3327 | 3617 |
| 18350 | 1656 | 2349 | 2713 | 3030 | 3333 | 3623 |
| 18400 | 1659 | 2353 | 2717 | 3035 | 3339 | 3629 |
| 18450 | 1662 | 2357 | 2722 | 3040 | 3344 | 3635 |
| 18500 | 1665 | 2361 | 2727 | 3046 | 3350 | 3642 |
| 18550 | 1667 | 2365 | 2731 | 3051 | 3356 | 3648 |

Draft: May 28, 2014

## Proposed Updated Schedule of Basic Support Obligations

| Combined Adjusted Gross Income | One Child | Two Children | Three Children | Four Children | Five Children | Six Children |
|---|---|---|---|---|---|---|
| 18600 | 1670 | 2369 | 2736 | 3056 | 3362 | 3654 |
| 18650 | 1673 | 2373 | 2741 | 3061 | 3368 | 3661 |
| 18700 | 1676 | 2377 | 2745 | 3067 | 3373 | 3667 |
| 18750 | 1679 | 2381 | 2750 | 3072 | 3379 | 3673 |
| 18800 | 1682 | 2385 | 2755 | 3077 | 3385 | 3679 |
| 18850 | 1685 | 2389 | 2759 | 3082 | 3391 | 3686 |
| 18900 | 1687 | 2393 | 2764 | 3088 | 3396 | 3692 |
| 18950 | 1690 | 2397 | 2769 | 3093 | 3402 | 3698 |
| 19000 | 1693 | 2401 | 2774 | 3098 | 3408 | 3704 |
| 19050 | 1696 | 2405 | 2778 | 3103 | 3414 | 3711 |
| 19100 | 1699 | 2409 | 2783 | 3109 | 3419 | 3717 |
| 19150 | 1702 | 2414 | 2788 | 3114 | 3425 | 3723 |
| 19200 | 1705 | 2418 | 2792 | 3119 | 3431 | 3729 |
| 19250 | 1707 | 2422 | 2797 | 3124 | 3437 | 3736 |
| 19300 | 1710 | 2426 | 2802 | 3130 | 3442 | 3742 |
| 19350 | 1713 | 2430 | 2806 | 3135 | 3448 | 3748 |
| 19400 | 1716 | 2434 | 2811 | 3140 | 3454 | 3755 |
| 19450 | 1719 | 2438 | 2816 | 3145 | 3460 | 3761 |
| 19500 | 1722 | 2442 | 2820 | 3150 | 3466 | 3767 |
| 19550 | 1725 | 2446 | 2825 | 3156 | 3471 | 3773 |
| 19600 | 1727 | 2450 | 2830 | 3161 | 3477 | 3779 |
| 19650 | 1729 | 2453 | 2833 | 3164 | 3481 | 3784 |
| 19700 | 1732 | 2456 | 2836 | 3168 | 3485 | 3788 |
| 19750 | 1734 | 2459 | 2839 | 3172 | 3489 | 3792 |
| 19800 | 1736 | 2462 | 2843 | 3175 | 3493 | 3797 |
| 19850 | 1738 | 2465 | 2846 | 3179 | 3497 | 3801 |
| 19900 | 1740 | 2467 | 2849 | 3183 | 3501 | 3806 |
| 19950 | 1742 | 2470 | 2853 | 3186 | 3505 | 3810 |
| 20000 | 1744 | 2473 | 2856 | 3190 | 3509 | 3815 |

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

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| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | _X_ Formal Action/Request<br>__ Information Only<br>__ Other | Petition Regarding Traffic Rules |

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**FROM:**

Hon. Eric Jeffery, Acting Presiding Judge, Phoenix Municipal Court
Member of the Committee on Limited Jurisdiction Courts ("LJC")

**DISCUSSION:**

There are two sets of Arizona rules of procedure for traffic cases, the Rules of Procedure in Traffic Cases and Boating Cases, and the Rules of Procedure in Civil Traffic and Civil Boating Cases. Some of these rules are redundant, and the titles themselves can cause confusion. In addition, the Rules of Criminal Procedure apply in criminal traffic violations.

The LJC proposes the filing of a rule petition that would modify the traffic rules in three ways.

First, the petition would repeal the Rules of Procedure in Traffic Cases and Boating Cases in their entirety.

Second, it would retain relevant civil portions of the repealed rules as amendments to the Rules of Procedure in Civil Traffic and Civil Boating Cases.

Third, it would retain relevant criminal portions of the repealed rules as amendments to the Arizona Rules of Criminal Procedure.

The petition would make other changes to the civil traffic and criminal rules that are more fully explained in the attachment.

The Committee on Superior Court considered this petition on November 7, 2014, and moved to support its filing.

**RECOMMENDED COUNCIL ACTION:**

Authorize the LJC to file the proposed rule petition.

*Version 11.20.14*

Antonio F. Riojas, Jr., Chair
Committee on Limited Jurisdiction Courts
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IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of:

| | | |
|---|---|---|
| PETITION TO REPEAL THE | ) | |
| RULES OF PROCEDURE IN TRAFFIC | ) | Supreme Court No. |
| CASES AND BOATING CASES; | ) | R-15-00__ |
| TO AMEND THE RULES OF | ) | |
| PROCEDURE IN CIVIL TRAFFIC AND | ) | |
| CIVIL BOATING CASES; and TO | ) | |
| AMEND RULES 1, 2, AND 3 OF THE RULES | ) | |
| OF CRIMINAL PROCEDURE | ) | |
| _____ | ) | |

Petitioner is the chair of the Committee on Limited Jurisdiction Courts (the "LJC"), a standing committee of the Arizona Judicial Council. Pursuant to Rule 28 of the Rules of the Supreme Court, Petitioner respectfully petitions this Court as follows:

(a) To repeal the Rules of Procedure in Traffic Cases and Boating Cases in their entirety, as shown in Appendix 1;

(b) To amend portions of the Rules of Procedure in Civil Traffic and Civil Boating Cases, as shown in Appendix 2;

(c) To amend Rules 1, 2, and 3 of the Arizona Rules of Criminal Procedure, as shown in Appendix 3.

**I. Background and Purpose of the Proposed Rule Amendments**. A superior court judge formally inquired of LJC members at their April 30, 2014 meeting about the distinction between the Rules of Procedure in Traffic Cases and Boating Cases, promulgated in 1963, and the Rules of Procedure in Civil Traffic and Civil Boating Violation Cases, promulgated in 1983. A number of members of the legal community, as well as self-represented litigants who frequently appear in traffic cases, are confused by the rules' respective titles, and by the presence of both sets of rules in the Arizona Rules of Court. If the essential difference is that the older of the two bodies of rules governs **criminal** traffic and boating cases, while the more recent rules govern **civil** traffic and boating cases (as a result of legislative decriminalization of most moving violations), the inquiring judge suggested that the word "criminal" be added to the title of the older body of rules.

However, LJC members noted that although the Rules of Procedure in Traffic Cases and Boating Cases apply to criminal traffic offenses (Rule 1(a)), they also apply to "parking or standing offenses" (Rule 1(b)) arising under Title 28, Article 13, many of which have civil penalties; and they also apply to ordinance violations

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concerning parking (Rule 1(b)), which usually also have civil penalties. Moreover, while the Rules of Procedure in Civil Traffic and Civil Boating Violation Cases expressly apply to civil cases (Rule 1), Rule 14 also provides that civil violations may be consolidated with criminal violations. The "criminal" and "civil" aspects of these rules are therefore intertwined, which contributes to the confusion. In addition, both sets of rules have several provisions in common, most notably concerning the Arizona Traffic Ticket and Complaint (the "ATTC").

LJC members agreed that the matter warranted further study. The LJC's Chair established a workgroup of four experienced limited jurisdiction judges, two from justice courts and two from municipal courts. The workgroup met three times and reported its findings to the LJC twice. The LJC reviewed this rule petition and appendices, and it authorized the Chair to proceed with this petition on the LJC's behalf. In addition to addressing the issue that gave rise to the workgroup, this petition also proposes enhancements to several other rules.

**II. Repeal of the Rules of Procedure for Traffic Cases and Boating Cases.** There are two reasons to repeal these rules. First, to the extent they apply to criminal traffic violations, they are adequately covered by the Arizona Rules of Criminal Procedure, which pertain to all criminal offenses. A criminal traffic violation --like theft, assault, or trespass -- is fundamentally a type of criminal offense.

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Second, to the extent they apply to civil traffic violations, the Rules of Procedure for Traffic Cases and Boating Cases are surplusage to the Rules of Procedure for Civil Traffic and Civil Boating Cases, which are a more modern and comprehensive set of rules specifically designed for civil traffic offenses. The need to refer to two sets of procedures can be avoided by relocating in the Civil Traffic Rules any civil traffic provisions of the 1963 rules.

Some of the thirteen existing Rules of Procedure for Traffic Cases and Boating Cases are cumulative, contradict other rules, or are not particularly helpful. Rule 3 is one example of a rule being cumulative. This rule concerns the ATTC. Rule 4 of the Civil Traffic Rules also concerns the ATTC. There is no practical need for both rules.

Rule 4 ("responsibilities of the arresting officer") and Rule 7 ("procedure on failure to appear") apply to criminal situations. Rule 4 scenarios are covered primarily by corresponding Rules of Criminal Procedure. The repeal of Rule 7 ("procedure on failure to appear") requires an amendment to Criminal Rule 3 described in Section IV of this petition.

Rule 8 ("procedure on plea of guilty") permits a defendant to waive a right to trial and to enter a plea of guilty to a criminal traffic offense by simply saying so in writing, and sending the court a signed statement to this effect. This process may have worked well when most moving violations were treated as misdemeanors.

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Inasmuch as most moving violations are now civil rather than criminal offenses (and therefore covered by the Civil Traffic Rules), the remaining criminal violations are offenses with significant consequences. Procedures described in Criminal Rule 17.1(a) for entry of a guilty plea -- by mail or telephonically -- more fully adhere to the requirements of due process and should supersede the cursory procedures in Rule 8. Petitioner parenthetically notes the desirability of adopting a new rule concerning entry of a guilty plea for a petty offense, but this requires further study and Petitioner defers proposing such a rule.

Rule 1 ("definitions"), Rule 2 ("applicability of rules"), and Rule 6 ("duties of the court") are easily integrated into the Civil Traffic Rules, or are otherwise adequately covered by existing criminal rules or statutes.

Rule 9 ("trial of traffic or boating offenses") and Rule 10 ("reports") are largely administrative in nature, and therefore they need not be included in a rule. Rule 11 ("canons of judicial ethics") requires judges to abide by the Canons of Judicial Ethics, a provision that appears in no other set of procedural rules. It is unnecessary. Rule 12 ("scope of rules") in part allows for supplementation by local rules, which is also an unnecessary provision. Rule 13 is simply the "effective date."

In summary, with the exception of Rule 7 concerning failure to appear, the Rules of Procedure for Criminal Traffic and Boating Cases can be repealed and adequately supplanted by the existing civil traffic or criminal rules, or they can be

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covered by straightforward amendments to the civil traffic and criminal rules proposed in this rule petition.

The forms appearing in the appendix to the Rules of Procedure for Traffic Cases and Boating Cases include the ATTC. The ATTC is an essential form; it is used many times daily in both traffic cases and for other misdemeanors, as permitted by A.R.S. § 13-3903 and Criminal Rule 2.1(b). Accordingly, Petitioner requests that the ATTC forms be readopted in the appendix to the Rules of Procedure in Civil Traffic and Civil Boating Cases, as shown in Appendix 2.

**III. Amendments to the Rules of Procedure for Civil Traffic and Civil Boating Cases.** Petitioner proposes amendments to Civil Traffic Rules 1, 2, 3, 10, and 33, and to the forms contained in the Appendix to this set of rules. Petitioner also proposes the addition of a new Rule 10.2, and the deletion of Rules 38-45.

**Rule 1.** The proposed amendment to Civil Traffic Rule 1 deletes the words "hearing and appeals" from the rule's title, which appear after the word "scope" and which are unnecessary; and instead adds the words "of these rules" after the word "scope." Petitioner also proposes adding the words "civil boating, and parking and standing violations" to the body of Civil Traffic Rule 1. These words are taken from Rule 1 of the rules petitioner proposes to repeal. Because these are civil offenses, these violations should be governed by the Civil Traffic Rules.

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**Rule 2.** Consistent with the changes to Rule 1, the definitions in Rule 2 should include "civil boating violation" and "parking or standing violation." Petitioner also requests an amendment to the existing definition of a "civil traffic violation" to include traffic violations under state or local laws that are punishable by a civil sanction.

Another new paragraph in Rule 2 provides a definition of a "uniform traffic ticket and complaint." A.R.S. § 28-1557(A) refers to a "uniform traffic ticket and complaint form," but with one exception in the criminal rules noted later in this petition, the existing rules of traffic procedure customarily refer to the form as an "Arizona Traffic Ticket and Complaint," or "ATTC." The new definition clarifies that the statutory reference to a "uniform traffic ticket and complaint" is the "Arizona Traffic Ticket and Complaint" under these rules.

Existing Rule 2 also includes provisions about computation of time and attorneys, which are interspersed with the Rule's definitions. For better organization, this petition proposes that those provisions be moved within Rule 2 so that they follow the defined terms. The petition also proposes that the title of Rule 2 be changed from "definitions" to "definitions; computing time; attorneys" to assist users in readily locating these provisions.

**Rule 3.** Proposed amendments to Rule 3 (formerly titled "applicability of rules," and with a proposed new title of "commencing a violation in court") specify

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that in addition to a civil traffic violation, a civil boating case and a parking or standing offense are also commenced by filing an ATTC with the court. (The amended rule, like the existing rule, also permits commencement of a civil traffic violation by a "long form" complaint, but this process is rarely used.) Because the violator is typically not present when a parking violation occurs, the proposed amendments also include a mechanism for serving a summons and complaint for a parking or standing violation.

**Rule 10 and new Rule 10.2.** The current Rule 10 begins with two essential paragraphs for admitting or denying responsibility for a traffic violation; but it also includes six subsequent paragraphs concerning a hearing "in absentia," a proceeding with a Latin name that is rarely used. Petitioner proposes clarifying the "in absentia" provisions, first by retitling the proceeding as a "documentary hearing," and also by transferring these provisions to a new Rule 10.2 that contains the details for requesting and proceeding with a "documentary hearing." Petitioner also proposes a new Rule 10(c) that specifies the consequences for failing to appear either at the date and time specified in the ATTC, or at other designated times.

**Rule 33.** Rule 33 concerns appellate memoranda in a civil traffic appeal. Rule 29 provides that civil traffic appeals are "on the record," but Rule 33 currently has no requirement that a memorandum include references to the record on appeal.

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Petitioner proposes an amendment to Rule 33(d) by adding a sentence on this requirement that is taken directly from Rule 8(a)(3) of the SCRAP-Civil Rules.

**Rule 37.** This rule contains a list of six approved forms, but the appendix to the Civil Traffic Rules contains eleven forms and Rule 37 omits to mention five. The proposed amendments add four of these five omitted forms. The fifth omitted form is a "notice of violation;" the notice of violation form remains omitted because it was used in statewide photo enforcement, which has been repealed. (See the next paragraph.) However, Petitioner proposes adding a new form, specifically, the ATTC, as more fully discussed at page 6, *supra*. The ATTC form --with original, violator, law enforcement, and court copies -- should be added as Form 11 to the Civil Traffic Rules.

**Statewide photo enforcement.** Petitioner also proposes amendments to the Civil Traffic Rules that refer or relate to A.R.S. § 41-1722. Several years ago A.R.S. § 41-1722 pertained to statewide photo enforcement, but statewide photo enforcement has since been repealed. A.R.S. § 41-1722 has been replaced with a new Section 41-1722 entitled "concealed weapons permit fund." Current A.R.S. § 41-1722 has nothing to do with civil traffic. References to the statute in Civil Traffic Rules 1, 2(c), 2(f), and 2(g) should therefore be deleted, as shown in Appendix 2. Furthermore, the last sentence of current Civil Traffic Rule 1 states:

> Rules 38-45 shall apply only to photo enforcement cases that are commenced pursuant to A.R.S. § 41-1722.



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Because photo enforcement cases are no longer commenced pursuant to A.R.S. § 41-1722, Civil Traffic Rules 38-45 should also be deleted.

**IV. Amendments to Rules 1, 2, and 3, Rules of Criminal Procedure.**

**Rule 1.** Rule 1.1 describes the "scope" of the criminal rules. In light of the proposed repeal of the Rules of Procedure in Traffic Cases and Boating Cases, described in Section II of this petition, Rule 1.1 should be modified as follows:

> These rules shall govern the procedure in all criminal proceedings in all courts within the State of Arizona ~~except that the Rules of Procedure in Traffic Cases shall continue to apply~~.

**Rule 2.** This Rule currently states that a misdemeanor or petty offense may be commenced by a "Uniform Traffic Ticket and Complaint." For consistent nomenclature, and as described at page 7 of this petition, the proposed amendment would substitute "Arizona" for "Uniform" in Criminal Rule 2.1(b).

**Rule 3.** Repeal of the 1963 traffic rules would result in the deletion of Rule 7, concerning "procedure on failure to appear." It is necessary for the rules to have a procedure for failure to appear as required by an ATTC, and this gap would be filled by an amendment to Criminal Rule 3. Criminal Rule 3 is entitled, "arrest warrant or summons upon commencement of criminal proceedings." Criminal Rule 3.1 is entitled "Issuance of warrant or summons." A new Rule 3.1(e) would provide a process for the court to issue an arrest warrant if a person who has given a written promise to appear in an ATTC, thereafter fails to make the required court



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appearance. The proposed section (e) also would allow the court to issue an arrest warrant on a complaint charging a violation of A.R.S. § 13-3903(F).

**V. Preliminary Comments.** Judge Eric Jeffery, who led the workgroup that prepared these rule changes, presented a draft of the petition to the Committee on Superior Court, which supported the petition, and to the Arizona Judicial Council, which authorized this filing.

**VI. Conclusion.** The filing of this rule petition may be long overdue. The proposed repeals and amendments will clarify for the Arizona community the rules that apply to a given case type. These proposed changes will align criminal and civil traffic procedures into demarcated sets of rules, thereby making them more comprehensible. These rule changes will further serve the strategic goal of Advancing Justice Together.

RESPECTFULLY SUBMITTED this __ day of January, 2015

By_____

Antonio F. Riojas, Jr., Chair
Committee on Limited Jurisdiction Courts
1501 W. Washington Street, Suite 410
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MMeltzer@courts.az.gov

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# Appendix 1

This Appendix shows additions by underline, and deletions by ~~strikethrough~~.

## Rules of Procedure in Traffic Cases and Boating Cases

Delete these rules in their entirety.

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# Appendix 2

This Appendix shows additions by underline, and deletions by ~~strikethrough~~.

## Rules of Court Procedure ~~in~~ for Civil Traffic and Civil Boating Violations ~~Cases~~

**Rule 1. Scope of these Rules.** ~~; Hearings and Appeals~~

These rules ~~shall~~ apply in all court cases involving the adjudication and appeal of civil traffic, civil boating, and parking and standing violations, except those violations consolidated pursuant to Rule 14 of these rules. ~~Rules 38-45 shall apply only to photo enforcement cases that are commenced pursuant to A.R.S. § 41-1722.~~

**Rule 2. Definitions; computing time; attorneys.**

(a) "Civil traffic violation" means any violation designated as such under the provisions of A.R.S. § 28-121 or expressly designated as such by a traffic ordinance of a city or town, or by any other statute, charter or ordinance regulating the operation of a motor vehicle or other motorized or human powered device described in Title 28 or in a local ordinance that is punishable by a civil sanction. ~~and any boating violation punishable by a civil sanction under Articles 1 through 11 of Chapter 3, Title 5, of the Arizona Revised Statutes, or expressly designated a civil violation by a boating ordinance or a city or town.~~

(b) "Civil boating violation" means any violation of Articles 1 Through 10, Chapter 3, Title 5, Arizona Revised Statutes (entitled "boating and water sports") or of any other statute, charter, ordinance, rule or regulation in relation to the operation or use of motorized watercraft, motorboats, or sailboards, or by operation of any other watercraft that is punishable by a civil sanction.

~~(b)~~(c) "Court" means a justice court or a court established by a city or town. Unless the context otherwise requires, "trial court" also means the justice or municipal court.

~~(c) "Department" means the Arizona Department of Public Safety acting directly or through its duly authorized officers, agents and contractors.~~

(d) "Judge" means a justice of the peace, judge, or magistrate.

(e) "Hearing officer" means a person appointed as such under the provisions of A.R.S. § 28-1553.

~~(f) "Notice of violation" means a document charging a civil traffic offense pursuant to A.R.S. § 41-1722 that is issued to an alleged violator in accordance with these rules and not filed in court.~~

(f) "Parking or standing violation" means any violation of Article 13, Chapter 3, Title 28, Arizona Revised Statutes (entitled "stopping, standing or parking"), or of any other statue, ordinance, rule or regulation, arising solely from the parking, stopping or standing of a vehicle.

~~(g) "Photo enforcement" means enforcement of violations detected by photo enforcement equipment for the purpose of capturing violations within Title 28, Chapter 3, Articles 3 and 6 relating to vehicle traffic and speed, pursuant to A.R.S. § 41-1722.~~

~~(h) In computing time limits, when the last day of any period of time prescribed herein falls on a Saturday, Sunday, or day when the court is closed, the "last day" shall be the next day court is open. The day of the act or event from which the designated time period begins is not to be included. Except as stated by these rules or by order of court in a particular case, filing deadlines are not enlarged when sent by mail.~~

~~(i)~~ (g) "Party" means the state or the defendant. A law enforcement officer, police aide, traffic investigator, or parking enforcement volunteer is not a party.

(h) The "uniform traffic ticket and complaint" as referenced in Articles 3 and 4, Chapter 5, Title 28, Arizona Revised Statutes, is identified in these rules by the name "Arizona Traffic Ticket and Complaint," or by the abbreviation, "ATTC."

(h) Computing time. In computing time limits, when the last day of any period of time prescribed herein falls on a Saturday, Sunday, or day when the court is closed, the "last day" shall be the next day court is open. The day of the act or event from which the designated time period begins is not to be included. Except as stated by these rules or by order of court in a particular case, filing deadlines are not enlarged when sent by mail.

~~(j)~~ (i) Attorneys. Unless the context otherwise requires, the requirements of these rules may be performed by an attorney who has filed a proper notice of appearance.

**Rule 3. Commencing a violation in court**

(a) **Commencing a civil traffic or civil boating case.** A civil traffic or civil boating case ~~violation shall be~~ is commenced by filing with the court an Arizona Traffic Ticket and Complaint in accordance with Article 4, Chapter 5, Title 28, Arizona Revised Statutes (entitled "Procedures for Civil Traffic Violations") or by filing a long-form complaint pursuant to Arizona Rules of Criminal Procedure, Rule 2.3.

(b) **Commencing a parking or standing case.** A parking or standing case is commenced by filing with the court an Arizona Traffic Ticket and Complaint, or a notice of violation for a local ordinance, charter, or regulation in accordance with Article 4, Chapter 5, Title 28, Arizona Revised Statutes entitled "procedures for civil traffic violations". Vehicle parking and standing offenses do not require that the initial notification or a subsequent summons and complaint be personally served. If it becomes necessary to issue a summons and complaint because there is not a satisfactory response to the initial notice of a parking or standing violation, a summons and complaint may be sent by regular mail to the address provided to the Department of Motor Vehicles by the individual made responsible for the alleged violation. Service of a summons and complaint is complete on mailing.

**Rules 4 through 9: No change**

**Rule 10. Entry of Plea; ~~Appearance of Counsel; Hearing in Absentia~~ Failure to Appear**

(a) The defendant may admit responsibility by appearing in person, or by submitting a form or a statement signed by the defendant admitting the allegations of the complaint. The defendant shall, at the same time, tender the civil sanction listed in the court's deposit schedule for the civil traffic violation(s).

(b) The defendant may deny responsibility by appearing in person or by notifying the court in writing. The defendant may, at the same time, tender the civil sanction listed in the court's deposit schedule for civil traffic violations to insure that no driver's license suspension will result from failure to appear. Upon receipt of said

notice, the court shall set the matter for hearing and notify the defendant, citing officer, and any counsel of the date, time, and place for the hearing.

~~(c) At the time of denial of responsibility, or such other time as the court determines appropriate in the interest of justice, the defendant may file a written request for a hearing in absentia. The defendant shall show why attending a civil traffic hearing would cause a substantial hardship. A substantial hardship is more than mere inconvenience and must be based on extraordinary circumstances. Along with the request, the defendant may tender the civil sanction listed in the court's deposit schedule for the civil traffic violation(s) at issue in the hearing.~~

(c) A defendant's failure to admit or deny responsibility under Rules 10(a) or 10(b), or to personally appear at the date and time specified in the Arizona Traffic Ticket and Complaint or at any subsequently scheduled court proceeding, or a defendant's failure to file a written statement prior to a documentary hearing under Rule 10.2, shall result in a default pursuant to Rules 21 and 22.

~~(d) If the court grants the request for a hearing in absentia, the court shall set the matter for hearing and notify the defendant, the citing officer, and any counsel in the case of the date, time, and place for the hearing.~~

~~(e) Prior to a scheduled hearing in absentia, the defendant shall file a statement or statements made under the penalty of perjury, along with any physical evidence the defendant requests the court to consider. The Court may also allow the State's witness, or witnesses, to testify through written statements or in person on the date, time, and place scheduled for the hearing in absentia. The State shall file any statement or statements, made under penalty of perjury, along with any physical evidence the State requests the court to consider, prior to the hearing.~~

~~(f) Failure to personally appear, or file a statement or statements prior to the hearing in absentia, shall result in default pursuant to Rules 21 and 22.~~

~~(g) If a hearing in absentia is held, the defendant waives the following rights: to personally appear to present evidence; to review evidence before the hearing (Rule 13 (b)); to compel production of any citing officer notes (Rule 13 (c)); to testimony under oath (Rule 16(a)); to cross examine the State's witnesses (Rule 16(c)); to present rebuttal evidence (Rule 19(d)); to present a closing argument (Rule 19(e)); and to immediate delivery of written notice of appeal following judgment and imposition of civil sanction (Rule 25(a)).~~

~~(h) If a hearing in absentia is held, the 14-day period for filing a notice of appeal pursuant to Rule 28 (a) is extended by 7 calendar days. The record of a hearing in absentia for purposes of Rule 29(b)(vii) shall also include the statements, as well as the recording or transcript, if any, of the hearing.~~

**Rule 10.1. Appearance by Audiovisual and Telephonic Means [No change]**

**Rule 10.2. Request for a Documentary Hearing**

(a) At the time of denial of responsibility, or such other time as the court determines appropriate in the interest of justice, the defendant may file a written request for a documentary hearing.

(b) For the court to grant a request for a documentary hearing, the defendant must show why personally attending a civil traffic hearing would cause a substantial hardship. A substantial hardship is more than mere inconvenience and must be based on extraordinary circumstances. Along with the request, the defendant may tender the civil sanction listed in the court's deposit schedule for the civil traffic violation(s) at issue in the hearing.

(c) If the court grants the request for a documentary hearing, the court shall set the matter for hearing and notify the defendant, the citing officer, and any counsel in the case of the date, time, and place for the hearing.

(d)Prior to a scheduled documentary hearing, the defendant shall file a statement or statements made under the penalty of perjury, along with any other evidence the defendant requests the court to consider. Other evidence may include such things as diagrams, photographs, or physical evidence. The court may allow the State's witnesses to testify through written statements or in person on the date, time, and place scheduled for the hearing. The State shall file prior to the hearing any statements, made under penalty of perjury, along with any other evidence the State requests the court to consider.

(e) Failure to personally appear, or file a statement or statements prior to the hearing, shall result in default pursuant to Rules 21 and 22.

(f) If a defendant requests a documentary hearing, the defendant waives the following rights: to personally appear to present evidence; to review evidence before the hearing (Rule 13 (b)); to compel production of any citing officer notes (Rule 13 (c)); to testimony under oath (Rule 16(a)); to cross examine the State's witnesses

(Rule 16(c)); to present rebuttal evidence (Rule 19(d)); to present a closing argument (Rule 19(e)); and to immediate delivery of written notice of appeal following judgment and imposition of civil sanction (Rule 25(a)).

(g) If a documentary hearing is held, the 14-day period for filing a notice of appeal pursuant to Rule 28 (a) is extended by 7 calendar days. The record of a documentary hearing for purposes of Rule 29(b)(vii) shall also include the statements and other evidence, as well as the recording or transcript, if any, of the hearing.

**Rule 11 through Rule 21: No change**

**Rule 22. Default by Defendant at Hearing**

(a) Except where Rule 21 is applicable, if the defendant fails to appear as required, the allegations of the complaint shall be deemed admitted, and the court shall enter a judgment for the State, impose a civil sanction, and report such judgment to the Department of Transportation, except that civil boating ~~and photo enforcement~~ violation judgments shall not be reported to the Department of Transportation.

(b) If it appears that the defendant is in active military service, no default judgment may be entered.

**Rule 23 through Rule 32: No change**

**Rule 33. Appellate Memoranda; Dismissal for Non-filing**

**(a) through (c): No change**

**(d)**Appellate memoranda shall be typed or printed on white, opaque, letter-size paper, double-spaced, and shall not exceed 15 pages, excluding exhibits. The memorandum shall set forth a factual and legal basis for appropriate judicial relief. Memoranda shall include a short statement of the facts with reference to the record, a concise argument setting forth the legal issues presented with citation of authority, and a conclusion stating the precise remedy sought on appeal.

**(e) through (f): No change**

**Rules 34 through 36: No change**

**Rule 37. Forms**

The following forms are approved for use in civil traffic proceedings:

**1.** Defendant's Notice of Right to Appeal (Civil Traffic)
**2.** Defendant's Notice of Appeal (Civil Traffic)
**3.** Motion to Waive or Reduce Bond and Order
**4.** Notice of Summary Transfer to Superior Court for Trial De Novo
**5.** Notice to Appellant Re: Payment of Superior Court Appeal Fee
**6.** Request for Transmittal of Record to Superior Court
**7.** Defendant's Request for a Documentary Hearing
**8.** Defendant's Statement for a Documentary Hearing
**9.** Officer's Statement for a Documentary Hearing
**10.** Witness's Statement for a Documentary Hearing
**11.** Arizona Traffic Ticket and Complaint (original, defendant, law enforcement, and court report copies

~~**Rule 38. Photo Enforcement; Notice of Violation**~~

~~A photo enforcement case may be commenced by a Notice of Violation, which is issued prior to the filing of an Arizona Traffic Ticket and Complaint.~~

~~**Rule 39. Notice of Violation; Form**~~

~~(a) The Notice of Violation shall be substantially in a form approved by the Supreme Court as set forth in Appendix B of these rules.~~

~~(b) Any substantial variation from the form of the Notice of Violation must first be approved by the Supreme Court.~~

~~(c) Notice of Violation forms need not be sworn to if they contain a form of certification by the Department in substance as follows "I hereby certify that I have reasonable grounds to believe and do believe that the person named herein committed the civil violation described herein contrary to law."~~

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~~(d) The Department shall promptly forward one form copy, and any subsequent changes therein, to the Supreme Court.~~

**~~Rule 40. Issuance and Delivery of the Notice of Violation~~**

~~The Department shall properly complete, certify and deliver the Notice of Violation as follows:~~

~~(a) Issuance of the notice of violation. The Notice of Violation may be issued by the Department.~~

~~(b) Delivery of the notice of violation; defendant copy. The Notice of Violation may be delivered by any of the following means:~~

~~(1) Delivering a copy to the person charged with the violation.~~

~~(2) Mailing the Notice of Violation by first class mail to the person charged with the violation at the address provided to the Arizona Department of Transportation. If an address has not been provided to the Department of Transportation, the notice may be sent to any address known to the Department of Transportation, including the address listed on a traffic citation received by the Department of Transportation.~~

~~(3) Service of process authorized by the Rules of Civil Procedure.~~

**~~Rule 41. Sufficiency of the Notice of Violation~~**

~~The Notice of Violation is legally sufficient if it contains either a written description or the statutory designation of the alleged violation.~~

**~~Rule 42. Notice of Violation; Time for Delivery~~**

~~A Notice of Violation is void if its delivery is not initiated in accordance with Rule 40 of these rules within ten days of the date of violation.~~

**~~Rule 43. Response to Notice of Violation~~**

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~~Upon receipt of a Notice of Violation the alleged violator may submit as directed by the Department a signed statement within 40 days of the date of violation that:~~

~~(a) Admits responsibility for the allegations of the Notice of Violation, agrees to tender the full amount of the civil penalty and surcharge as directed on the Notice of Violation, and agrees that this admission is final and may not be withdrawn;~~

~~(b) Denies responsibility because the alleged violator was not the driver of the vehicle at the time of the violation; or~~

~~(c) Denies responsibility for the allegations of the Notice of Violation.~~

**~~Rule 44. Procedure if Violator does not Admit Responsibility~~**

~~(a) If the Department excludes the alleged violator as the driver, the Department shall notify the alleged violator.~~

~~(b) The Department may file a complaint in the court having jurisdiction of the violation within 60 days of the date of the violation and serve upon the defendant an Arizona Traffic Ticket and Complaint as otherwise provided by law, if any of the following occur:~~

~~(1) The alleged violator denies responsibility, except if the alleged violator is excluded as the driver of the vehicle.~~

~~(2) The alleged violator fails to respond to the Notice of Violation within 40 days of the date of violation.~~

~~(3) The alleged violator admits responsibility but fails to tender the full amount of the civil penalty and surcharge as required by Rule 43 of these rules.~~

**~~Rule 45. Service of Complaint; Hearing Date; Notice; Response to Complaint~~**

~~(a) Service of the complaint. Within 10 days after filing the Arizona Traffic Ticket and Complaint, the Department shall mail by first class mail to the defendant a copy of the complaint and provide the defendant the option to respond to the complaint by filing an admission or denial of responsibility with the court.~~

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~~(b) The scheduled appearance date stated on the complaint shall be calendared for a date that is not less than 30 days after the Department mails the citation to the defendant.~~

~~(c) Notice of options to respond. The notice of options to respond shall:~~

~~(1) be in writing and addressed directly to the defendant,~~

~~(2) set forth the date on which the complaint and notice of option to respond were mailed,~~

~~(3) include a copy of the photograph of the violation,~~

~~(4) inform the defendant of the date after which the defendant's failure to either file a written response with the court or appear in court may result in personal service at the defendant's expense, unless good cause for the failure to respond is shown,~~

~~(5) inform the defendant that filing an admission or denial of responsibility with the court is an appearance that has the same effect as personal service,~~

~~(6) provide a prepaid means of requesting the Department to review the evidence, if the defendant denies responsibility because the defendant was not the driver of the vehicle at the time of the violation, and~~

~~(7) provide the defendant with a prepaid means of filing the admission or denial of responsibility with the court.~~

~~(d) Time period. The defendant shall have 30 days after the date the complaint and notice of option to respond was mailed in which to file an admission or denial of responsibility with the court. Filing of an admission or denial of responsibility with the court shall constitute an appearance by which the defendant becomes subject to the personal jurisdiction of the court.~~

~~(e) Failure to respond. If a defendant fails to respond by either filing a written response with the court or appearing in court on the scheduled appearance date, service may be effected in the manner prescribed by Rule 4.1(d), Arizona Rules of Civil Procedure, and the court shall impose the costs subsequently incurred in effecting personal service on the defendant, unless good cause for the failure is shown.~~

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## Forms 1 through 6: No change

### Form 7. Defendant's Request for a ~~Civil Traffic Hearing in Absentia~~ Documentary Hearing

| | | |
|---|---|---|
| {CAPTION} | | |
| | | |
| STATE OF ARIZONA, | ) | |
| Plaintiff, | ) | DEFENDANT'S REQUEST FOR |
| | ) | A ~~CIVIL TRAFFIC HEARING~~ |
| vs. | ) | ~~IN ABSENTIA~~ DOCUMENTARY HEARING AND WAIVER |
| | ) | OF RIGHTS |
| | ) | |
| | ) | Case No. |
| Defendant. | ) | |
| | ) | |
| | | |
| Defendant's name:<br>. | | |
| | | |
| State in detail why attending a civil traffic hearing would be a substantial hardship. A substantial hardship is more than mere inconvenience. Examples of substantial hardship may include residing a considerable distance from the court or having a medical or physical condition that significantly impairs the ability to participate in a hearing. | | |
| | | |
| | | |
| | | |
| | | |

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If the Court grants my request and conducts a documentary hearing ~~in absentia~~, I waive the following rights: to personally appear to present evidence; to review evidence before the hearing (Rule 13(b)); to compel production of any citing officer notes (Rule 13(c)); to testimony under oath (Rule 16(a)); to cross examine the State's witnesses (Rule 16(c)); to present rebuttal evidence Rule 19(d)); to present a closing argument Rule 19(e)); and to immediate delivery of written notice of appeal after the imposition of any civil sanction (Rule 25(a)).

I acknowledge that if the Court does not receive my declaration of the facts by the hearing date, a default judgment may be entered against me, a civil sanction may be imposed, and my driving privileges may be suspended.

| | |
|---|---|
| Dated: | |
| | Defendant's signature |

**Form 8. Defendant's Declaration for a ~~Civil Traffic Hearing in Absentia~~ Documentary Hearing**

{CAPTION}

| | | |
|---|---|---|
| STATE OF ARIZONA, | ) | DEFENDANT'S DECLARATION |

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| | | |
|---|---|---|
| Plaintiff, | ) | AND WAIVER OF RIGHTS |
| vs. | ) | FOR A DOCUMENTARY<br>HEARING ~~IN ABSENTIA~~ |
| | ) | |
| | ) | Case No. |
| | ) | |
| Defendant. | ) | |
| | ) | |
| | | |

Declarant's name:

.

State the facts of the case in your own words. If you have any exhibits, explain their significance in the statement and attach. Please print clearly or attach a written statement.

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| |
|---|
| **Continued on ___ attached pages.** |
| |
| By having a documentary hearing ~~in absentia~~, I waive the following rights: to personally appear to present evidence; to review evidence before the hearing (Rule 13(b)); to compel production of any citing officer notes (Rule 13(c)); to testimony under oath (Rule 16(a)); to cross examine the State's witnesses (Rule 16(c)); to present rebuttal evidence Rule 19(d)); to present a closing argument Rule 19(e)); and to immediate delivery of written notice of appeal after the imposition of any civil sanction (Rule 25(a)). I acknowledge that if the Court does not receive this declaration by the hearing date, a default judgment may be entered against me, a civil sanction may be imposed, and my driving privileges may be suspended. |
| |
| I declare under penalty of perjury that the foregoing is true and correct. |
| |

| | |
|---|---|
| Dated: | |
| | Declarant's signature |

**Form 9. Officer's Declaration for a ~~Civil Traffic Hearing in Absentia~~ Documentary Hearing**

| | | |
|---|---|---|
| {CAPTION} | | |
| | | |
| STATE OF ARIZONA, | ) | |
| Plaintiff, | ) | OFFICER'S DECLARATION |
| | ) | FOR A DOCUMENTARY HEARING ~~IN ABSENTIA~~ |
| vs. | ) | |
| | ) | Case No. |
| Defendant. | ) | |

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| | | |
|---|---|---|
| | ) | |
| | | |

Declarant's name & ID number:

.

State what occurred. Please print clearly or attach a written statement.

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| | |
|---|---|
| | |
| | |
| | |
| **Continued on ___ attached pages.** | |
| | |
| I declare under penalty of perjury that the foregoing is true and correct. | |
| | |
| | |
| Dated: | |
| | Declarant's signature |

**Form 10. Witness's Declaration for a ~~Civil Traffic Hearing in Absentia~~ <u>Documentary Hearing</u>**

| | | |
|---|---|---|
| {CAPTION} | | |
| | | |
| STATE OF ARIZONA, | ) | |
| Plaintiff, | ) | WITNESS'S DECLARATION |
| | ) | FOR A <u>DOCUMENTARY</u> HEARING ~~IN ABSENTIA~~ |
| vs. | ) | |
| | ) | Case No. |
| Defendant. | ) | |
| | ) | |
| | | |
| Declarant's name:<br>. | | |

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State what you saw and heard in your own words. Please print clearly or attach a written statement.

**Continued on ___ attached pages.**

I declare under penalty of perjury that the foregoing is true and correct.

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| | |
|---|---|
| | |
| | |
| Dated: | |
| | Declarant's signature |

**~~Form 11: Notice of Violation~~**

**[Delete the current form in its entirety]**

**Form 11: Arizona Traffic Ticket and Complaint (original, defendant, law enforcement, and court report copies) [new]**

DRAFT

**(Here insert the name and symbol of the law-enforcement agency, city or town or court under whose authority arrest is made.)**

# Arizona Traffic Ticket and Complaint

| Complaint No. | SSN | Military | ☐ Accident ☐ Fatality ☐ Serious Physical Injury | ☐ Commercial ☐ Haz. Material | Agency Use or Report Number |
|---|---|---|---|---|---|
| Driver's License Number | State | Class | Endorsements: M H N P T X D | | Agency Use |

| DEFENDANT | First | Middle | Last |
|---|---|---|---|

| Residential / Commercial Address | City | State | ZIP | Telephone |
|---|---|---|---|---|

Mailing Address ☐ SAME AS ABOVE

| Sex | Weight | Height | Eyes | Hair | Origin | Date of Birth | Restrictions |
|---|---|---|---|---|---|---|---|

| VEHICLE | Color | Year | Make | Model | Style | License Plate | State | Expiration |
|---|---|---|---|---|---|---|---|---|

| Registered Owner | Address | Vehicle Identification Number |
|---|---|---|

**The undersigned certifies that:**

| ON | Month | Day | Year | Time | AM PM | SPEED | Approx. | Posted | R&P | Speed Measurement Device | Direction of Travel |
|---|---|---|---|---|---|---|---|---|---|---|---|

| AT | Location | County | State of Arizona | Beat |
|---|---|---|---|---|

**The defendant committed the following:**

| | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
|---|---|---|---|---|---|
| A | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| B | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| C | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| D | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| E | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |

| You must appear at ► | (Insert here the place of appearance ; title and name of Court, Judge, or Juvenile Referee or officer, street address, city or town, Arizona, and court or room number, if applicable; and time of appearance; hour, day, month, and year.) | Court Number: |
|---|---|---|

| At the date and time indicated ► | Month | Day | Year | Time | AM PM |
|---|---|---|---|---|---|

CRIMINAL ☐ Without admitting guilt, I promise to appear as directed hereon.
CIVIL ☐ Without admitting responsibility, I acknowledge receipt of this complaint

VICTIM? ☐ VICTIM NOTIFIED? ☐

TEN-PRINT FINGERPRINT ☐ Yes ☐ No

I certify that upon reasonable grounds I believe the defendant committed the above violations and I have served a copy of this complaint upon the defendant.

X _____

Officer _____ Number

Agency Use

**Front Side of Original Complaint**

## ARRAIGNMENT

| Charges | Not Guilty | Not Responsible | No Contest | Guilty | Responsible | Defendant Signature* |
|---|---|---|---|---|---|---|
| A | | | | | | |
| B | | | | | | |
| C | | | | | | |
| D | | | | | | |
| E | | | | | | |

*By my signature, I hereby waive my right to trial, enter a plea of guilty or responsible for the violation and consent to judgment imposing the prescribed fine or civil sanction.

**SPECIAL NOTES**

☐ Possible Criminal Rule 11 ☐ State Seeks Jail

☐ Interpreter Required ☐ Spanish ☐ Other _____

☐ Attorney Notice of Appearance _____

**CONDITIONS OF RELEASE**

☐ Own Recognizance ☐ Plus Special Conditions, See Release Order

☐ Bond / Deposit Amount _____

☐ Set Review Hearing _____

☐ Appoint Attorney _____

## SETTINGS

☐ Pretrial Set for _____ ☐ Trial Set for _____ ☐ Jury ☐ Bench _____ ☐ Civil Hearing Set for _____

**Date / Judge's Initials**

## JUDGMENTS AND ORDERS OF THE COURT

| A | B | C | D | E |
|---|---|---|---|---|
| ☐ COP ☐ Civil Hearing<br>☐ No Contest ☐ Not Resp<br>☐ Guilty ☐ Responsible<br>☐ Responsible | ☐ COP ☐ Civil Hearing<br>☐ No Contest ☐ Not Resp<br>☐ Guilty ☐ Responsible<br>☐ Responsible | ☐ COP ☐ Civil Hearing<br>☐ No Contest ☐ Not Resp<br>☐ Guilty ☐ Responsible<br>☐ Responsible | ☐ COP ☐ Civil Hearing<br>☐ No Contest ☐ Not Resp<br>☐ Guilty ☐ Responsible<br>☐ Responsible | ☐ COP ☐ Civil Hearing<br>☐ No Contest ☐ Not Resp<br>☐ Guilty ☐ Responsible<br>☐ Responsible |
| TRIAL ☐ Not Guilty<br>☐ Jury ☐ Guilty<br>☐ Bench ☐ Grant Rule 20 | TRIAL ☐ Not Guilty<br>☐ Jury ☐ Guilty<br>☐ Bench ☐ Grant Rule 20 | TRIAL ☐ Not Guilty<br>☐ Jury ☐ Guilty<br>☐ Bench ☐ Grant Rule 20 | TRIAL ☐ Not Guilty<br>☐ Jury ☐ Guilty<br>☐ Bench ☐ Grant Rule 20 | TRIAL ☐ Not Guilty<br>☐ Jury ☐ Guilty<br>☐ Bench ☐ Grant Rule 20 |
| ☐ See Minute Entry for Sentence Details<br>☐ Probation ____ Months<br>☐ Defendant Ordered Not to Return to:<br>☐ Incident Location<br>☐ _____<br>☐ Restitution _____<br>☐ Fine / Sanction _____<br>☐ Suspend ☐ Only if Requirements are met<br>☐ Pay_____ ☐ By_____<br>At Rate Of_____<br>Beginning _____<br>☐ Or Proof of:<br>☐ Community Services<br>Total Hours ___By_____<br>☐ Insurance By_____<br>☐ Registration By_____<br>☐ _____By_____<br>☐ With Proof, Reduce Amount to be paid to:_____ | ☐ See Minute Entry for Sentence Details<br>☐ Probation ____ Months<br>☐ Defendant Ordered Not to Return to:<br>☐ Incident Location<br>☐ _____<br>☐ Restitution _____<br>☐ Fine / Sanction _____<br>☐ Suspend ☐ Only if Requirements are met<br>☐ Pay_____ ☐ By_____<br>At Rate Of_____<br>Beginning _____<br>☐ Or Proof of:<br>☐ Community Services<br>Total Hours ___By_____<br>☐ Insurance By_____<br>☐ Registration By_____<br>☐ _____By_____<br>☐ With Proof, Reduce Amount to be paid to: _____ | ☐ See Minute Entry for Sentence Details<br>☐ Probation ____ Months<br>☐ Defendant Ordered Not to Return to:<br>☐ Incident Location<br>☐ _____<br>☐ Restitution _____<br>☐ Fine / Sanction _____<br>☐ Suspend ☐ Only if Requirements are met<br>☐ Pay_____ ☐ By_____<br>At Rate Of_____<br>Beginning _____<br>☐ Or Proof of:<br>☐ Community Services<br>Total Hours ___By_____<br>☐ Insurance By_____<br>☐ Registration By_____<br>☐ _____By_____<br>☐ With Proof, Reduce Amount to be paid to: _____ | ☐ See Minute Entry for Sentence Details<br>☐ Probation ____ Months<br>☐ Defendant Ordered Not to Return to:<br>☐ Incident Location<br>☐ _____<br>☐ Restitution _____<br>☐ Fine / Sanction _____<br>☐ Suspend ☐ Only if Requirements are met<br>☐ Pay_____ ☐ By_____<br>At Rate Of_____<br>Beginning _____<br>☐ Or Proof of:<br>☐ Community Services<br>Total Hours ___By_____<br>☐ Insurance By_____<br>☐ Registration By_____<br>☐ _____By_____<br>☐ With Proof, Reduce Amount to be paid to: _____ | ☐ See Minute Entry for Sentence Details<br>☐ Probation ____ Months<br>☐ Defendant Ordered Not to Return to:<br>☐ Incident Location<br>☐ _____<br>☐ Restitution _____<br>☐ Fine / Sanction _____<br>☐ Suspend ☐ Only if Requirements are met<br>☐ Pay_____ ☐ By_____<br>At Rate Of_____<br>Beginning _____<br>☐ Or Proof of:<br>☐ Community Services<br>Total Hours ___By_____<br>☐ Insurance By_____<br>☐ Registration By_____<br>☐ _____By_____<br>☐ With Proof, Reduce Amount to be paid to:_____ |
| Date of Disposition: | Date of Disposition: | Date of Disposition: | Date of Disposition: | Date of Disposition: |
| Disposition Code: | Disposition Code: | Disposition Code: | Disposition Code: | Disposition Code: |
| Fine: | Fine: | Fine: | Fine: | Fine: |
| Jail: | Jail: | Jail: | Jail: | Jail: |

**Date / Judge's Initials**

## AMENDMENT / DISMISSAL

| A | B | C | D | E |
|---|---|---|---|---|
| On Motion of:<br>☐ State ☐ Defendant ☐ Court<br>☐ Amend _____<br>_____<br>☐ Dismiss ☐ With Prejudice<br>☐ Without Prejudice | On Motion of:<br>☐ State ☐ Defendant ☐ Court<br>☐ Amend _____<br>_____<br>☐ Dismiss ☐ With Prejudice<br>☐ Without Prejudice | On Motion of:<br>☐ State ☐ Defendant ☐ Court<br>☐ Amend _____<br>_____<br>☐ Dismiss ☐ With Prejudice<br>☐ Without Prejudice | On Motion of:<br>☐ State ☐ Defendant ☐ Court<br>☐ Amend _____<br>_____<br>☐ Dismiss ☐ With Prejudice<br>☐ Without Prejudice | On Motion of:<br>☐ State ☐ Defendant ☐ Court<br>☐ Amend _____<br>_____<br>☐ Dismiss ☐ With Prejudice<br>☐ Without Prejudice |

**Date / Judge's Initials**

**Reverse Side Complaint Copy**

**(Here insert the name and symbol of the law-enforcement agency, city or town or court under whose authority arrest is made.)**

# Arizona Traffic Ticket and Complaint

| Complaint No. | | Military | ☐ Accident ☐ Fatality ☐ Serious Physical Injury | ☐ Commercial ☐ Haz. Material | Agency Use or Report Number |
|---|---|---|---|---|---|
| Driver's License Number | State | Class | Endorsements: M H N P T X D | | Agency Use |

| DEFENDANT | First | Middle | Last |
|---|---|---|---|
| Residential / Commercial Address | City | State | ZIP | Telephone |
| Mailing Address | ☐ SAME AS ABOVE | | |

| Sex | Weight | Height | Eyes | Hair | Origin | Date of Birth | Restrictions |
|---|---|---|---|---|---|---|---|
| | | | | | | | |

| VEHICLE | Color | Year | Make | Model | Style | License Plate | State | Expiration |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |

| Registered Owner | Address | Vehicle Identification Number |
|---|---|---|
| | | |

**The undersigned certifies that:**

| ON | Month | Day | Year | Time | AM PM | SPEED | Approx. | Posted | R&P | Speed Measurement Device | Direction of Travel |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | |

| AT | Location | County | State of Arizona | Beat |
|---|---|---|---|---|
| | | | | |

**The defendant committed the following:**

| | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
|---|---|---|---|---|---|
| A | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| B | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| C | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| D | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| E | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |

| You must appear at ► | (Insert here the place of appearance ; title and name of Court, Judge, or Juvenile Referee or officer, street address, city or town, Arizona, and court or room number, if applicable; and time of appearance; hour, day, month, and year.) | Court Number: |
|---|---|---|

| At the date and time indicated ► | Month | Day | Year | Time | AM PM |
|---|---|---|---|---|---|
| | | | | | |

CRIMINAL ☐ Without admitting guilt, I promise to appear as directed hereon.
CIVIL ☐ Without admitting responsibility, I acknowledge receipt of this complaint

X _____

VICTIM? ☐ VICTIM NOTIFIED? ☐

TEN-PRINT FINGERPRINT ☐ Yes ☐ No

I certify that upon reasonable grounds I believe the defendant committed the above violations and I have served a copy of this complaint upon the defendant.

_____
Officer Number

Agency Use

**NOTICE TO DEFENDANT:**

**THIS IS A TRUE COPY OF THE COMPLAINT WHICH WILL BE FILED IN COURT.**
**YOU ARE ADVISED TO READ THE INSTRUCTIONS ON THE REVERSE.**
**IF YOU APPEAR IN COURT, PLEASE BRING THIS COPY WITH YOU.**

**Front Side of Violator/Defendant Copy**

# IMPORTANT NOTICE TO DEFENDANT

The other side of this page is a true copy of the offense described in the complaint that will be filed in the designated court or hearing office.

The offense for which you have been cited is an Administrative Violation, a Civil Traffic Violation, a Criminal Offense, a Criminal Traffic Offense, or a Petty Offense. To determine which notice(s) applies to you, look at the box(es) checked under "the defendant committed the following" on the reverse side of this notice.

## CIVIL TRAFFIC

If the Civil Traffic box is checked, notice is hereby given that if you fail to appear as directed in this complaint, a default judgment will be entered against you, a civil sanction will be imposed, and your license will be suspended. Your driver's license or nonresident operating privilege will remain suspended until the civil sanction is paid and you satisfy Motor Vehicle Division requirements (A.R.S. 28-1557[B] [2]).

## CRIMINAL OR PETTY OFFENSE

If the Criminal or Petty Offense box is checked, notice is hereby given that if you fail to appear in court as directed in this complaint, a warrant will be issued for your arrest (A.R.S. 13-3903.E).

## CRIMINAL TRAFFIC

If the Criminal Traffic box is checked, notice is hereby given that if you fail to appear as directed in this complaint on a criminal charge, a warrant could be issued for your arrest and your license will be suspended (A.R.S. 28-1557[B] [1]).

(The court, law enforcement agency or public body responsible for issuing the Arizona Traffic Ticket and Complaint may include any additional information considered necessary to the defendant regarding appearances, pleas, and payment of fines or civil sanctions.)

**Reverse Side Violator/Defendant Copy**

**(Here insert the name and symbol of the law-enforcement agency, city or town or court under whose authority arrest is made.)**

# Arizona Traffic Ticket and Complaint

| Complaint No. | SSN | Military | ☐ Accident ☐ Fatality ☐ Serious Physical Injury | ☐ Commercial ☐ Haz. Material | Agency Use or Report Number |
|---|---|---|---|---|---|
| Driver's License Number | State | Class | Endorsements: M H N P T X D | | Agency Use |

| DEFENDANT | First | Middle | Last |
|---|---|---|---|
| Residential / Commercial Address | City | State | ZIP | Telephone |
| Mailing Address | ☐ SAME AS ABOVE | | |

| Sex | Weight | Height | Eyes | Hair | Origin | Date of Birth | Restrictions |
|---|---|---|---|---|---|---|---|
| | | | | | | | |

| VEHICLE | Color | Year | Make | Model | Style | License Plate | State | Expiration |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |

| Registered Owner | Address | Vehicle Identification Number |
|---|---|---|
| | | |

**The undersigned certifies that:**

| ON | Month | Day | Year | Time | AM PM | SPEED | Approx. | Posted | R&P | Speed Measurement Device | Direction of Travel |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | |

| AT | Location | County | State of Arizona | Beat |
|---|---|---|---|---|
| | | | | |

**The defendant committed the following:**

| | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
|---|---|---|---|---|---|
| A | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| B | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| C | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| D | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |
| E | Section | ARS CC | Violation | Domestic Violence ☐ | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | Disp. Codes | Date of Disposition | Sanction | |

**You must appear at ►**

(Insert here the place of appearance ; title and name of Court, Judge, or Juvenile Referee or officer, street address, city or town, Arizona, and court or room number, if applicable; and time of appearance; hour, day, month, and year.)

Court Number:

| At the date and time indicated ► | Month | Day | Year | Time | AM PM |
|---|---|---|---|---|---|
| | | | | | |

CRIMINAL ☐ Without admitting guilt, I promise to appear as directed hereon.

CIVIL ☐ Without admitting responsibility, I acknowledge receipt of this complaint

VICTIM? ☐ VICTIM NOTIFIED? ☐

TEN-PRINT FINGERPRINT ☐ Yes ☐ No

I certify that upon reasonable grounds I believe the defendant committed the above violations and I have served a copy of this complaint upon the defendant.

**X** _____

Officer Number

Agency Use

**Front Side of Law Enforcement Copy**

The reverse side of the Enforcement Copy may contain such information considered necessary by the court, law-enforcement agency or public body responsible for issuing the Arizona Traffic Ticket and Complaint

**Reverse Side of Law Enforcement Copy**

(Here insert the name and symbol of the law-enforcement agency, city or town or court under whose authority arrest is made.)

# Arizona Traffic Ticket and Complaint

| Complaint No. | SSN | Military | ☐ Accident ☐ Fatality ☐ Serious Physical Injury | ☐ Commercial ☐ Haz. Material | Agency Use or Report Number |
|---|---|---|---|---|---|
| Driver's License Number | State | Class | Endorsements: M H N P T X D | | Agency Use |

| DEFENDANT | First | Middle | Last |
|---|---|---|---|
| Residential / Commercial Address | City | State | ZIP | Telephone |
| Mailing Address | ☐ SAME AS ABOVE | | |

| Sex | Weight | Height | Eyes | Hair | Origin | Date of Birth | Restrictions |
|---|---|---|---|---|---|---|---|
| | | | | | | | |

| VEHICLE | Color | Year | Make | Model | Style | License Plate | State | Expiration |
|---|---|---|---|---|---|---|---|---|
| Registered Owner | Address | | | | | Vehicle Identification Number | | |

**The undersigned certifies that:**

| ON | Month | Day | Year | Time | AM PM | SPEED | Approx. | Posted | R&P | Speed Measurement Device | Direction of Travel |
|---|---|---|---|---|---|---|---|---|---|---|---|
| AT | Location | | | | | | | | | County | State of Arizona | Beat |

**The defendant committed the following:**

| | Section | ARS CC | Violation | Domestic Violence ☐ | | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
|---|---|---|---|---|---|---|
| A | Docket Number | | Disp. Codes | Date of Disposition | Sanction | |
| B | Section | ARS CC | Violation | Domestic Violence ☐ | | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | | Disp. Codes | Date of Disposition | Sanction | |
| C | Section | ARS CC | Violation | Domestic Violence ☐ | | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | | Disp. Codes | Date of Disposition | Sanction | |
| D | Section | ARS CC | Violation | Domestic Violence ☐ | | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | | Disp. Codes | Date of Disposition | Sanction | |
| E | Section | ARS CC | Violation | Domestic Violence ☐ | | ☐ Criminal ☐ Criminal Traffic ☐ Municipal Code ☐ Civil Traffic ☐ Petty Offense |
| | Docket Number | | Disp. Codes | Date of Disposition | Sanction | |

**You must appear at ►**

(Insert here the place of appearance ; title and name of Court, Judge, or Juvenile Referee or officer, street address, city or town, Arizona, and court or room number, if applicable; and time of appearance; hour, day, month, and year.)

Court Number:

| At the date and time indicated ► | Month | Day | Year | Time | AM PM |
|---|---|---|---|---|---|
| | | | | | |

CRIMINAL ☐ Without admitting guilt, I promise to appear as directed hereon.

CIVIL ☐ Without admitting responsibility, I acknowledge receipt of this complaint

**X** _____

VICTIM? ☐ VICTIM NOTIFIED? ☐

TEN-PRINT FINGERPRINT ☐ Yes ☐ No

I hereby certify that the information contained herein is a true and correct abstract of the record in this case:

_____

Judge / Clerk

_____

Date

Agency Use

**Front Side of Court Report Copy**

The reverse side of the Court Report may contain the Disposition Code instructions for completing and forwarding the Court Report and such other information considered necessary by the Court, law-enforcement agency or public body responsible for issuing the Arizona Traffic Ticket and Complaint.

**Reverse Side of Law Court Report Copy**



[1] Y:/court programs/Patrick/ATTC Form/Classic ATTC 2011 - Final

# Appendix 3

This Appendix shows additions by underline, and deletions by ~~strikethrough~~.

## Arizona Rules of Criminal Procedure

## RULE 1. SCOPE, PURPOSE AND CONSTRUCTION, COMPUTATION OF TIME, DEFINITIONS, SIZE OF PAPER, AND OTHER GENERAL PROVISIONS

### Rule 1.1. Scope

These rules shall govern the procedure in all criminal proceedings in all courts within the State of Arizona ~~except that the Rules of Procedure in Traffic Cases shall continue to apply~~.

## RULE 2. COMMENCEMENT OF CRIMINAL PROCEEDINGS

### Rule 2.1. Misdemeanors

**a. [no change]**

**b. Courts of Limited Jurisdiction.** Misdemeanor and petty offense actions triable in limited jurisdiction courts shall be commenced by utilizing the ~~Uniform~~ Arizona Traffic Ticket and Complaint ("ATTC") or other short form complaint approved by the Arizona Supreme Court, or by a long form complaint pursuant to Rule 2.3 of these rules. An ATTC form is included in the appendix to the Rules of Court Procedure for Civil Traffic and Civil Boating Violations.

## RULE 3. ARREST WARRANT OR SUMMONS UPON COMMENCEMENT OF CRIMINAL PROCEEDINGS

### Rule 3.1. Issuance of warrant or summons.

**Section a. through section d. No change**

**e. Warrants in ATTC Cases.** If a person served with an Arizona Traffic Ticket and Complaint provides a written promise to appear in court at a designated time and date, and thereafter fails to appear, personally or by counsel, on or before that date, the court shall issue a warrant of arrest. In addition, if a separate proceeding

has been commenced by a complaint for failure to appear pursuant to A.R.S. § 13-3903 (F), the court shall issue a warrant for arrest thereon.

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**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | _x_ Formal Action/Request<br>__ Information Only<br>__ Other | CIDVC: Revisions to the Arizona Rules of Protective Order Procedure (ARPOP) |

**FROM:** Kay Radwanski, CIDVC staff

**DISCUSSION:** The Committee on the Impact of Domestic Violence and the Courts (CIDVC), in keeping with the Advancing Justice Together strategic agenda, is proposing changes to the Arizona Rules of Protective Order Procedure (ARPOP). The strategic agenda's Goal 3—Improving Court Processes—proposes that Arizona court rules should be reviewed with the goal of restyling, simplifying, and clarifying them. CIDVC authorized a workgroup to look at the ARPOP rules with this goal in mind. At its September 9 meeting, CIDVC reviewed the first draft and invited comments from the Committee on Limited Jurisdiction Courts (LJC) and the Committee on Superior Court (COSC). CIDVC met on November 18 and considered comments from LJC and COSC, both of which support CIDVC's filing of a rule petition. The first draft was shared with the Arizona Justice of the Peace Association, but no comments have been received from the association.

Currently, there are 10 ARPOP rules with 49 subparts and additional subdivisions. The proposed draft reorganizes the rules into 10 parts and 42 rules but with fewer subparts. A marked-up draft showing changes and an unmarked version for easier reading are provided. As this a major reorganization of the ARPOP rules, two correlation tables also are provided. On November 18, CIDVC reviewed a final draft and authorized the filing of a Rule 28 petition prior to January 10, 2015. The filing of the rule petition through the Court Rules Forum will allow for additional comments.

The materials include:

- Comments Table – page 3
- Marked-up version of the rules -- page 5
- Clean version of the rules -- page 55
- Correlation table -- Current Rules to Proposed Rules -- page 75
- Correlation table -- Proposed Rules to Current Rules -- page 79

**RECOMMENDED COUNCIL ACTION:**

Recommend that CIDVC file a Rule 28 petition in the 2015 rules cycle to restyle, simplify, and clarify the Arizona Rules of Protective Order Procedure.

| Proposed Rule | Comment | Response |
|---|---|---|
| 2 | From CIDVC:<br>Consider adding a reference to the *Arizona Justice Court Rules of Civil Procedure* to Rule 2, Applicability of Other Rules. | Recommendation not adopted.<br><br>The workgroup noted that Rule 101(b), JCRCP, specifically excludes protective orders and injunctions against harassment. |
| 3(b) | From CIDVC:<br>Amend definition of "ex parte" as follows: "Ex parte" means a court procedure carried out for the benefit of one party, without notice to or the presence of the other party. | Recommendation adopted. |
| 3(b) | From the Committee on Superior Court:<br>Amend definition of "ex parte" as follows: "Ex parte" means a court ~~procedure~~ communication carried out for the benefit of one party, without notice to or the presence of the other party. | Recommendation not adopted.<br><br>In the context of protective orders and for purposes of these rules, *ex parte* refers to a specific procedure—appearing before a judicial officer and requesting a protective order. While technically that appearance also can be considered an *ex parte* communication, CIDVC felt such a distinction is unnecessary. |
| 36 | At the request of the Arizona Supreme Court Advisory Committee on the Rules of Evidence, amend language adopting the same evidentiary standard used in the Arizona Rules of Family Law Procedure. The Advisory Committee notes in a recommended comment that the "changes are intended to adopt the same standard for admissible evidence in cases governed by the Arizona Rules of Protective Order Procedure that is used in cases governed by the Arizona Rules of Family Law Procedure when strict compliance with the Arizona Rules of Evidence is not demanded." | Recommendation adopted. |
| | From CIDVC:<br>Add a rule regarding electronic transfer of a protective order to law enforcement for service. | Recommendation not adopted.<br><br>ACJA § 1-503 already authorizes the use of electronic |

| | | |
|---|---|---|
| | | communication for official court business. |
| | From the Committee on Limited Jurisdiction Courts: Add language regarding the scope of the petition, pursuant to Savord v. Morton, 235 Ariz. 256, 330 P.3d 1013 (Ariz. Ct. App. 1 2014). In Savord, the Court of Appeals directs courts to either limit the scope of the hearing to the allegations of the petition or allow the plaintiff to amend the petition and reschedule the hearing to give the defendant the opportunity to prepare a defense against new allegations. | Recommendation adopted.<br><br>Proposed Rule 23(b) was amended to read:<br>**(b) Contents of Petition.** In the petition, the plaintiff must:<br>(1) allege each specific act of domestic violence that will be relied on at hearing, and<br>(2) name each person the plaintiff believes should be protected by the order. |
| | From the Committee on Limited Jurisdiction Courts: Create a rule regarding situations where the name of the defendant is unknown, as occasionally happens with an Injunction Against Harassment (e.g., Plaintiff v. J. Doe). | Recommendation not adopted.<br><br>A.R.S. § 12-1809 requires a plaintiff to provide the "name and address, if known" of the defendant. In applying the "rule of the last antecedent," a rule of statutory interpretation, the phrase *if known* applies to the defendant's address, not the defendant's name. Most of the judges on CIDVC, COSC, and LJC said they would not issue a protective order against an unknown person. Law enforcement also would have difficulty serving an order on an unknown person. |
| | From the Committee on Superior Court:<br>Consider whether the standard for issuance of an Injunction Against Harassment (good cause to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant can be heard in opposition) outweighs the requirement that for purposes of an IAH, there must be a series of acts of harassment. | Recommendation not adopted.<br><br>A.R.S. § 12-1809 allows for issuance of an IAH upon a finding of reasonable evidence of harassment *or* good cause to believe irreparable harm might result. This was identified as a training issue. |

| Current rule number | Current rule text | Proposed rule number | Proposed text |
|---|---|---|---|
| | | | **Part I. General Administration** |
| 1.A.1. | *Scope of these Rules*. These rules govern the procedures in any Arizona court in all cases related to the issuance of an Order of Protection *See* A.R.S. § 13-3602, an Emergency Order of Protection *See* A.R.S. § 13-3624(C), an Injunction Against Harassment *See* A.R.S. § 12-1809, and an Injunction Against Workplace Harassment *See* A.R.S. § 12-1810. | **1.** | **Scope**<br>These rules govern ~~the~~ procedure~~s~~ in ~~any~~ Arizona ~~court~~ courts for any case brought under Arizona Revised Statutes ("A.R.S.") § 13-3602, Order of Protection; A.R.S. § 13-3624, Emergency Order of Protection; A.R.S. § 12-1809, Injunction Against Harassment; or A.R.S. § 12-1810, Injunction Against Workplace Harassment. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 1(A).** These rules contain statutory references that may change from time to time, but the Committee determined it would be helpful to include the specific statutory references upon which the rules are based. Whenever the word "See" precedes a statutory reference in these rules, this means the cited statute directly supports the preceding text of the rule. | | ~~**Rule 1(A).**~~ These rules contain statutory references that may change from time to time, but the committee determined it would be helpful to include the specific statutory references upon which the rules are based. Whenever the word "See" precedes a statutory reference in these rules, this means the cited statute directly supports the preceding text of the rule. |
| | | | |
| 1.A.2. | *Applicability of Other Rules*. To the extent not inconsistent with these rules, the *Arizona Rules of Family Law Procedure* (ARFLP) shall apply to protective order matters heard in conjunction with pending family law cases. In all other cases, the *Arizona Rules of Civil Procedure* shall apply when not inconsistent with these rules. | **2.** | **Applicability of other rules**<br>To the extent not inconsistent with these rules, the *Arizona Rules of Family Law Procedure* ~~(ARFLP)~~ ~~shall~~ apply to protective order matters heard in conjunction with pending family law cases. In all other cases, the *Arizona Rules of Civil Procedure* ~~shall~~ apply when not inconsistent with these rules. |
| 1.B. | **Definitions**<br>1. *Parties*<br>a. *Defendant*. The defendant is the person against whom the plaintiff or other appropriate party is seeking protection. | **3.** | **Definitions**<br>**(a) "Domestic violence"** means any act specified in A.R.S. § 13-3601(A) combined with any relationship listed in A.R.S. § 13-3601(A). |

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|---|---|---|---|
| | b. *Plaintiff and Other Appropriate Requesting Parties*.<br>1) *Plaintiff*. The plaintiff is the person or other appropriate requesting party who files the petition for a protective order.<br>2) *Other Appropriate Requesting Parties*.<br>a) *Parent, Legal Guardian, or Legal Custodian of Minor*. If the person in need of protection is a minor, then the parent, legal guardian or person who has legal custody of the minor shall file the petition unless the court determines otherwise. The petition shall name the parent, guardian, or custodian as the plaintiff, and the minor as a specifically designated person.<br>b) *Third Party on Behalf of a Person Unable to Request an Order*. If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff. After the request, the judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. *See* A.R.S. § 13-3602(A).<br>c. *Protected Persons*. Protected persons are other specifically designated persons who the court has determined should be included in the Order.<br>d. *Victim*. As used in these rules, the term "victim" is used interchangeably with "plaintiff."<br>2. *Protective Orders*. As used in these rules, "Protective Orders" include the following:<br>a. *Emergency Order of Protection*. An Emergency Order of Protection is governed by A.R.S. § 13-3624(C) and may be requested by a peace officer on an emergency or *ex parte* basis when a person's life or health is in imminent danger; it is limited to parties with specified relationships between them.<br>b. *Injunction Against Harassment*. An Injunction Against Harassment is governed by A.R.S. § 12-1809 and may be granted to prevent a person from committing acts of harassment against another. There is no relationship requirement. | | **(b) *"Ex parte"*** means a court procedure carried out for the benefit of one party, without notice to or the presence of the other party.<br>**(c) "Harassment,"** when applicable to an Injunction Against Harassment, means a series of acts over any period of time that are directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, or harassed, and the conduct in fact seriously alarms, annoys, or harasses the person and serves no legitimate purpose. *See* A.R.S. § 12-1809(R).<br>**(d) "Harassment,"** when applicable to an Injunction Against Workplace Harassment, means a single threat or act of physical harm or damage or a series of acts over any period of time that would cause a reasonable person to be seriously alarmed or annoyed. *See* A.R.S. § 12-1810(R)(2).<br>**(e) "Harassment,"** when applicable to an Order of Protection or an Emergency Order of Protection, means conduct that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, or harassed and the conduct in fact seriously alarms, annoys, or harasses the person. *See* A.R.S. §§ 13-2921, 13-3601(A), and 13-3624(B).<br>**(f) "Legal decision-making"** means the legal right and responsibility of a parent to make major decisions for a child. Legal decision-making may be either joint with both parents or sole with one parent. *See* A.R.S. § 25-401(3).<br>**(g) "Protective order,"** as used in these rules, means an Order of Protection, an Emergency Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment. |

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|---|---|---|---|
| | c. *Injunction Against Workplace Harassment*. An Injunction Against Workplace Harassment is governed by A.R.S. § 12-1810 and authorizes an employer to seek a court order preventing a person from being on the premises of the employer and from committing acts of harassment against the employer, the workplace, the employer's employees or any other person who is on or at the employer's property or place of business or who is performing official work duties.<br>d. *Order of Protection*. An Order of Protection is governed by A.R.S. § 13-3602 and may be granted at the request of a person to prevent another person from engaging in certain activity; it is limited to parties with specified relationships between them. | | |
| | | | **Part II. Types of Protective Orders** |
| 1.B.2. | *Protective Orders*. As used in these rules, "Protective Orders" include the following:<br>a. *Emergency Order of Protection*. An Emergency Order of Protection is governed by A.R.S. § 13-3624(C) and may be requested by a peace officer on an emergency or *ex parte* basis when a person's life or health is in imminent danger; it is limited to parties with specified relationships between them.<br>b. *Injunction Against Harassment*. An Injunction Against Harassment is governed by A.R.S. § 12-1809 and may be granted to prevent a person from committing acts of harassment against another. There is no relationship requirement.<br>c. *Injunction Against Workplace Harassment*. An Injunction Against Workplace Harassment is governed by A.R.S. § 12-1810 and authorizes an employer to seek a court order preventing a person from being on the premises of the employer and from committing acts of harassment against the employer, the workplace, the employer's employees or any other person who is on or at the employer's | **4.** | **Protective ~~Orders.~~ orders governed by these rules~~.~~**<br>~~As used in these rules, "protective orders" include the following~~:<br>**(a) ~~d.~~ Order of Protection.** An Order of Protection, ~~is~~ governed by A.R.S. § 13-3602, ~~and~~ may be granted to prevent a person from engaging in acts of domestic violence ~~certain activity;~~. It is limited to parties with ~~specified~~ relationships specified in A.R.S. § 13-3601(A), the domestic violence statute ~~between them~~.<br>**(b) ~~a.~~ Emergency Order of Protection.** An Emergency Order of Protection, ~~is~~ governed by A.R.S. § 13-3624~~(C)~~, ~~and~~ may be requested by a peace officer on an emergency or *ex parte* basis when a person's life or health is in imminent danger~~;~~. It is limited to parties with ~~specified~~ relationships specified in A.R.S. § 13-3601(A), the domestic violence statute ~~between them~~.<br>**(c) Injunction Against Harassment.** An Injunction Against Harassment, ~~is~~ governed by A.R.S. § 12-1809, ~~and~~ may be granted to prevent a person from committing acts of harassment against another. There is no relationship requirement. |

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|---|---|---|---|
| | property or place of business or who is performing official work duties.<br>d. *Order of Protection*. An Order of Protection is governed by A.R.S. § 13-3602 and may be granted at the request of a person to prevent another person from engaging in certain activity; it is limited to parties with specified relationships between them. | | **(d) Injunction Against Workplace Harassment.** An Injunction Against Workplace Harassment, ~~is~~ governed by A.R.S. § 12-1810, ~~and~~ authorizes an employer to seek a court order preventing a person from being on the employer's premises ~~of the employer~~ and from committing acts of harassment against the employer, the workplace, employees, or any other person who is on the employer's property or at the place of business or who is performing official work duties. |
| | | **Part III. Parties** | |
| 1.B.1.<br><br><br>

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| 1.F.<br><br><br><br><br><br><br><br><br><br>4.B.3<br><br><br><br><br><br><br><br>1.B.1.<br><br><br><br><br><br>4.A.5. | **Children as Protected Persons**. No judicial officer has the authority to include a child of the defendant in a protective order unless there is reasonable cause to believe:<br>1. Physical harm has resulted or may result to the child, or<br>2. The alleged acts of domestic violence involved the child.<br><br>If there is no legal relationship between the defendant and the child, the judicial officer, upon request, may prohibit the defendant's contact with the child based on danger to the plaintiff.<br><br>a. *Defendant*. The defendant is the person against whom the plaintiff or other appropriate party is seeking protection.<br><br>5. Only the juvenile division of the superior court may issue a protective order against a person under 12 years of age. *See* A.R.S. §§ 13-3602(B) and 12-1809(B). | | either temporarily or permanently unable to request an order, a third party may request ~~an~~ a protective order ~~of protection~~ on the person's behalf ~~of the plaintiff~~. After the request, the judicial officer ~~shall~~ must determine ~~if~~ whether the third party is an appropriate requesting party ~~for the plaintiff~~. *See* A.R.S. §§ 13-3602(A) and 12-1809(A).<br>**(b)** ~~c.~~ **Protected persons**. A protected persons ~~are~~ is any other specifically designated persons who the court has determined should be ~~included in~~ protected by the order.<br>(1) ~~**Children**~~ *Child as a Protected Persons*~~.~~ ~~No~~ A judicial officer ~~has the authority to~~ cannot include a defendant's child ~~of the defendant~~ in a protective order unless there is reasonable cause to believe:<br>(A) physical harm may result or has resulted ~~or may result~~ to the child, or<br>(B) the alleged acts of domestic violence involved the child.<br>(2) *Child and Defendant with No Legal Relationship.* If the defendant and the child have ~~there is~~ no legal relationship ~~between the defendant and the child~~, the judicial officer, upon request, may prohibit the defendant's contact with the child based on danger to the plaintiff.<br>**(c)** ~~**a.**~~ **Defendant**.<br>(1) ~~*a.*~~ *Defendant*. The defendant is the person against whom the plaintiff or ~~other~~ another appropriate ~~party~~ person is seeking protection.<br>(2) ~~*b.*~~ *Minor as a Defendant.* ~~5.~~ Only the juvenile division of the superior court may issue a protective order against a person under 12 years of age. *See* A.R.S. §§ 13-3602(B)(2) and 12-1809(B)(2). |
| | **COMMITTEE COMMENTS** | | **COMMENTS** |
| | **Rule 1(B)(1)(d).** Crime Victims' Rights arise on the arrest or formal charging of the person | | **Rule ~~1(B)(1)(d)~~ 5(a)(3).** Crime Victims' Rights arise ~~on~~ upon the arrest or formal |

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| | or persons who are alleged to be responsible for a criminal offense against a victim. *See* A.R.S. § 13-4402(A). | | charging of ~~the~~ a person ~~or persons~~ who ~~are~~ is alleged to be responsible for a criminal offense against a victim. *See* A.R.S. § 13-4402(A). |
| | **Rule 1(F).** A protective order shall never be used as a way to modify, amend, affect or diminish the parents' rights to custody, parenting time or access to children as previously granted in a custody decree or a parenting time order from a court of competent jurisdiction, unless the judicial officer makes either of the findings listed in subdivisions (1) and (2) of this paragraph. Under the Violence Against Women Act III (VAWA III), foreign Orders of Protection that include child custody and/or child support do qualify for enforcement through the full faith and credit provision. *See*18 U.S.C. § 2265. | | **Rule ~~1(F)~~ 5(b)(1).** A protective order ~~shall~~ must never be used as a way to modify, amend, affect, or diminish ~~the~~ a ~~parents'~~ parent's rights to ~~custody~~ legal decision-making or~~,~~ parenting time ~~or access to children~~ as previously granted in a ~~custody~~ legal decision-making decree or a parenting time order from a court of competent jurisdiction, unless the judicial officer makes either of the findings listed in ~~subdivisions~~ subparts ~~(1)~~ (A) and ~~(2)~~ (B) of this paragraph. Under the Violence Against Women Reauthorization Act ~~III (VAWA III)~~ of 2013, foreign ~~Orders of Protection~~ protective orders that include child custody ~~and/~~or child support ~~do~~ qualify for enforcement through the full faith and credit provision. *See* 18 U.S.C. § 2265 and 42 U.S.C. § 13925(24)(B). |
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| | | | **Part IV. Access to Courts** |
| 1.C. | **Access to the Courts and Protective Order Case Information**<br>1. All limited and general jurisdiction courts shall be available during normal operating hours to issue and enforce protective orders, regardless of the residence of the parties. *See* A.R.S. §§ 13-3602, 12-1809 and 12-1810. For emergency orders of protection after normal operating hours, see Rule 6(D).<br>2. A plaintiff may file a petition for a protective order with any municipal, justice or superior court judicial officer. However, courts located within one mile proximity may enter into agreements designating a principal court for issuance of protective orders. If such courts enter into an agreement, the referring court shall provide written or verbal information and directions regarding the designated court and, prior to | **6.** | **Court availability for protective orders**<br>**(a) Court Hours.** All municipal, justice, and superior courts ~~shall~~ must be available during normal operating hours to issue and enforce protective orders~~, regardless of the residence of the parties~~. *See* ~~A.R.S. §§ 13-3602, 12-1809 and 12-1810~~. For an Emergency Orders of Protection after normal operating hours, see Rule 23.<br>**(b) Where to File a Petition.** A plaintiff may file a petition for a protective order with any municipal, justice, or superior court judicial officer, regardless of the parties' residence. All limited and general jurisdiction courts ~~shall~~ must accept a person's request to file a petition for a protective order even if that particular court does not normally issue protective orders.<br>**(c) Designated Court.** ~~However,~~ Courts located within a one-mile proximity may |

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| | referral, shall ensure that the designated court is open to issue an order that day. If the court designated in the agreement is not available to issue orders, the referring court shall conduct the individual hearing with the plaintiff.<br>3. A court having only a part-time judicial officer shall provide coverage for the court, or court staff should direct a person requesting a protective order to the appropriate court location, after ensuring a judicial officer is available.<br>4. No limited or general jurisdiction court shall refuse a person's request to file a petition for a protective order even if that particular court does not normally issue protective orders. | | ~~enter into agreements designating~~ agree to designate a ~~principal~~ court for issuance of protective orders. If ~~such~~ courts enter into such an agreement, the referring court ~~shall~~ must provide written or verbal information and directions regarding the designated court and, prior to referral, ~~shall~~ must ensure that the designated court is open to issue an order that day. If the designated court ~~designated in the agreement~~ is not available to issue orders, the referring court ~~shall~~ must conduct the individual hearing with the plaintiff.<br>**(d) Courts with Part-time Judicial Officers.** A court having only a part-time judicial officer ~~shall~~ must provide coverage for the court, or court staff ~~should~~ must direct a person requesting a protective order to the appropriate court location, after ensuring a judicial officer is available. |
| 1.C.6. | 6. For as long as a plaintiff has the ability by law to have a protective order served or unless otherwise ordered by the court, the court shall not make publicly available any information regarding the filing of or contents of a petition for or issuance of a protective order until proof of service of the protective order has been filed with the court. The court may share information about the protective order with the plaintiff, prosecutors, or with law enforcement. | **7.** | **Public access to case information**<br>For as long as a plaintiff has the ability by law to have a protective order served or unless otherwise ordered by the court, the court ~~shall~~ must not make publicly available any information regarding the filing ~~of~~ for, contents of a petition for, or issuance of a protective order until proof of service of the protective order has been filed with the court. The court may share information about the protective order with the plaintiff, prosecutors, or ~~with~~ law enforcement. |
| 1.D. | **Court Security.** The court shall ensure that the parties are treated with fairness, respect and dignity and are free from intimidation, harassment or abuse during the court process.<br>1. At all stages of proceedings involving protective orders, the court shall maintain appropriate security for the parties and court personnel.<br>2. Before, during and immediately after any court proceeding, the court shall provide appropriate safeguards to minimize the contact that occurs between the parties, their immediate families and witnesses. | **8.** | **Court security**<br>**(a) Generally.** At all stages of proceedings involving protective orders, the court must:<br>(1) maintain appropriate security for the parties and court personnel;<br>(2) ensure that the parties are treated with fairness, respect, and dignity and are free from intimidation, harassment, or abuse during the court process; and<br>(3) provide appropriate safeguards to minimize contact among the parties, their families, and witnesses.<br>**(b) Request for Security.** The plaintiff may request the presence of a law |

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| | 3. The court may request that a law enforcement officer, if available, be present in the courtroom during the hearing or to escort a party to or from the courtroom.<br>4. Following a hearing, the court may direct the defendant to remain in the courtroom for a period of time after the plaintiff is excused. | | enforcement or security officer, if available, in the courtroom during a hearing or for escort to or from the courtroom. |
| 1.R. | **Telephonic/Video Conference Proceedings**<br>1. Upon request of a party or witness, or on its own motion, and upon finding that no substantial prejudice will be caused to any party by allowing telephonic or video conference testimony, the court may allow a party or witness to give testimony at any evidentiary hearing or trial, telephonically or by video conference, if the court finds, as to a party, that a party is reasonably prevented from attending the hearing or trial and the court finds, as to a witness, that the witness is either, a) reasonably prevented from attending the hearing or trial; b) would be unduly inconvenienced by attending the hearing or trial; or c) attendance in person at hearing or trial would be a burdensome expense to either the witness or a party.<br>2. Any documents a party wishes to introduce into evidence through a party or witness appearing telephonically or by video conference shall, where practicable, be provided in advance to the party or witness. | **9.** | **Telephonic or video conference proceedings**<br>**(a) Grant of Permission.** ~~Upon~~ At the request of a party or a witness~~,~~ or on its own motion, the court may allow a party or a witness to ~~give testimony~~ testify at any evidentiary hearing or trial by telephone or video conference~~,~~ upon finding that:<br>(1) no substantial prejudice will be caused to ~~any~~ either party by allowing telephonic or video conference testimony; and<br>(2) as to a party, ~~that a~~ the party is reasonably prevented from attending the hearing or trial;<br>(3) as to a witness, ~~that~~ the witness is either~~, a)~~ reasonably prevented from attending ~~the hearing or trial;~~ or ~~b)~~ would be unduly inconvenienced by attending the hearing or trial; or ~~c)~~<br>(4) as to a party or a witness, attendance in person at the hearing or trial would be a burdensome expense ~~to either the witness or a party~~.<br>**(b) Documents.** Any document~~s~~ a party wishes to introduce into evidence through a party or a witness appearing telephonically or by video conference ~~shall~~ must, where practicable, be provided in advance to the party or the witness. |
| 1.K. | **K. No Limit on Number of Protective Orders**. There is no limit on the number of times a party may request a protective order.<br>1. The number of times a protective order has been dismissed does not provide a basis for denying a request for protective relief. Each time a petition for protective relief is filed, the judicial officer must make an independent determination whether there is | **10.** | **No limit on number of protective orders~~.~~**<br>**(a) No Limit on Requests.** ~~There is no limit on~~ The number of times a ~~party~~ plaintiff may request a protective order is not limited.<br>~~1. The number of times a protective order has been dismissed does not provide a basis for denying a request for protective relief. Each time a petition for protective relief is filed, the judicial officer must make an~~ |

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| | reasonable cause under the applicable protective order statute. *See* A.R.S. §§ 13-3602(E), 12-1809(E) and 12-1810.<br>2. The plaintiff may file a petition for another protective order if protection is still required after the expiration of the current protective order. There is no statutory limit on the number of protective orders that may be granted. | | ~~independent determination whether there is reasonable cause under the applicable protective order statute. *See* A.R.S. §§ 13-3602(E), 12-1809(E) and 12-1810.~~ *[moved to Issuance]*<br>**(b) No Limit on Orders Granted.** The number of protective orders that courts may grant to the same plaintiff is not limited by statute.<br>**(c) New Order Pending Expiration of Current Order.** ~~2. The~~ A plaintiff may ~~file~~ a petition for another protective order if the plaintiff believes protection is still needed ~~required~~ pending expiration of the current protective order. ~~There is no statutory limit on the number of protective orders that may be granted.~~ |
| 1.C.5. | 5. No protective order shall be denied on the basis of immigration status. *See* 18 USC §§ 2261 and 2262. | **11.** | **Immigration status.** A protective order cannot be denied on the basis of immigration status. *See* ~~18 USC §§ 2261 and 2262~~ 42 § U.S.C. 1981(a). |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 1(C)(5).** Immigrants and their children need and are entitled to the full protection of the law, including orders of protection, regardless of status. A denial of a protective order would be considered discrimination based on national origin which is specifically prohibited by law. *See* 18 USC §§ 2261 and 2262. | | ~~**Rule 1(C)(5).**~~ Immigrants and their children ~~need and~~ are entitled to the full protection of the law, including ~~orders of protection~~ protective orders, regardless of status. ~~A~~ Denial of a protective order based on national origin would be discriminatory and ~~considered discrimination based on national origin which~~ is ~~specifically~~ prohibited by law. *See* ~~18 USC §§ 2261 and 2262~~ *See* 42 U.S.C. § 1981(a). |
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| 1.Q. | **Change of Address.** Each party shall report any change of address or telephone number to the court, in order to permit notification of any scheduled hearing. If the plaintiff's address and telephone number are protected, any changes shall also be protected. | **12.** | **Party addresses**<br>**(a) Change of Address.** Each party ~~shall~~ must report any change of address or telephone number to the court~~, in order~~ to permit notification of any scheduled hearing. If the plaintiff's address and telephone number are protected, any changes ~~shall~~ must also be protected.<br>**(b) Continuing Duty to Provide ~~the Clerk with~~ Current Address.** Any person whose address is ~~ordered~~ protected from disclosure ~~under this rule shall have~~ has a continuing duty to provide the clerk of the |
| 3.B. | **Continuing Duty to Provide the Clerk with Current Address.** Any person whose address is ordered protected from disclosure under this rule shall have a continuing duty to provide the clerk of the court with a | | |

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| | current and correct mailing address where the person can be served. | | court with a current and correct mailing address where the person can be served or notified. |
| 10. | **A. Forms Adopted by the Arizona Supreme Court.** All courts and parties shall only use those protective order forms adopted by the Arizona Supreme Court. Individual court identification information, including the name, address and two assigned court identification numbers, shall appear at the top of each form.<br>1. Courts may make margin changes and print only those provisions that apply to the issued order. Every first page of every protective order must contain the information in the same format and location as the mandated form.<br>2. Any other proposed alterations to or deviations from the approved forms, including text changes, shall be submitted to the Executive Director of the Administrative Office of the Courts for approval prior to use. The Executive Director shall be authorized to approve or modify the forms in response to changes in state or federal laws or procedures and make necessary administrative amendments or corrections.<br>**B. Courts Required to Provide All Forms Without Charge.** Courts are required to provide, without charge, all forms for protective orders. This requirement includes any form mandated for use in all Arizona courts under A.C.J.A. § 5-207. | **13.** | **Forms ~~Adopted by the Arizona Supreme Court.~~**<br>**(a) Mandated Forms.** All courts and parties ~~shall~~ must ~~only~~ use only those protective order forms adopted by the Arizona Supreme Court. Individual court identification information, including the name, address, and two assigned court identification numbers, ~~shall~~ must appear at the top of each form if indicated.<br>(1) Courts may make margin changes and print only those provisions that apply to the issued order. ~~Every~~ The first page of every protective order must contain the information in the same format and location as the mandated form.<br>(2) Any other proposed alterations to or deviations from the approved forms, including text changes, ~~shall~~ must be submitted to the executive director of the Administrative Office of the Courts for approval prior to use. The executive director ~~shall be~~ is authorized by Arizona Code of Judicial Administration (ACJA) § 5-207 to approve or modify the forms in response to changes in state or federal laws or procedures and make necessary administrative amendments or corrections.<br>**(b) ~~B. Courts Required to Provide All Forms Without Charge.~~ No Charge for Forms.** Courts ~~are required to~~ must provide, without charge, all protective order forms, which are ~~for protective orders. This requirement includes~~ ~~any form~~ mandated for use in all Arizona courts ~~under~~ ~~A.C.J.A.~~ by ~~Arizona Code of Judicial Administration~~ ACJA § 5-207.<br>**(c) Plaintiff's Guide Sheet.** The court must ensure that every plaintiff is given a copy of the *Plaintiff's Guide Sheet*, together with a petition form.<br>**(d) Defendant's Guide Sheet.** When issuing a protective order, the court must |

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| | | | ensure that a copy of the *Defendant's Guide Sheet* is included with copies of the petition and the protective order for service on the defendant. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 10(A).** Arizona Code of Judicial Administration Section 5-207 authorizes the Executive Director of the Administrative Office of the Courts to approve or modify the forms in response to changes in state or federal laws or procedures and make other necessary administrative amendments or corrections, pursuant to Administrative Order 2001-86.<br>**Rule 10(C)(D).** The Arizona Supreme Court Administrative Office of the Courts has developed a statewide resource list of services categorized by county and a model safety plan. Copies may be downloaded from the Internet at: http://www.supreme.state.az.us/dr/dv.htm. *See* A.R.S. § 13-3602(D). | | ~~**Rule 10(A) .** Arizona Code of Judicial Administration Section 5-207 authorizes the Executive Director of the Administrative Office of the Courts to approve or modify the forms in response to changes in state or federal laws or procedures and make other necessary administrative amendments or corrections, pursuant to Administrative Order 2001-86.~~<br>~~**Rule 10(C)(D).** The Arizona Supreme Court Administrative Office of the Courts has developed a statewide resource list of services categorized by county and a model safety plan. Copies may be downloaded from the Internet at: http://www.supreme.state.az.us/dr/dv.htm. *See* A.R.S. § 13-3602(D).~~ |
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| 2.A. | **Notice to Parties.** The court shall provide notice to the parties of the filing and service fees listed below. *See* A.R.S. §§ 12-284, 12-1810, 12-2107, 22-281 and 22-404.<br>1. Filing fees:<br>a. *Petition for or Request to Modify Order of Protection/Injunction Against Harassment*--no fee<br>b. *Petition for Injunction Against Workplace Harassment*--fee pursuant to A.R.S. §§ 12-1810 and 12-284(A)<br>c. *Petition to Request a Hearing for Order of Protection/Injunction Against Harassment/Injunction Against Workplace Harassment*--no fee<br>d. *Motion to Quash or Dismiss Order of Protection/Injunction Against Harassment*--no fee<br>e. *Motion to Quash or Dismiss Injunction Against Workplace Harassment*--no fee<br>f. *Notice of Appeal of Order of Protection/Injunction Against Harassment* | **14.** | **Filing and service fees**<br>**(a) Notice to Parties.** The court ~~shall~~ must provide notice to the parties of the following filing and service fees ~~listed below~~. *See* A.R.S. §§ 12-284, 12-1810, 12-2107, 22-281, and 22-404.<br>**(b) Filing Fees.**<br>(1) ~~1. *Filing Fees:*~~ A court cannot charge a filing fee for:<br>(A) a petition for an Order of Protection or an Injunction Against Harassment;<br>(B) a request to modify an Order of Protection or an Injunction Against Harassment;<br>(C) a request for a hearing for an Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment; or<br>(D) a motion to dismiss an Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment. |

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| | *and Answer*--no filing fee, but a party may be charged the cost of preparing the record.<br>g. *Notice of Appeal of Injunction Against Workplace Harassment*--fee pursuant to A.R.S. § 12-284(A)<br>2. Service fees:<br>a. *Order of Protection*--no fee if served through any court contracted agency or law enforcement. A.R.S. § 13-3602(D)<br>b. *Injunction Against Harassment involving a dating relationship*--no fee if served through any court contracted agency or law enforcement. A.R.S. § 12-1809(D)<br>c. *Injunction Against Harassment not involving a dating relationship*--fee determined by the serving agency A.R.S. § 12-1809(D)<br>d. *Injunction Against Workplace Harassment*--fee determined by the serving agency A.R.S. § 12-284(A)<br>**B. Fee Deferrals and Waivers.**<br>1. A judicial officer may defer or waive any of the fees listed above. *See* A.R.S. § 12-302. A judicial officer shall not require the plaintiff to perform community service as a condition to the waiver or deferral of these fees. If any filing or service fees have not been waived, they may be assessed against the plaintiff.<br>2. A law enforcement agency or constable is prohibited from requiring the advance payment of fees for service of process of Injunction Against Harassment not involving a dating relationship. *See* A.R.S. § 12-1809(D). Court personnel shall not collect advance payment on behalf of the serving agency. | | (2) A court may charge a filing fee for a petition for an Injunction Against Workplace Harassment pursuant to A.R.S. §§ 12-1810 and 12-284(A).<br>(3) ~~c.~~ A court cannot charge a filing fee for a notice of appeal or an answer for an Order of Protection~~/~~ or an Injunction Against Harassment, but a party can be charged the cost of preparing the record.<br>(4) ~~g.~~ A court may charge a fee for a notice of appeal of an Injunction Against Workplace Harassment pursuant to A.R.S. § 12-284(A).<br>**(c)** ~~2.~~ **Service Fees.**<br>(1) A service fee cannot be charged for:<br>(A) an Order of Protection that is served by any court-contracted or law enforcement agency. *See* A.R.S. § 13-3602(D).<br>(B) an Injunction Against Harassment—between parties in a dating relationship—that is served by any court-contracted or law enforcement agency. *See* A.R.S. § 12-1809(D).<br>(2) ~~c.~~ For an Injunction Against Harassment—between parties not in a dating relationship—or an Injunction Against Workplace Harassment, the fee is determined by the serving agency. *See* A.R.S. §§ 12-1809(D) and 12-284(A).<br>**(d)** ~~**B.**~~ **Fee Deferrals and Waivers.**<br>(1) ~~1.~~ A judicial officer may defer or waive any of the fees listed above. *See* A.R.S. § 12-302. A judicial officer ~~shall not~~ cannot require the plaintiff to perform community service as a condition to the waiver or deferral of these fees. ~~If~~ Any filing or service fees ~~have~~ not ~~been~~ waived~~, they~~ may be assessed against the plaintiff.<br>(2) ~~2.~~ A law enforcement agency or a constable ~~is prohibited from requiring~~ cannot require ~~the~~ advance payment of fees for service of process of an Injunction Against Harassment not |

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| | | | involving a dating relationship. *See* A.R.S. § 12-1809(D). Court personnel ~~shall not~~ cannot collect advance payment on behalf of the serving agency. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 2(A).** The notice of filing and service fees referenced in Rule 2 may be found in the *Plaintiff's Guide Sheet for Protective Orders* approved by the Arizona Supreme Court.<br>**Rule 2(B).** Standards for fee deferrals and waivers may be found in the Arizona Code of Judicial Administration § 5-206: Fee Deferrals and Waivers. | | ~~**Rule 2(A).** The notice of filing and service fees referenced in Rule 2 may be found in the *Plaintiff's Guide Sheet for Protective Orders* approved by the Arizona Supreme Court.~~<br>~~**Rule 2(B).** Standards for fee deferrals and waivers may be found in the~~ For standards for fee deferrals and waivers, see ~~Arizona Code of Judicial Administration~~ ACJA § 5-206~~: Fee Deferrals and Waivers~~. |
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| 1.N. | **Information for Parties.** This paragraph is intended to provide information to the parties.<br>1. The plaintiff should provide copies of any protective order to third parties, such as employers, apartment managers, schools, security personnel and law enforcement in other jurisdictions.<br>2. A protective order does not guarantee personal safety, and the plaintiff or appropriate third party must take any other necessary precautions to ensure safety.<br>3. Any violation of a protective order should be reported immediately to law enforcement.<br>4. A protective order is not valid against third parties such as landlords, which means when the plaintiff is granted exclusive use of the apartment where the parties reside, a landlord may not be required to honor the plaintiff's occupancy if the plaintiff is not a leaseholder.<br>5. Each party should carry a copy of the protective order at all times. Although not required, plaintiff should also consider carrying a copy of proof of service of the protective order.<br>6. The parties may obtain further information from the *Plaintiff's Guide Sheet* | | ~~**Information for Parties.** This paragraph is intended to provide information to the parties.~~<br>~~1. The plaintiff should provide copies of any protective order to third parties, such as employers, apartment managers, schools, security personnel and law enforcement in other jurisdictions.~~<br>~~2. A protective order does not guarantee personal safety, and the plaintiff or appropriate third party must take any other necessary precautions to ensure safety.~~<br>~~3. Any violation of a protective order should be reported immediately to law enforcement.~~<br>~~4. A protective order is not valid against third parties such as landlords, which means when the plaintiff is granted exclusive use of the apartment where the parties reside, a landlord may not be required to honor the plaintiff's occupancy if the plaintiff is not a leaseholder.~~<br>~~5. Each party should carry a copy of the protective order at all times. Although not required, plaintiff should also consider carrying a copy of proof of service of the protective order.~~<br>~~6. The parties may obtain further information from the *Plaintiff's Guide Sheet*~~ |

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| | *for Protective Orders* and *Defendant's Guide Sheet for Protective Orders*. | | ~~*for Protective Orders* and *Defendant's Guide Sheet for Protective Orders*.~~ |
| 10. | **C. Information Sheet on Available Emergency and Support Services.** Courts shall make reasonable efforts to provide to both parties an appropriate information sheet on emergency and support services that are available in the local area.<br>**D. Safety Plan.** Courts shall provide to plaintiffs information about a safety plan and shall make reasonable efforts to provide information on appropriate emergency and support services once the order is issued. *See*A.R.S. § 13-3602(D)**.** | **15.** | **~~C.~~ Resource information ~~Information Sheet on Available Emergency and Support Services~~.** Courts ~~shall~~ must make reasonable efforts to ~~provide to~~ direct both parties to ~~an appropriate~~ information ~~sheet~~ on the Judicial Branch website regarding emergency and support services, approved domestic violence offender treatment programs, safety plans, and other resources ~~that are available in the local area~~. *See* A.R.S. § 13-3602(D)**.**<br>~~**D. Safety Plan.** Courts shall provide to plaintiffs information about a safety plan and shall make reasonable efforts to provide information on appropriate emergency and support services once the order is issued. *See*A.R.S. § 13-3602(D)**.**~~ |
| | | | **Part V. Issuance of Protective Orders** |
| 6.A. | **A. Commencement of Proceedings.** A party shall commence an action for a protective order by filing a verified petition with the clerk of the court. | **16.** | **~~A.~~ Commencement of proceedings~~.~~**<br>A ~~party~~ plaintiff ~~shall~~ must ~~commence~~ begin an action for a protective order by filing a verified petition with the clerk of the court. |
| 6.B. | **B. Priority for Protective Orders.** A judicial officer shall expeditiously schedule an *ex parte* hearing for a protective order involving a threat to personal safety even if previously scheduled matters are interrupted. | **17.** | **~~B.~~ Priority for protective orders~~.~~**<br>A judicial officer ~~shall~~ must expeditiously schedule an *ex parte* hearing for a protective order involving a threat to personal safety even if previously scheduled matters are interrupted. |
| 1.L. | **Record of Hearings**. Judicial officers shall cause all contested protective order hearings and, where practicable, *ex parte* hearings, to be recorded electronically or by court reporter. If a contested hearing is not electronically recorded or otherwise reported, an appeal from such a hearing will result in an automatic new hearing at the original trial court. | **18.** | **Record of hearings~~.~~**<br>A judicial officer~~s~~ ~~shall~~ must cause all contested protective order hearings and, where practicable, all *ex parte* hearings~~,~~ to be recorded electronically or by a court reporter. ~~If a contested hearing is not electronically recorded or otherwise reported,~~ An appeal from ~~such~~ a contested hearing that was not electronically recorded or otherwise reported ~~will result~~ results automatically in ~~an automatic~~ a new hearing ~~at~~ in the original trial court. |

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| 1.K. | **No Limit on Number of Protective Orders**. There is no limit on the number of times a party may request a protective order.<br>1. The number of times a protective order has been dismissed does not provide a basis for denying a request for protective relief. Each time a petition for protective relief is filed, the judicial officer must make an independent determination whether there is reasonable cause under the applicable protective order statute. *See* A.R.S. §§ 13-3602(E), 12-1809(E) and 12-1810.<br>2. The plaintiff may file a petition for another protective order if protection is still required after the expiration of the current protective order. There is no statutory limit on the number of protective orders that may be granted. | **19.** | **Prior dismissed orders not considered**<br>~~**No Limit on Number of Protective Orders**. There is no limit on the number of times a party may request a protective order.~~<br>~~1.~~ A judicial officer must not consider the number of times a protective order has been dismissed ~~does provide~~ as a basis for denying a request for protective relief. Each time a plaintiff petitions for protective relief ~~is filed~~, the judicial officer must make an independent determination whether there is reasonable cause to issue a protective order under the applicable ~~protective order~~ statute. *See* A.R.S. §§ 13-3602(E), 12-1809(E) and 12-1810.<br>~~2. The plaintiff may file a petition for another protective order if protection is still required after the expiration of the current protective order. There is no statutory limit on the number of protective orders that may be granted.~~ *[moved to Access to Courts]* |
| 3.A. | **Confidentiality of Plaintiff's Address**. At the *ex parte* hearing, the judicial officer shall inquire whether the plaintiff's address should be protected from disclosure.<br>1. The plaintiff's address shall be protected only if it is unknown to the defendant. *See* A.R.S. § 13-3602(C)(1).<br>2. The judicial officer shall verify that the plaintiff's protected address does not appear on the petition and protective order and shall avoid stating the address on the record. | **20.** | **Confidentiality of plaintiff's address~~.~~**<br>**(a) Protected Address.** At ~~the~~ an *ex parte* hearing, ~~the~~ a judicial officer ~~shall~~ must ~~inquire~~ ask whether the plaintiff's address should be protected from disclosure. The plaintiff's address ~~shall~~ must be protected ~~only~~ if it is unknown to the defendant. If the plaintiff's address is protected, ~~The~~ the judicial officer ~~shall~~ must verify that ~~the plaintiff's protected address~~ it does not appear on the petition and the protective order and ~~shall~~ must avoid stating the address on the record *See* A.R.S. § 13-3602(C)(1).<br>**(b) Domestic Violence Shelter Address.** A plaintiff who is staying in a domestic violence shelter cannot be asked to disclose the location of the shelter. But subject to Rule 12(b), the plaintiff must provide an alternate address to allow for court contact. *See* A.R.S. § 36-3009.<br>**(c) Address Confidentiality Program.** A participant in the Address Confidentiality Program may ask the court to use the participant's substitute address as the participant's residential, work, or school |

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| | | | address in court records pertaining to a protective order. *See* A.R.S. §§ 41-161 to 169. |
| 1.I. | **Multiple Orders, Cross Orders and Conflicting Orders**<br>1. When parties have sought and obtained conflicting protective orders, both orders are to be given full force and effect, without regard to whether the orders were issued by courts of limited or general jurisdiction.<br>a. Prior to the issuance of a protective order, the judicial officer shall examine all available records and question the plaintiff to determine whether any other protective order affecting the parties has been issued or served.<br>b. If an earlier order exists, the judicial officer shall schedule a pre-issuance hearing with notice to both parties, unless the judicial officer determines after reviewing all available records and questioning the plaintiff, that failure to issue the *ex parte* protective order would likely result in imminent danger to the plaintiff or protected party(ies). *See*ARS §§ 13-3602(E) and 12-1809(E).<br>c. If different judicial officers issue protective orders that grant conflicting relief involving the same parties, these orders shall be set for hearing within five days after the judicial officers discover the conflict. The judicial officers who issued the conflicting orders shall consult with each other and combine the cases in one jurisdiction to resolve the orders that conflict. In the event of conflicting limited jurisdiction orders, there shall be a presumption that the hearing to resolve the conflicting orders shall be conducted in the court where the first petition was filed. In all other cases, the conflicting orders shall be heard in superior court. *See* A.R.S. § 13-3602(H).<br>2. When issuing a protective order, either in an *ex parte* proceeding or contested hearing, the judicial officer shall inquire about the existence of any custody order or parenting plan to avoid entering a protective order that | **21.** | **Other existing orders**<br>**(a) Duty to Inquire About Other Existing Protective Orders.** ~~Prior to the issuance of~~ Before issuing a protective order, ~~the~~ a judicial officer ~~shall~~ must examine all available records and question the plaintiff to determine whether any other protective order affecting the parties has been issued or served.<br>**(b) Pre-Issuance Hearing.** Upon finding that the parties have an existing protective order between them, the judicial officer ~~shall~~ may schedule a pre-issuance hearing with notice to both parties, unless the judicial officer determines, after reviewing all available records and questioning the plaintiff, that failure to issue the *ex parte* protective order ~~would~~ is likely to result in imminent danger to the plaintiff or a protected ~~party(ies)~~ person. ~~*See* ARS A.R.S. §§ 13-3602(E)(H) and 12-1809(E)(G)~~.<br>**(c) Orders Affecting Family Court Matters.** ~~When issuing a protective order, either in an *ex parte* proceeding or a contested hearing, the judicial officer shall must inquire ask about the existence of any custody legal decision-making order or parenting plan to avoid entering a protective order that inadvertently conflicts with the a current parenting plan.~~ If a protective order conflicts with an existing ~~child custody~~ legal decision-making order, the protective order controls until further order of a court. |

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| | inadvertently conflicts with the current parenting plan. If a protective order conflicts with a prior child custody order, the protective order controls until further order of a court. | | |
| 1.G. | **Mutual Protective Orders Prohibited.** The issuance of mutual protective orders within the same cause number is prohibited. A judicial officer shall not grant a mutual protective order. A judicial officer shall not issue a protective order that restricts the conduct of the plaintiff based on the plaintiff's own petition. Where each party has separately petitioned the court for a protective order, a judicial officer may grant separate protective orders based upon findings that each petitioning party is entitled to protection and makes findings of fact indicating that the respondents in each of those actions acted primarily as aggressors and not in self-defense. | **22.** | **Mutual protective orders prohibited**<br>A judicial officer cannot:<br>(1) grant a mutual protective order, which means a single order that restrains the conduct of both the plaintiff and the defendant;<br>(2) issue a protective order that restricts the plaintiff's conduct ~~of the plaintiff~~ based on the plaintiff's own petition, or<br>**(3)** issue two protective orders within the same case number. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 1(G).** States that issue mutual protective orders may be at risk of losing federal funding. *See* Violence Against Women Act III, 42 U.S.C. § 379.6 (1994). | | ~~**Rule 1(G).**~~ States that issue mutual protective orders may be at risk of losing federal funding. *See* 18 U.S.C. § 2265. |
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| 6.C. | **C. Order of Protection.** The judicial officer shall conduct a separate hearing with each plaintiff who requests an Order of Protection.<br>1. *Contents of Petition*. The petition shall allege specific acts of domestic violence and name each individual the plaintiff believes should be included as a protected person.<br>2. *Petition Verification*. A plaintiff must sign and swear or affirm to the truth of the petition before a judicial officer or other person authorized to administer an oath.<br>3. Petition Review. A judicial officer shall review the petition, any other pleadings on file, and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether there is reasonable cause to believe that the | **23.** | **Order of Protection~~.~~**<br>**(a) Individual Hearing.** ~~The~~ A judicial officer ~~shall~~ must conduct ~~a separate~~ an individual hearing with each plaintiff who requests an Order of Protection.<br>**(b) Contents of Petition.** In the petition, the plaintiff must:<br>(1) allege each specific act of domestic violence that will be relied on at hearing, and<br>(2) name each person the plaintiff believes should be protected by the order.<br>**(c) Petition Verification.** A plaintiff must sign and swear or affirm to the truth of the petition before a judicial officer or ~~other~~ another person authorized to administer an oath. If the plaintiff signs the petition outside the presence of the judicial officer or another authorized person, the judicial officer should |

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| | defendant may commit an act of domestic violence or has committed such an act, and whether the order requested shall be issued *ex parte*. *See*A.R.S. § 13-3602(E).<br>a. Reasonable cause determination.<br>1) In determining reasonable cause, the judicial officer shall consider specific acts of domestic violence alleged within the past year, or within a longer period of time if the court finds good cause. Periods of the defendant's absence from the state or incarceration shall not be included in calculating the one year. *See*A.R.S. § 13-3602(C)(3), (E)(2) & (F).<br>2) A separate reasonable cause determination shall be made as to the plaintiff individually, any children with whom the defendant has a legal relationship and any other person listed in the petition. If a reasonable cause determination is made for the plaintiff, a separate reasonable cause determination is not required for the children with whom the defendant has no legal relationship.<br>b. Relationship Test.<br>1) The judicial officer must find that a specific relationship exists, either by statute, blood or marriage, between the plaintiff and the defendant. *See*A.R.S. § 13-3601(A).<br>2) Statutory relationships include:<br>a) persons who are residing or who have resided in the same household;<br>b) victim and defendant who have a child in common;<br>c) victim or defendant who is pregnant by the other party;<br>d) victim is a child who resides or has resided in the same household as the defendant, and<br>i) Is related by blood to a former spouse of the defendant, orCourt<br>ii) is related by blood to a person who resides, or who has resided in the same household as the defendant , or<br>e) victim and defendant who currently share or previously shared a romantic or sexual relationship. In determining whether the relationship between the victim and the | | ask the plaintiff, on the record, to affirm the truth of the allegations and the authenticity of the signature in the petition.<br>**(d) Petition Review.** A judicial officer ~~shall~~ must review the petition, any other pleadings on file, and any other evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication~~, to determine whether there is reasonable cause to believe that the defendant may commit an act of domestic violence or has committed such an act, and whether the order requested shall be issued *ex parte*~~. *See* A.R.S. § 13-3602(E).<br>**(e) Reasonable Cause Determination.**<br>(1) ~~In determining reasonable cause, the~~ To grant an ex parte Order of Protection, ~~the~~ a judicial officer ~~shall consider specific acts of domestic violence alleged within the past year, or within a longer period of time if the court finds good cause. Periods of the defendant's absence from the state or incarceration shall not be included in calculating the one year. *See*A.R.S. § 13-3602(C)(3), (E)(2) & (F).~~ must find reasonable cause to believe that the defendant may commit an act of domestic violence or has committed an act of domestic violence within the past year or within a longer period if the court finds good cause exists to consider a longer period. Periods when a defendant was absent from the state or incarcerated are excluded from the one-year calculation. A.R.S. § 13-3602(C)(3), (E)(2) and (F).<br>(2) A separate reasonable cause determination ~~shall~~ must be made as to the plaintiff individually~~, any children with whom the defendant has a legal relationship and any other person listed in the petition.~~ and as to any other person listed in the petition, including any ~~children~~ child with whom the defendant has a legal relationship. ~~If a reasonable cause determination is made for the plaintiff, a~~ A separate reasonable cause |

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| | defendant is currently or was previously a romantic or sexual relationship, the court may consider the following factors:<br>i) the type of relationship.<br>ii) the length of the relationship.<br>iii) the frequency of the interaction between the victim and the defendant.<br>iv) if the relationship has terminated, the length of time since the termination.<br>3) Blood relationships include victim related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister.<br>4) Marriage relationships include:<br>a) victim and defendant who are either married or who have been previously married; and<br>b) victim who is related to the defendant or the defendant's spouse by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law, or sister-in-law. *See* A.R.S. § 13-3601(A).<br>5) The relationship test is also met when a plaintiff acts on behalf of a victim if any of the following apply:<br>a) the plaintiff is the parent, legal guardian or person who has legal custody of a minor or incapacitated person who is a victim, unless the court determines otherwise; or<br>b) the victim is either temporarily or permanently unable to request an order. *See* A.R.S. § 13-3602(A).<br>4. *Additional Review for Limited Jurisdiction Courts*. The court shall inquire of the plaintiff whether a family law action is pending in the superior court and determine whether the court has jurisdiction pursuant to Rule 4(A).<br>5. *Issuance of Order of Protection.* An Order of Protection shall be issued *ex parte* if the judicial officer finds reasonable cause to do so as set forth in paragraph 3 above. At the initial *ex parte* hearing, the plaintiff or appropriate third party shall be provided with a copy of the Order of Protection, which may include any of the following provisions: | | determination is not required for ~~the children~~ a plaintiff's child with whom the defendant has no legal relationship.<br>**(f) Relationship Test.**<br>(1) ~~The~~ A judicial officer must find that a specific relationship exists, either by statute, blood, or marriage, between the plaintiff and the defendant. *See* A.R.S. § 13-3601(A).<br>(2) Statutory relationships include:<br>(A) persons who are residing or who have resided in the same household;<br>(B) a victim and a defendant who have a child in common;<br>(C) a victim or a defendant who is pregnant by the other party;<br>(D) the victim is a child who resides or has resided in the same household as the defendant, and<br>(i) ~~Is~~ is related by blood to a former spouse of the defendant, or<br>(ii) is related by blood to a person who resides, or who has resided in the same household as the defendant, or<br>(E) a victim and a defendant who currently share or previously shared a romantic or sexual relationship. In determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship, the court may consider the following factors:<br>(i) the type of relationship;<br>(ii) the length of the relationship;<br>(iii) the frequency of the interaction between the victim and the defendant; and<br>(iv) if the relationship has terminated, the length of time since the termination.<br>(3) ~~3)~~ Blood relationships include a victim related to the defendant or the defendant's spouse by blood or court |

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a. *No Contact Orders*. The judicial officer may prohibit all contact with the plaintiff or other protected parties, except as otherwise specifically ordered in writing by the court. *See* A.R.S. § 12-1809(F)(2).

b. *Exclusive Use of Residence*. The judicial officer may grant plaintiff exclusive use of the parties' residence, if there is reasonable cause to believe that physical harm otherwise may result. *See* A.R.S. § 13-3602(G)(2). If the plaintiff is not the owner of the residence, the judicial officer may grant exclusive use for a limited period of time. At a contested hearing, the judicial officer may consider ownership of the parties' residence as a factor in continuing the order of exclusive use. The judicial officer may allow the defendant to return one time, accompanied by a law enforcement officer, to pick up personal belongings.

c. *Prohibited Locations*. The judicial officer may also order that the defendant not go near the residence, place of employment or school of the plaintiff or other protected parties. The judicial officer may include other specifically designated location(s) in the Order. If the defendant does not know the address of these additional places, the judicial officer may, upon request of the plaintiff, leave the addresses protected. *See* A.R.S. § 13-3602(G)(3).

d. *Firearms and Ammunition*.

1) The judicial officer shall ask the plaintiff about the defendant's use of or access to weapons or firearms. This inquiry shall be made to determine if the defendant poses a credible threat to the physical safety of the plaintiff or other protected persons. The judicial officer may, for the duration of the Order of Protection:

a) prohibit the defendant from possessing, purchasing or receiving firearms and ammunition; and

b) order the defendant, immediately after service of the Order of Protection, to transfer any firearm or ammunition, owned or possessed, to the appropriate law

order as a parent, grandparent, child, grandchild, brother or sister.

(4) ~~4)~~ Marriage relationships include:

(A) a victim and a defendant who are either married or who have been previously married; and

(B) a victim who is related to the defendant or the defendant's spouse by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law, or sister-in-law. *See* A.R.S. § 13-3601(A).

(5) ~~5)~~ The relationship test is also met when a plaintiff acts on behalf of a victim if any of the following apply:

(A) the plaintiff is the parent, legal guardian, or person who has legal custody of a minor or an incapacitated person who is a victim, unless the court determines otherwise; or

(B) the victim is either temporarily or permanently unable to request an order. *See* A.R.S. § 13-3602(A).

**(g)** ~~4.~~ **Additional Review for Limited Jurisdiction Courts.** A court must ~~inquire of~~ ask the plaintiff whether a family law action is pending in the superior court and determine whether the court has jurisdiction pursuant to Rule ~~4(A)~~ 34.

**(h)** ~~5.~~ ~~*Issuance of Order of Protection*~~ **Relief.** When issuing an Order of Protection, ~~ex parte,~~ *ex parte* or after a hearing, a ~~court~~ judicial officer may ~~include any of the following~~:

(1) ~~*No Contact Orders*. The judicial officer may~~ prohibit ~~all~~ the defendant from having any contact with the plaintiff or other protected ~~parties~~ persons, with any exceptions specified in the order. *See* ~~A.R.S. § 12-1809(F)(2)~~ A.R.S. § 13-3602(G)(3).

(2) ~~*Exclusive Use of Residence*. A judicial officer~~ grant the plaintiff ~~may grant plaintiff~~ exclusive use of the

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| | enforcement agency. *See* A.R.S. § 13-3602(G)(4).<br>2) The plaintiff reporting violations of the order to transfer firearms and ammunition shall be referred to the appropriate law enforcement agency.<br>e. *Other relief*. The judicial officer may grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and that is proper under the circumstances.<br>f. *Animals*. The judicial officer may also grant the plaintiff the exclusive care, custody, or control of any animal that is owned, possessed, leased, kept, or held by the plaintiff, the defendant, or a minor child residing in the residence or household of the plaintiff or the defendant, and order the defendant to stay away from the animal and forbid the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of Section 13-2910, or otherwise disposing of the animal.<br>6. *Effectiveness of an Order of Protection*. An Order of Protection is not in effect until it is served pursuant to Rule 1(L). *See*A.R.S. § 13-3602(D).<br>7. *Denial of an Order of Protection*. If after the *ex parte* hearing the judicial officer does not have sufficient information to grant the Order of Protection, the judicial officer may deny the request or set a hearing within 10 days with reasonable notice to the defendant. The judicial officer shall document any denial of an Order of Protection. *See*A.R.S. § 13-3602(F). | | parties' residence~~,~~ if there is reasonable cause to believe that physical harm otherwise may result. *See* A.R.S. § 13-3602(G)(2). ~~If the~~ A plaintiff who is not the owner of the residence~~, a judicial officer~~ may ~~grant~~ be granted exclusive use for a limited ~~period of~~ time. The defendant may be permitted to return one time, accompanied by law enforcement, to pick up personal belongings. At a contested hearing, a judicial officer may consider ownership of the parties' residence as a factor in continuing the order of exclusive use. ~~A judicial officer may allow the defendant to return one time, accompanied by law enforcement, to pick up personal belongings.~~<br>(3) ~~*Prohibited Locations*. The judicial officer may also~~ order ~~that~~ the defendant not to go on or near the residence, place of employment or school of the plaintiff or other protected persons. ~~The judicial officer may include other~~ Other specifically designated ~~location(s)~~ locations may be included in the ~~Order~~ order. If the defendant does not know the address of these additional places, a judicial officer may, ~~upon request of~~ at the ~~plaintiff~~ plaintiff's request, ~~leave~~ protect the additional addresses ~~protected~~. *See* A.R.S. § 13-3602(G)(3).<br>(4) grant the plaintiff the exclusive care, custody, or control of any animal that is owned, possessed, leased, kept, or held by the plaintiff, the defendant, or a minor child residing in the residence or household of the plaintiff or the defendant and order the defendant to stay away from the animal and forbid the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of A.R.S. § 13-2910, or otherwise disposing of the animal.<br>(5) grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and ~~that is~~ proper under the circumstances. |

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| | | | **(i)** ~~d.~~ **Firearms** ~~*and Ammunition*~~.<br>(1) When issuing an Order of Protection, *ex parte* or after a hearing, the judicial officer ~~shall~~ must ask the plaintiff about the defendant's use of or access to ~~weapons or~~ firearms~~. This inquiry shall be made~~ to determine ~~if~~ whether the defendant poses a credible threat to the physical safety of the plaintiff or other protected persons.<br>(2) Upon finding that the defendant is a credible threat to the physical safety of the plaintiff or other protected persons, the judicial officer may, for the duration of the Order of Protection:<br>(A) prohibit the defendant from possessing, purchasing, or receiving firearms ~~and ammunition~~; and<br>(B) order the defendant, immediately after service of the Order of Protection, to transfer any firearm ~~or ammunition,~~ owned or possessed~~,~~ to the appropriate law enforcement agency. *See* A.R.S. § 13-3602(G)(4).<br>(3) ~~2)~~ ~~The~~ A plaintiff reporting violation~~s~~ of the order to transfer firearms ~~and ammunition shall~~ must be referred to the appropriate law enforcement agency.<br>~~e.~~ ~~**Other relief.** The judicial officer may grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and that is proper under the circumstances.~~<br>~~f. *Animals.* The judicial officer may also grant the plaintiff the exclusive care, custody, or control of any animal that is owned, possessed, leased, kept, or held by the plaintiff, the defendant, or a minor child residing in the residence or household of the plaintiff or the defendant, and order the defendant to stay away from the animal and forbid the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of Section 13-2910, or otherwise disposing of the animal.~~ |

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| | | | **(j)** ~~6.~~ **Effectiveness** ~~*of an Order of Protection*~~. An Order of Protection ~~is not in~~ takes effect ~~until~~ when it is served ~~pursuant to Rule 1(L)~~. *See* A.R.S. § 13-3602(D).<br>**(k)** ~~7.~~ **Denial of Request or Setting of Pre-Issuance Hearing.** ~~*of an Order of Protection*~~. If after the *ex parte* hearing the judicial officer ~~does not have sufficient~~ has insufficient information on which to ~~grant the Order of Protection~~ issue an order, the judicial officer may either deny the request or set a hearing within 10 days ~~with~~ and provide reasonable notice to the defendant. The judicial officer ~~shall~~ must document ~~any~~ denial of ~~an Order of Protection~~ any request. *See* A.R.S. § 13-3602(F). |
| | **COMMITTEE COMMENTS** | | **COMMENTS** |
| | **Rule 6(C)(3)(a).** Significant or repetitive acts of domestic violence by the defendant that posed a grave danger to the plaintiff or protected persons may present good cause to consider time periods beyond the one year.<br>**Rule 6(C)(5)(a)-(c).** If the residence is included in the no contact provision of an Order of Protection, an apartment number shall not be listed. By listing the address and location without the apartment number, the defendant is prohibited from being on the premises, including the parking lot.<br>**Rule 6(C)(5)(d).** The appropriate law enforcement agency referenced in subdivision (5) is generally the police department or sheriff's office with jurisdiction over the location of the defendant or firearm. | | **Rule ~~6(C)(3)(a)~~ 23(e).** Significant or repetitive acts of domestic violence by the defendant that posed a grave danger to the plaintiff or protected persons may present good cause to consider time periods beyond the one year.<br>**Rule ~~6(C)(5)(a)-(c)~~ 23(g)(2)-(3).** If the residence is included in the no-contact provision of an Order of Protection, an apartment number ~~shall~~ must not be listed. By listing the address and location without the apartment number, the defendant is prohibited from being on the premises, including the parking lot.<br>**Rule ~~6(C)(5)(d)~~ 23(h).** The appropriate law enforcement agency referenced in ~~subdivision (5)~~ subpart (2)(B) is generally the police department or the sheriff's office with jurisdiction over the location of the defendant or the firearm. |
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| 6.D. | **D. Emergency Orders of Protection**<br>1. *Authority to Issue an Emergency Order of Protection*<br>a. In counties with a population of 150,000 or more, the presiding judge of the superior court in that county shall make available on a rotating basis a judge, justice of the peace, magistrate or commissioner to issue an | **24.** | ~~D.~~ **Emergency ~~Orders~~ Order of Protection**<br>**(a) Authority to Issue an Emergency Order of Protection**<br>(1) In ~~counties with~~ a county having a population of 150,000 or more, the presiding judge of the superior court in that county ~~shall~~ must make available on |

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| | Emergency Order of Protection by telephone during hours that the courts are closed. *See* A.R.S. § 13-3624(A).<br>b. In counties with a population of less than 150,000, a judge, justice of the peace, magistrate or commissioner may issue an Emergency Order of Protection by telephone. *See* A.R.S. § 13-3624(B).<br>c. The availability of an Emergency Order of Protection is not affected by either party leaving the residence. *See* A.R.S. § 13-3624(G).<br>2. *Emergency Orders of Protection Issued Ex Parte*<br>a. A judicial officer may issue a written or oral order if a law enforcement officer has reasonable grounds to believe that a person is in immediate and present danger of domestic violence based on an allegation of a recent incident of actual domestic violence. *See* A.R.S. § 13-3624(C).<br>b. A judicial officer may issue a written or oral order upon the request of the alleged victim if there is a finding that a person's life or health is in imminent danger. *See* A.R.S. § 13-3624(F).<br>c. A third party may request an emergency order on behalf of a plaintiff who is either temporarily or permanently unable to make the request. The judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. *See* A.R.S. § 13-3624(F).<br>3. *Issuance of an Emergency Order of Protection*. An Emergency Order of Protection is issued for the protection of a person in immediate and present danger of domestic violence. *See* A.R.S. § 13-3624. An Emergency Order of Protection may:<br>a. Enjoin the defendant from committing an act of domestic violence.<br>b. Grant one party exclusive use and possession of the parties' residence if there is reasonable cause to believe physical harm may otherwise result.<br>c. Restrain the defendant from contacting the plaintiff or other specifically designated persons and coming near the residence, place | | a rotating basis a judge, a justice of the peace, a magistrate, or a commissioner to issue an Emergency Order of Protection by telephone during hours that the courts are closed. *See* A.R.S. § 13-3624(A).<br>(2) In ~~counties with~~ a county having a population of less than 150,000, a judge, a justice of the peace, a magistrate, or a commissioner may issue an Emergency Order of Protection by telephone. *See* A.R.S. § 13-3624(B).<br>~~The availability of an Emergency Order of Protection is not affected by either party leaving the residence. *See* A.R.S. § 13-3624(G).~~<br>**(b)** ~~Emergency Orders of Protection Issued Ex Parte~~ **Issuance.** A judicial officer may issue an order in writing or orally:<br>(1) ~~A judicial officer may issue a written or an oral order~~ if a law enforcement officer has reasonable grounds to believe that a person is in immediate and present danger of domestic violence based on an allegation of a recent incident of actual domestic violence, or~~. *See* A.R.S. § 13-3624(C).~~<br>(2) ~~A judicial officer may issue a written or oral order upon~~ at the plaintiff's request ~~of the alleged victim if there is a~~ upon finding that ~~a person's~~ the plaintiff's life or health is in imminent danger. *See* A.R.S. §§ 13-3624(C) and (F).<br>(3) The availability of an Emergency Order of Protection is not affected by either party leaving the residence. *See* A.R.S. § 13-3624(G).<br>(4) ~~A third party may request an emergency order on behalf of a plaintiff who is either temporarily or permanently unable to make the request. The judicial officer shall determine if the third party is an appropriate requesting party for the plaintiff. See A.R.S. § 13-3624(F).~~<br>**(c)** ~~Issuance of an Emergency Order of Protection. An Emergency Order of Protection is issued for the protection of a person in immediate and present danger of~~ |

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| | of employment or school of the plaintiff or other designated persons, if there is reasonable cause to believe physical harm may otherwise result.<br>d. Prohibit the defendant from possessing or purchasing a firearm and ammunition for the duration of the order, upon a finding that the defendant may inflict bodily injury or death on the plaintiff. *See* A.R.S. § 13-3624(D).<br>4. *Service of an Emergency Order of Protection*.<br>a. The law enforcement officer who receives verbal authorization for an Emergency Order of Protection shall complete and sign the emergency order as instructed by the judicial officer. The law enforcement officer shall then give a copy of the Emergency Order of Protection to the plaintiff or appropriate third party.<br>b. The law enforcement officer shall arrange for service upon the defendant. After service of the Emergency Order of Protection on the defendant, the law enforcement officer shall file a certificate of service with the court and verbally notify the sheriff's office that a judicial officer has issued an Emergency Order of Protection. *See* A.R.S. § 13-3624(F).<br>5. *Duration*. An emergency order expires at the close of the next day of judicial business following the day of issuance, unless otherwise continued by the court. *See* A.R.S. § 13-3624(E). A petition for an Order of Protection may be filed the following business day. | | ~~domestic violence. See A.R.S. § 13-3624. An~~ **Relief**. When issuing an Emergency Order of Protection, a judicial officer may:<br>(1) enjoin the defendant from committing an act of domestic violence;<br>(2) grant one party exclusive use and possession of the parties' residence if there is reasonable cause to believe physical harm may otherwise result;<br>(3) restrain the defendant from contacting the plaintiff or other specifically designated persons and coming near the residence, place of employment, or school of the plaintiff or other designated persons, if there is reasonable cause to believe physical harm may otherwise result; or<br>(4) prohibit the defendant from possessing or purchasing a firearm ~~and ammunition~~ for the duration of the order, upon a finding that the defendant may inflict bodily injury or death on the plaintiff. *See* A.R.S. § 13-3624(D).<br>**(d) Service ~~of an Emergency Order of Protection~~.**<br>(1) ~~The~~ A law enforcement officer who receives verbal authorization for an Emergency Order of Protection ~~shall~~ is required to:<br>(A) complete and sign the emergency order as instructed by the judicial officer~~.~~;<br>(B) ~~The law enforcement officer shall then~~ give a copy of the Emergency Order of Protection to the plaintiff or an appropriate third party~~.~~;<br>(C) ~~The law enforcement officer shall~~ arrange for service upon the defendant~~.~~; and<br>(D) ~~After service of the Emergency Order of Protection on the defendant, the law enforcement officer shall~~ file a certificate of service with the court and verbally notify the sheriff's office that a judicial officer has issued an |

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| | | | Emergency Order of Protection. *See* A.R.S. § 13-3624(F).<br>**(f)** ~~5.~~ **Duration.** An emergency order expires at the close of the next judicial business day ~~of judicial business~~ following the day of issuance, unless ~~otherwise continued by~~ the court extends it. *See* A.R.S. § 13-3624(E). The plaintiff may file a ~~A~~ petition for an Order of Protection ~~may be filed~~ on the ~~following~~ next judicial business day. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 6(D).** Regardless of the jurisdiction of the authorizing judicial officer, the court may issue an Emergency Order of Protection using the superior court name and case number. The law enforcement agency shall file the Emergency Order of Protection with certification of service in superior court. | | ~~**Rule 6(D).**~~ Regardless of the authorizing judicial officer's jurisdiction ~~of the authorizing judicial officer~~, the ~~court~~ judicial officer may issue an Emergency Order of Protection using the superior court name and case number. Statute requires the ~~The~~ law enforcement agency ~~shall~~ to file the Emergency Order of Protection ~~with certification~~ and proof of service in superior court. |
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| 6.E. | **E. Injunction Against Harassment.** The judicial officer shall conduct an individual hearing with each plaintiff who requests an Injunction Against Harassment.<br>1. *Contents of Petition.* The petition shall allege a series of specific acts of harassment and the dates of occurrence. A series of acts means at least two events. *See* A.R.S. § 12-1809(C).<br>2. *Petition Verification.* A plaintiff must sign and swear or affirm to the truth of the petition before a judicial officer or other person authorized to administer an oath.<br>3. *Petition Review.* A judicial officer shall review the petition, any other pleadings on file and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication, to determine whether the order requested shall be issued *ex parte*.<br>4. *Issuance of Injunction Against Harassment*<br>a. *Findings Required*. The judicial officer shall issue an Injunction Against Harassment | **25.** | ~~**E.**~~ **Injunction Against Harassment.**<br>**(a) Individual Hearing.** The judicial officer ~~shall~~ must conduct an individual hearing with each plaintiff who requests an Injunction Against Harassment.<br>**(b) Contents of Petition.** The petition ~~shall~~ must allege a series of specific acts of harassment and the dates of occurrence. A series of acts means at least two events. *See* A.R.S. § 12-1809(C).<br>**(c) Petition Verification.** A plaintiff must sign and swear or affirm to the truth of the petition before a judicial officer or other person authorized to administer an oath. If the plaintiff signs the petition outside the presence of the judicial officer or another authorized person, the judicial officer should ask the plaintiff, on the record, to affirm the truth of the allegations and the authenticity of the signature in the petition.<br>**(d) Petition Review.** A judicial officer ~~shall~~ must review the petition, any other pleadings on file, and any evidence offered by the plaintiff, including any evidence of |

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| | if there is a finding of reasonable evidence of harassment of the plaintiff by the defendant during the year preceding the filing or that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition. *See* A.R.S. § 12-1809(E).<br>1) If the judicial officer is going to issue the Injunction Against Harassment at the *ex parte* hearing, the judicial officer must find specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given.<br>2) If the judicial officer denies issuing an Injunction Against Harassment at an *ex parte* hearing, the judicial officer may set a hearing within 10 days with reasonable notice to the defendant.<br>b. *No Contact Orders*. The judicial officer may prohibit all contact with the plaintiff or other protected parties, except as otherwise specifically ordered in writing by the court. *See* A.R.S. § 12-1809(F)(2).<br>c. *Prohibited Locations*. The judicial officer may also order that the defendant shall not go near the residence, place of employment or school of the plaintiff or other protected parties. The judicial officer may include other specifically designated location(s) in the Injunction Against Harassment. *See* A.R.S. § 12-1809(F)(2).<br>d. *Protected Persons*. The judicial officer may grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and that is proper under the circumstances. *See* A.R.S. § 12-1809(F)(3).<br>e. *Other Relief:*<br>1. The judicial officer may grant relief necessary for the protection of the alleged victim and other specifically designated persons proper under the circumstances. A.R.S. § 12-1809(F)(3).<br>2. The judicial officer shall ask the plaintiff about the defendant's use of or access to | | harassment by electronic contact or communication~~, to determine whether the order requested shall be issued *ex parte*~~.<br>**(e)** ~~4. *Issuance of Injunction Against Harassment*~~ **Findings Required.**<br>(1) ~~*Findings Required.*~~ The judicial officer ~~shall~~ must issue an Injunction Against Harassment upon finding: ~~if there is a~~<br>(A) ~~finding of~~ reasonable evidence that the defendant has committed a series of acts of harassment against the plaintiff ~~by the defendant~~ during the year preceding the filing; or<br>(B) that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition~~. *See* A.R.S. § 12-1809(E). If the judicial officer is going to issue the an *ex parte* Injunction Against Harassment at the *ex parte* hearing, the judicial officer must find~~ and specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given. *See* A.R.S. § 12-1809(E).<br>~~2) If the judicial officer denies issuing an Injunction Against Harassment at an *ex parte* hearing, the judicial officer may set a hearing within 10 days with reasonable notice to the defendant.~~<br>**(f) Relief**. When issuing an Injunction Against Harassment, ~~ex parte,~~ *ex parte* or after a hearing, a ~~court~~ judicial officer may:<br>(a) ~~*No Contact Orders*. The judicial officer may~~ prohibit all contact with the plaintiff or other protected ~~parties~~ persons, except as otherwise specifically ordered in writing by the court. *See* A.R.S. § 12-1809(F)(2).<br>(b) ~~*Prohibited Locations*. The judicial officer may also order that~~ prohibit the defendant ~~shall not go~~ from |

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| | weapons or firearms. If necessary to protect the plaintiff or other specifically designated person, the judicial officer may prohibit the defendant from possessing, purchasing or receiving firearms and ammunition for the duration of the Injunction Against Harassment.<br>5. *Denial of an Injunction Against Harassment*. If after the *ex parte* hearing the judicial officer does not have sufficient information to grant the Order of Protection, the judicial officer may deny the request or set a hearing within 10 days with reasonable notice to the defendant. The judicial officer shall document any denial of an Order of Protection. *See* A.R.S. § 13-3602(F). | | going near the residence, place of employment, or school of the plaintiff or other protected ~~parties~~ persons. The judicial officer may include other specifically designated ~~location(s)~~ locations in the Injunction Against Harassment. *See* A.R.S. § 12-1809(F)(2).<br>(c) ~~*Protected Persons*. The judicial officer may~~ grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and that is proper under the circumstances. *See* A.R.S. § 12-1809(F)(3).<br>**(g) Firearms.**<br>~~(A) The judicial officer may grant relief necessary for the protection of the alleged victim and any other specifically designated persons proper under the circumstances. A.R.S. § 12-1809(F)(3).~~<br>The judicial officer ~~shall~~ must ask the plaintiff about the defendant's use of or access to ~~weapons or~~ firearms. If necessary to protect the plaintiff or any other specifically designated person, the judicial officer may prohibit the defendant from possessing, purchasing, or receiving firearms ~~and ammunition~~ for the duration of the ~~Injunction Against Harassment~~ order.<br>**(h)** ~~5.~~ **Denial of Request or Setting of Pre-Issuance Hearing.** ~~*of an Injunction Against Harassment*~~. If after the *ex parte* hearing the judicial officer ~~does not have sufficient~~ has insufficient information on which to ~~grant the Order of Protection~~ issue an order, the judicial officer may either deny the request or set a hearing within 10 days ~~with~~ and provide reasonable notice to the defendant. The judicial officer ~~shall~~ must document ~~any~~ denial of ~~an Order of Protection~~ any request. *See* ~~A.R.S. § 13-3602(F)~~ A.R.S. § 12-1809(E). |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rules 6(E)(1); 6(F)(1).** There is no statutory provision regarding Injunction Against Harassment or Injunction Against Workplace Harassment that would prohibit issuance by a | | ~~**Rules 6(E)(1); 6(F)(1)**~~ **.** There is no statutory provision regarding an Injunction Against Harassment ~~or Injunction Against Workplace Harassment~~ that would prohibit issuance by a |

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| | limited jurisdiction court when a family law action is pending in superior court. | | limited jurisdiction court when a family law action is pending in superior court. |
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| 6.F. | **F. Injunction Against Workplace Harassment.** The judicial officer shall hold a hearing with each plaintiff/employer or authorized agent of the employer who requests an Injunction Against Workplace Harassment.<br>1. *Contents of Petition*. The petition shall allege at least one act of harassment and the dates of occurrence. *See* A.R.S. § 12-1810(C)(3).<br>2. *Petition Verification*. An employer or authorized agent must sign and swear or affirm to the truth of the petition before a judicial officer or other person authorized to administer an oath.<br>3. *Petition Review*. A judicial officer shall review the petition, any other pleadings on file and any evidence offered by the employer or authorized agent to determine whether the Injunction requested shall be issued *ex parte*. *See* A.R.S. § 12-1810(E).<br>4. *Issuance of Injunction Against Workplace Harassment*<br>a. The judicial officer shall issue an Injunction Against Workplace Harassment upon finding: 1) reasonable evidence of workplace harassment by the defendant during the year preceding the filing; or 2) good cause to believe that great or irreparable harm would result to the employer or other person who enters the employer's property or who is performing official work duties, if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition.<br>b. The court must find specific facts attesting to the employer's efforts to give notice to the defendant or reasons supporting the employer's claim that notice should not be given.<br>c. The judicial officer may prohibit all contact with the plaintiff or other protected parties, except as otherwise specifically | **26.** | ~~F.~~ **Injunction Against Workplace Harassment**~~.~~<br>**(a) Individual Hearing.** ~~The~~ A judicial officer ~~shall~~ must hold ~~a~~ an individual hearing with each ~~plaintiff/employer~~ plaintiff—an employer or an authorized agent of the employer—who requests an Injunction Against Workplace Harassment.<br>**(b) Contents of Petition.** The petition ~~shall~~ must allege at least one act of harassment and the dates of occurrence. *See* A.R.S. § 12-1810(C)(3).<br>**(c) Petition Verification.** ~~An employer or an authorized agent~~ The plaintiff must sign and swear or affirm to the truth of the petition before a judicial officer or ~~other~~ another person authorized to administer an oath. If the plaintiff signs the petition outside the presence of the judicial officer or another authorized person, the judicial officer should ask the plaintiff, on the record, to affirm the truth of the allegations and the authenticity of the signature in the petition.<br>**(d) Petition Review.** A judicial officer ~~shall~~ must review the petition, any other pleadings on file, and any evidence offered by the plaintiff ~~employer or authorized agent to determine whether the Injunction requested shall be issued ex parte~~. *See* A.R.S. § 12-1810(E).<br>**(e)** ~~Issuance of Injunction Against Workplace Harassment~~ **Findings Required.**<br>(1) The judicial officer ~~shall~~ must issue an Injunction Against Workplace Harassment upon finding:<br>(A) ~~1)~~ reasonable evidence of workplace harassment by the defendant during the year preceding the filing; or<br>(B) ~~2)~~ that ~~-~~good cause to believe that great or irreparable harm would result to the ~~employer~~ plaintiff or ~~other~~ another person who enters the ~~employer's~~ plaintiff's property or who |

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| | ordered in writing by the court. *See* A.R.S. § 12-1809(F)(2).<br>d. The judicial officer may grant relief that is necessary for the protection of the employer, employees or other persons who enter the employer's property and that is proper under the circumstances.<br>e. If an Injunction Against Workplace Harassment is granted, the employer or authorized agent shall be provided with a conformed copy of the Injunction Against Workplace Harassment at the initial *ex parte* hearing.<br>5. *Denial of an Injunction Against Workplace Harassment*. If after the *ex parte* hearing the judicial officer does not have sufficient information to grant the order, the judicial officer may deny the request or set a hearing within 10 days with reasonable notice to the defendant. The judicial officer shall document any denial of an order. | | is performing official work duties, if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition~~.~~ ~~The court must find~~ and specific facts attesting to the ~~employer's~~ plaintiff's efforts to give notice to the defendant or reasons supporting the ~~employer's~~ plaintiff's claim that notice should not be given.<br>**(f) Relief**. When issuing an Injunction Against Workplace Harassment, *ex parte* or after a hearing, a judicial officer may:<br>(1) ~~The judicial officer may~~ prohibit all contact with the plaintiff or other protected ~~parties~~ persons, except as otherwise specifically ordered in writing by the court. *See* A.R.S. § 12-1809(F)(2).<br>(2) ~~The judicial officer may~~ grant relief that is necessary for the protection of the ~~employer~~ plaintiff, employees, or other persons who enter the employer's property and that is proper under the circumstances.<br>~~e. If an Injunction Against Workplace Harassment is granted, the employer or authorized agent shall be provided with a conformed copy of the Injunction Against Workplace Harassment at the initial *ex parte* hearing.~~<br>**(g)** ~~5.~~ **Denial of Petition or Setting of Pre-Issuance Hearing.** ~~of an Injunction Against Workplace Harassment~~. If after the *ex parte* hearing the judicial officer ~~does not have sufficient~~ has insufficient information on which to ~~grant~~ issue ~~the~~ an order, the judicial officer may either deny the request or set a hearing within 10 days ~~with~~ and provide reasonable notice to the defendant. The judicial officer ~~shall~~ must document ~~any~~ denial of ~~an~~ any ~~order~~ request. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rules 6(E)(1); 6(F)(1).** There is no statutory provision regarding Injunction Against Harassment or Injunction Against Workplace Harassment that would prohibit issuance by a | | **Rules ~~6(E)(1); 6(F)(1)~~ .** There is no statutory provision regarding ~~Injunction Against Harassment or~~ an Injunction Against Workplace Harassment that would prohibit issuance by a limited jurisdiction court when |

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| | limited jurisdiction court when a family law action is pending in superior court. | | a family law action is pending in superior court. |
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| 1.H. | **Cross Petitions.** Any defendant in an Order of Protection or Injunction Against Harassment case may file a petition for an Order of Protection or Injunction Against Harassment against the plaintiff.<br>1. The cross petition shall be regarded as a separate action. The cross petition may be assigned a new case number or a case number associated with a pending family law case in superior court.<br>2. The cross petition shall request the appropriate relief.<br>3. When a cross petition is filed, the judicial officer shall apply the same statutory standards for issuing an Order of Protection or Injunction Against Harassment. *See* A.R.S. §§ 13-3602(H) or 12-1809(G).<br>4. If opposing parties file separate petitions for an Order of Protection or Injunction Against Harassment, after consultation, the judicial officers involved may consolidate the petitions of the opposing parties for hearing. This does not prohibit the judicial officer from issuing cross Orders of Protection or Injunctions Against Harassment.<br>5. A judicial officer shall not issue an Order of Protection or Injunction Against Harassment that restricts the conduct of the plaintiff. | **27.** | **Cross petitions~~.~~**<br>**(a) Separate Orders.** Where each party has separately petitioned a court for a protective order, a judicial officer may grant separate protective orders upon finding that each petitioning party is entitled to protection and has requested appropriate relief. The judicial officer should make reasonable effort to ensure that no conflicting relief is granted.<br>**(b) Hearing on Separate Petitions.** If opposing parties file separate petitions for protective orders, the judicial officer may:<br>(1) hear each petition at separate *ex parte* hearings, or<br>(2) set a joint hearing on both cases.<br>(c) **Case Numbers.** The cross petition may be assigned a new case number or a case number associated with a pending family law case in superior court. But if a court assigns the same number to a family law and a protective order case, the court cannot allow remote electronic access to any case information regarding the registration, filing of a petition for, or issuance of the protective order, if such publication would be likely to reveal to the general public the identity or location of the party protected by the order. *See* Rule 123(g)(1)(E)(ii) and (iii), *Rules of the Supreme Court*. *See also* 18 U.S.C. § 2265(d)(3). |
| 1.I. | **Multiple Orders, Cross Orders and Conflicting Orders**<br>1. When parties have sought and obtained conflicting protective orders, both orders are to be given full force and effect, without regard to whether the orders were issued by courts of limited or general jurisdiction.<br>a. Prior to the issuance of a protective order, the judicial officer shall examine all available records and question the plaintiff to determine whether any other protective order | **28.** | **~~Multiple Orders, Cross Orders and~~ Conflicting ~~Orders~~ orders**<br>**(a) Effectiveness of Conflicting Orders.** ~~1.~~ When two parties have ~~sought and~~ obtained conflicting protective orders, both orders ~~are to~~ must be given full force and effect, ~~without regard to~~ regardless of whether the orders were issued by courts of limited or general jurisdiction.<br>**(b) Hearing on Conflicting Orders.** ~~c.~~ If ~~different~~ two judicial officers ~~issue~~ have issued protective orders that involve the |

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| | affecting the parties has been issued or served.<br>b. If an earlier order exists, the judicial officer shall schedule a pre-issuance hearing with notice to both parties, unless the judicial officer determines after reviewing all available records and questioning the plaintiff, that failure to issue the *ex parte* protective order would likely result in imminent danger to the plaintiff or protected party(ies). *See*ARS §§ 13-3602(E) and 12-1809(E).<br>c. If different judicial officers issue protective orders that grant conflicting relief involving the same parties, these orders shall be set for hearing within five days after the judicial officers discover the conflict. The judicial officers who issued the conflicting orders shall consult with each other and combine the cases in one jurisdiction to resolve the orders that conflict. In the event of conflicting limited jurisdiction orders, there shall be a presumption that the hearing to resolve the conflicting orders shall be conducted in the court where the first petition was filed. In all other cases, the conflicting orders shall be heard in superior court. *See* A.R.S. § 13-3602(H).<br>2. When issuing a protective order, either in an *ex parte* proceeding or contested hearing, the judicial officer shall inquire about the existence of any custody order or parenting plan to avoid entering a protective order that inadvertently conflicts with the current parenting plan. If a protective order conflicts with a prior child custody order, the protective order controls until further order of a court. | | same parties and grant conflicting relief ~~involving the same parties~~, ~~these~~ the orders ~~shall~~ must be set for hearing within five court business days after ~~the judicial officers discover~~ discovery of the conflict. The judicial officers who issued the conflicting orders ~~shall~~ must consult with each other and ~~combine the~~ assign the cases ~~in~~ to one jurisdiction to resolve the ~~orders~~ parts that conflict. ~~In the event of conflicting~~ Between two limited jurisdiction orders, ~~there shall be a presumption~~ it is presumed that the court where the first petition was filed will conduct ~~that~~ the ~~hearing~~ hearings to resolve the conflicting orders ~~shall be conducted in the court where the first petition was filed~~. In all other cases, the conflicting orders ~~shall~~ must be heard in superior court. *See* A.R.S. § 13-3602(H). |
| 1.E. | **Alternative Dispute Resolution**<br>1. The parties in a proceeding for an Order of Protection shall not be referred to mediate that Order of Protection.<br>2. If the court determines alternative dispute resolution (ADR) is appropriate in a protective order case that is not an Order of Protection, the court may refer the case to ADR. The court shall assure policies are in | **29.** | **Alternative dispute resolution**<br>**(a) Prohibition on Mediation of an Order of Protection.** ~~The~~ Parties ~~in a proceeding for~~ to an Order of Protection ~~shall not~~ cannot be referred to alternative dispute resolution regarding ~~mediate~~ ~~that~~ the Order of Protection. *But see* Rule 67(B)(3), *Arizona Rules of Family Law Procedure*, regarding mediation of parenting |

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| | place to protect the parties from harm, harassment or intimidation during ADR.<br>3. Prior to the commencement of ADR, every party shall be notified in writing or orally in open court of the ability to request to opt out of ADR or to request that reasonable procedures for protection of the parties are in place during ADR, as determined by the court. Neither party shall be required to appear for ADR pending determination of this matter.<br>4. An ADR provider shall reject or terminate ADR whenever the provider determines ADR is inappropriate because of domestic violence or harassment. | | time or legal decision-making when an Order of Protection is in effect.<br>**(b) Mediation of a Harassment Injunction.** If the court determines that an alternative dispute resolution (ADR) process is appropriate ~~in~~ for a ~~protective order~~ harassment injunction case ~~that is not an Order of Protection~~, the court may refer the case to ADR. ~~The court shall assure policies are in place to protect the parties from harm, harassment, or intimidation during ADR.~~<br>**(c) Notification Regarding Nonparticipation in ADR.** ~~Prior to the commencement of~~ Before beginning ADR, every party ~~shall~~ must be notified in writing or orally in open court of the ability to ~~request to opt out of~~ decline to participate in ADR. ~~or to request that reasonable procedures for protection of the parties are in place during ADR, as determined by the court.~~ Neither party ~~shall~~ can be required to appear for ADR pending determination of this matter.<br>~~**(d)** An ADR provider shall reject or terminate ADR whenever the provider determines ADR is inappropriate because of domestic violence or harassment.~~ |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 1(E).** Matters other than family or domestic violence may be appropriate for alternative dispute resolution. These controversies should be considered separate from domestic and family violence issues. Recognizing that matters of domestic violence may impact the alternative dispute resolution, it is important that victims of domestic violence have an opt-out prerogative.<br><br>The Mediation and Domestic Violence Policy Adopted by the American Bar Association House of Delegates in July 2000, states: "RESOLVED, That the American Bar Association recommends that court-mandated mediation include an opt-out prerogative in any action in which one party | | ~~**Rule 1(E).**~~ Matters other than family or domestic violence may be appropriate for alternative dispute resolution. These controversies should be considered ~~separate~~ separately from domestic and family violence issues.<br><br>~~Recognizing that~~ Domestic violence matters ~~of domestic violence~~ may impact ~~the~~ alternative dispute resolution, and it is important ~~that~~ for domestic violence victims ~~of domestic violence~~ to have an opt-out prerogative. The Mediation and Domestic Violence Policy adopted by the American Bar Association House of Delegates in July 2000~~,~~ states: "RESOLVED, That the American Bar Association recommends that court-mandated mediation include an opt-out prerogative in any action in which one party |

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| | has perpetrated domestic violence upon the other party." | | has perpetrated domestic violence upon the other party." |
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| 1.P. | **Offender Treatment Programs**<br>1. The judicial officer may require the defendant to complete a domestic violence offender treatment program, also known as a Batterer Intervention and Prevention Program, only after notice and a hearing at which the defendant has an opportunity to participate. *See* A.R.S. § 13-3602(G)(5).<br>2. The judicial officer may obtain reports that track enrollment in and offender compliance with program requirements from the domestic violence offender treatment program staff. If the judicial officer does not receive the above mentioned reports, the judicial officer may contact the program to request these reports.<br>3. If a superior court judicial officer becomes aware that the defendant has failed to comply with the order to complete a domestic violence offender treatment program, the judicial officer may set the matter for an Order to Show Cause hearing in addition to referring the matter to an appropriate law enforcement agency. *See* A.R.S. § 13-3602(N). | **30.** | **Offender treatment programs**<br>**(a) When Offender Treatment May Be Ordered.** ~~The~~ After a hearing of which the defendant had notice and in which the defendant had an opportunity to participate, a judicial officer may ~~require the~~ order a defendant to complete a domestic violence offender treatment program that is approved by the department of health services or a probation department or any other program deemed appropriate by the court. *See* A.R.S. § 13-3602(G)(5).<br><br>~~The judicial officer may obtain reports that track enrollment in and offender compliance with program requirements from the domestic violence offender treatment program staff. If the judicial officer does not receive the above mentioned reports, the judicial officer may contact the program to request these reports.~~<br><br>**(b) Noncompliance with Offender Treatment.** If a ~~superior court~~ judicial officer becomes aware that ~~the~~ a defendant has failed to comply with ~~the~~ an order to complete a domestic violence offender treatment program, the judicial officer may refer the matter to an appropriate law enforcement agency. A superior court judicial officer may also set the matter for an Order to Show Cause hearing ~~in addition to referring the matter to an appropriate law enforcement agency~~. *See* A.R.S. § 13-3602(M). |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 1(P).** Before ordering defendants to domestic violence offender treatment programs, judicial officers shall review the information in *Domestic Violence Offender Treatment Programs and Offender Accountability*, noting especially that anger management programs and couple's | | ~~**Rule 1(P).** Before ordering defendants to domestic violence offender treatment programs, judicial officers shall review the information in *Domestic Violence Offender Treatment Programs and Offender Accountability*, noting especially that anger~~ Anger management programs and couple's |

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| | counseling are not substitutes for domestic violence offender treatment programs. A list of Licensed Behavioral Health Facilities that provide Misdemeanor Domestic Violence Treatment Programs can be found by calling (602) 364-2595 or contacting the Arizona Department of Health Services, Division of Licensing Services, Office of Behavioral Health Licensing. | | counseling are not substitutes for domestic violence offender treatment programs. A list of ~~Licensed Behavioral Health Facilities~~ approved facilities that provide ~~Misdemeanor Domestic Violence Treatment Programs~~ misdemeanor domestic violence treatment programs can be ~~found by calling (602) 364-2595 or contacting~~ obtained from the Arizona Department of Health Services, Division of Licensing Services, Office of Behavioral Health Licensing. The list of DHS-approved providers also is published on the Judicial Branch website. |
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| | | | **Part VI. Service and Registration** |
| 1.M. | **Service of Protective Orders.** A protective order shall be served by a person authorized by Rule 4(d), Ariz. R. Civ. P., A.R.S. §§ 13-3602(R), 12-1809(Q) or 12-1810(Q) or as otherwise provided in this rule. A protective order expires if it is not served upon the defendant, together with a copy of the petition, within one year from the date that the judicial officer signs the protective order. *See* A.R.S. §§ 13-3602(L), 12-1809(J) and 12-1810(I).<br>1. There is no requirement that the copy of the order served on the defendant be certified.<br>2. An initial or modified protective order is effective upon serving the defendant with a copy of the order and the petition; such order expires one year after service of the initial order.<br>3. A defendant may sign an acceptance of service form, which has the same effect as service. If the defendant refuses to sign an acceptance of service form, the judicial officer may have the defendant served in open court. Any modified order must be served by a person authorized to serve process or the defendant must sign the acceptance of service for the modified order to be in effect. In superior court, the minute entry shall reflect what method of service was utilized. *See* A.R.S. § 13-3602(R). | **31.** | **Service of protective orders~~.~~**<br>**(a) Who Can Effect Service.** A protective order ~~shall~~ can be served only by a person authorized by Rule 4(d), Ariz. R. Civ. P., A.R.S. §§ 13-3602(R), 12-1809(Q), or 12-1810(Q) or as otherwise provided in this rule.<br>**(b) Expiration of an Unserved Order.** A protective order expires if it is not served ~~upon~~ on the defendant, together with a copy of the petition, within one year from the date ~~that~~ the judicial officer signs the protective order. *See* A.R.S. §§ 13-3602~~(L)~~(K), 12-1809(J) and 12-1810(I).<br>**(c) Certification Not Required.** There is no requirement that the copy of the order served on the defendant be certified.<br>**(d) Service of a Modified Order.** ~~Any modified order must be served by a person authorized to serve process or the defendant must sign the acceptance of service or be otherwise served as provided in subdivision paragraph 4 for the modified order to be in effect~~. The service and registration requirements applicable to the original protective order also apply to a modified protective order.<br>**(e) Acceptance of Service.** A defendant may sign an acceptance of service form, which has the same effect as service. If the |

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| | 4. If the defendant is present in court and refuses to sign an acceptance of service form, the judicial officer shall have the defendant served in open court by a person specially appointed by the court. Such a judicial appointment to effectuate service may be granted freely, is valid only for the service of the protective order or modification entered in the cause and does not constitute an appointment as a registered private process server. A specially appointed person directed to serve such process shall be a court employee who is not less than twenty-one (21) years of age and shall not be a party, an attorney, or the employee of an attorney in the action whose process is being served. If such an appointment is entered on the record, no signed order shall be required provided a minute entry issues that reflects the special appointment and the nature of service.<br>5. The original affidavit of service, acceptance of service or return of service shall be promptly filed with the clerk of the issuing court. If mailed, such proof of service must be postmarked no later than the end of the seventh court business day after the date of service. Such proof of service may be submitted by facsimile, provided the original affidavit, acceptance of service or return of service is promptly filed with the court. *See* A.R.S. §§ 13-3602(M), 12-1809(K) and 12-1810(J).<br>6. If a defendant is physically present with the plaintiff and has not yet been served, a peace officer may be summoned to the scene and may use the plaintiff's copy of the protective order to effect service on the defendant.<br>7. Any modified order must be served by a person authorized to serve process or the defendant must sign the acceptance of service or be otherwise served as provided in subdivision 4 for the modified order to be in effect. | | defendant refuses to sign an acceptance of service form, the judicial officer may have the defendant served in open court. ~~Any modified order must be served by a person authorized to serve process or the defendant must sign the acceptance of service for the modified order to be in effect~~. In superior court, the minute entry ~~shall~~ must reflect ~~what~~ the method of service that was ~~utilized~~ used. *See* A.R.S. § 13-3602(R).<br>**(f) Service in Court.** If the defendant is present in court and refuses to sign an acceptance of service form, the judicial officer ~~shall~~ must have the defendant served in open court by a person specially appointed by the court. ~~Such~~ A judicial appointment to effectuate service may be granted freely, is valid only for the service of the protective order or modification entered in the cause, and does not constitute an appointment as a registered private process server. A specially appointed person directed to serve such process ~~shall~~ must be a court employee who is ~~not less than~~ at least ~~twenty-one (~~21~~)~~ years ~~of age~~ old and ~~shall not~~ cannot be a party, an attorney, or the employee of an attorney in the action whose process is being served. If such an appointment is entered on the record, ~~no~~ a signed order ~~shall be~~ is not required provided a minute entry ~~issues that~~ reflects the special appointment and the nature of service.<br>**(g) Service at the Scene.** If a defendant is physically present with the plaintiff and has not yet been served, a peace officer may be summoned to the scene and may use the plaintiff's copy of the protective order to effect service on the defendant.<br>**(h) Filing the Proof of Service.** The original ~~affidavit of service, acceptance of service or return~~ proof of service ~~shall~~ must be promptly filed with the clerk of the issuing court. If mailed, ~~such~~ proof of service must be postmarked no later than the end of the seventh court business day after the date of service. ~~Such~~ Proof of service may be submitted by facsimile, provided the original |
| 7.B.4. | 4. The service and registration requirements applicable to the original protective order also apply to a modified protective order. A | | |

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| | modified protective order is effective upon service and expires one year after the date of service of the original protective order. *See* A.R.S. §§ 13-3602(L), 12-1809(J) and 12-1810(I). | | ~~affidavit, acceptance of service or return~~ proof of service is promptly filed with the court. *See* A.R.S. §§ 13-3602~~(M)~~(L), 12-1809(K) and 12-1810(J).<br>**(i) Effective Date.** An initial ~~or modified~~ protective order ~~is effective upon serving~~ takes effect when the defendant is served with a copy of the order and the petition~~;~~, and it expires one year from the date it is served. ~~such~~ A modified order takes effect upon service but expires one year after service of the initial order. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 1(M).** The defendant shall be personally served because 1) personal service on the defendant satisfies the criminal notice requirement if a violation of the protective order is prosecuted under criminal statutes, and 2) unless the affidavit of service, acceptance of service or return of service shows personal service on the defendant, many sheriffs' offices, which are the holders of record, will not accept a protective order for purposes of Law Enforcement Protective Order Repository (LPOR)/National Crime Information Center (NCIC) entry. | | ~~**Rule 1(M).**~~ The defendant ~~shall~~ must be personally served because 1) personal service on the defendant satisfies the criminal notice requirement if a violation of the protective order is prosecuted under criminal statutes, and 2) unless the affidavit of service, acceptance of service or return of service shows personal service on the defendant, many sheriffs' offices, which are the holders of record, will not accept a protective order for ~~purposes of Law Enforcement Protective Order Repository (LPOR)/National Crime Information Center (NCIC)~~ entry into protective order databases. |
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| 1.O. | **Registration of Protective Order and Affidavit, Acceptance or Return of Service.** Each issuing court shall within 24 hours of receipt of the proof of service, forward a copy of the protective order and proof of service to the sheriff's office in the county in which the protective order was issued, for registration by the sheriff. *See* A.R.S. §§ 13-3602(M), 12-1809(K) and 12-1810(J).<br>1. The sheriff of each county is required to maintain a central repository for Orders of Protection so that the validity of a protective order may easily be verified. *See* A.R.S. §§ 13-3602(M), 12-1809(K) and 12-1810(J).<br>2. Within 24 hours after entry, notice of modification or dismissal of a protective | **32.** | **Registration of protective order and ~~Affidavit, Acceptance or Return~~ proof of service~~.~~**<br>**(a) Notification to Sheriff.** Each issuing court ~~shall~~ must, within 24 hours of receipt of ~~the~~ proof of service, forward a copy of the protective order and proof of service to the sheriff's office in the county in which the protective order was issued~~,~~ for registration by the sheriff. *See* A.R.S. §§ 13-3602~~(M)~~(L), 12-1809(K) and 12-1810(J).<br>**(b) Central Repository.** ~~The~~ Each county sheriff ~~of each county~~ is required to maintain a central repository for ~~Orders of Protection~~ so ~~that~~ the existence and validity of ~~a~~ protective orders may ~~easily~~ be verified. |

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| | order shall be sent to the sheriff in the county where the original protective order was registered. The modification or dismissal order shall be in writing and sent electronically via facsimile or e-mail, not by telephone, to the sheriff.<br>3. A protective order, whether or not registered, is a valid order of the court for a period of one year from the date of service. | | *See* A.R.S. §§ 13-3602~~(M)~~(L), 12-1809(K) and 12-1810(J).<br>**(c) Notice of Modified or Dismissed Order.** Within 24 hours after entry, the court must send notice of modification or dismissal of a protective order ~~shall be sent~~ to the sheriff in the county where the original protective order ~~was~~ is registered. The modification or dismissal order ~~shall~~ must be in writing and sent electronically via facsimile or e-mail, not by telephone, to the sheriff.<br>**(d) Validity.** A protective order, whether or not registered, is a valid court order ~~of the court~~ for ~~a period of~~ one year from the date of service. |
| 1.J. | **Transfer of Protective Orders**. The originating court transferring a protective order shall within 24 hours notify its sheriff's office in writing of the transfer and update information in that court's protective order repository. | **33.** | **Notification of transferred protective order**<br>~~The originating~~ A court ~~transferring~~ that transfers a protective order to another court ~~shall~~ must, within 24 hours, notify its sheriff's office in writing of the transfer and update information in ~~that court's protective order repository~~ its case management system. |
| | | | **Part VII. Family Law Cases** |
| 4.A. | **A. Jurisdiction**<br>1. A limited jurisdiction court shall not issue a protective order if the petition or plaintiff's statement reveals that an action for maternity, paternity, annulment, custody, dissolution of marriage or legal separation is pending in Arizona Superior Court.<br>2. If a family law action is pending in the superior court, the superior court has exclusive jurisdiction to issue the protective order. As a result, a limited jurisdiction court shall refer such plaintiff to the superior court. An action is considered to be pending if either:<br>a. an action has been commenced but no final judgment, decree or order has been entered; or<br>b. a post-decree proceeding has been commenced, but no final order determining | **34.** | **~~A.~~ Jurisdiction**<br>**(a) Superior Court Jurisdiction.** ~~If a family law action is pending in the superior court, the~~ The superior court has exclusive jurisdiction to issue ~~the~~ a protective order when a family law action is pending between the parties. ~~As a result, a~~ A limited jurisdiction court ~~shall~~ must refer ~~such~~ a plaintiff who has a pending family law action to the superior court. An action is ~~considered to be~~ pending if either:<br>**(1)** an action has ~~been commenced~~ begun but no final judgment, decree, or order has been entered; or<br>**(2)** a post-decree proceeding has ~~been commenced,~~ begun but no final order determining that proceeding has been entered. *See* A.R.S. § 13-3602~~(P)~~(O).<br>**(b) Limitation on Limited Jurisdiction Courts.** A limited jurisdiction court ~~shall not~~ |

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| | that proceeding has been entered. *See* A.R.S. § 13-3602(P).<br>3. No protective order is invalid or ineffective merely because a judicial officer of a limited jurisdiction court issued it when an action for maternity or paternity, annulment, legal separation, or dissolution of marriage was pending in superior court.<br>4. If, after issuance of a protective order, the limited jurisdiction court is notified in writing or verifies that a family law action is pending, all documents relating to the protective order promptly shall be transferred to the superior court.<br>a. Within 24 hours of the notification, all papers, together with a certified copy of docket entries or other records shall be transferred to the superior court where the action is pending. If the Certificate of Service arrives after the protective order is transferred to the superior court, the Certificate of Service shall immediately be sent to the superior court.<br>b. Notwithstanding this transfer requirement, unless prohibited by a superior court order, a limited jurisdiction court may hold a hearing on all matters relating to an *ex parte* protective order if the hearing was requested before receiving written notice of the pending superior court action.<br>c. If a hearing has been requested in a transferred case, the superior court shall hold the hearing within five court business days if exclusive use of the home is involved and within 10 court business days for all other cases. This time period commences on the date the transferred protective order is filed with the receiving court.<br>5. Only the juvenile division of the superior court may issue a protective order against a person under 12 years of age. *See* A.R.S. §§ 13-3602(B) and 12-1809(B). | | cannot issue a protective order if the plaintiff's petition or other evidence reveal~~s~~ that an action for maternity, paternity, annulment, ~~custody~~ legal decision-making and parenting time, dissolution of marriage, or legal separation is pending in an Arizona superior court. Nevertheless, if a limited jurisdiction court ~~issued it~~ does issue a protective order when an action for maternity, ~~or~~ paternity, annulment, legal decision-making, legal separation, or dissolution of marriage ~~was~~ is pending in superior court, the order is valid and effective. *See* A.R.S. § 13-3602(O).<br>**(c) Transfer to Superior Court.** If, after issuance of a protective order, ~~the~~ a limited jurisdiction court is notified in writing or verifies that a family law action is pending, the court must promptly transfer all documents relating to the protective order ~~promptly shall be transferred~~ to the superior court.<br>(1) Within 24 hours of ~~the~~ notification, all papers, together with a certified copy of docket entries or other records, ~~shall~~ must be transferred to the superior court where the action is pending. ~~If the Certificate~~ Proof of service that arrives after the protective order ~~is~~ has been transferred to the superior court~~, the Certificate of Service shall~~ must ~~immediately~~ be sent to the superior court immediately.<br>(2) ~~Notwithstanding~~ Despite this transfer requirement, unless prohibited by a superior court order, a limited jurisdiction court may hold a hearing on all matters relating to an *ex parte* protective order if the hearing was requested before ~~receiving~~ the court received written notice of the pending superior court action.<br>(3) If a hearing has been requested in a transferred case, the superior court ~~shall~~ must hold the hearing within five ~~court business~~ days if exclusive use of the home is involved and within ~~10 court business~~ 10 days for all other cases. This |

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| | | | time period ~~commences~~ begins on the date the transferred protective order is filed with the ~~receiving~~ superior court.<br>~~5. Only the juvenile division of the superior court may issue a protective order against a person under 12 years of age. *See* A.R.S. §§ 13-3602(B) and 12-1809(B).~~ *[moved to Parties-Defendant]* |
| 4.B. | **B. Child Custody and Parenting Time**<br>1. Except as otherwise provided in this rule, a protective order shall not contain provisions regarding child custody or parenting time issues. Legal issues, such as maternity, paternity, child support, custody, parenting time, dissolution of marriage or legal separation, may only be addressed by the superior court in a separate action under Title 25 of the *Arizona Revised Statutes*.<br>2. An Order of Protection may restrain the defendant from contacting or coming near specifically designated persons. *See*A.R.S. § 13-3602(G)(3).<br>3. If there is no legal relationship between the defendant and the child, the judicial officer, upon request, may prohibit the defendant's contact with the child based on danger to the plaintiff.<br>4. Before granting a protective order prohibiting contact with a child with whom the defendant has a legal relationship, the judicial officer shall consider the following factors:<br>a. Whether the child may be harmed if the defendant is permitted to maintain contact with the child.<br>b. Whether the child may be endangered if there is contact outside the presence of the plaintiff.<br>5.<br>a. No protective order issued by a limited jurisdiction court that prohibits contact with the plaintiff shall include exceptions that allow the defendant to come near or contact the plaintiff in person for child custody or parenting time with the children. Limited jurisdiction courts may allow contact by mail or e-mail for the purpose of arranging | **35.** | **~~B. Child Custody~~ Legal decision-making and parenting time**<br>**(a) Provisions for Legal Decision-Making and Parenting Time.** Except as otherwise provided in this rule, a protective order ~~shall not~~ cannot contain provisions regarding ~~child custody~~ legal decision-making or parenting time issues. Legal issues~~,~~ such as maternity, paternity, child support, ~~custody~~ legal decision-making, parenting time, dissolution of marriage, or legal separation~~,~~ may ~~only~~ be addressed only by the superior court in a separate action under A.R.S. Title 25 ~~of the *Arizona Revised Statutes*~~.<br>~~2. An Order of Protection may restrain the defendant from contacting or coming near specifically designated persons. *See*A.R.S. § 13-3602(G)(3).~~<br>~~3. If there is no legal relationship between the defendant and the child, the judicial officer, upon request, may prohibit the defendant's contact with the child based on danger to the plaintiff.~~ *[moved to Parties]*<br>**(b) ~~4.~~ Contact Between a Child and a Defendant Who Have a Legal Relationship.** Before granting a protective order prohibiting contact with a child with whom the defendant has a legal relationship, the judicial officer ~~shall~~ must consider ~~the following factors~~:<br>(1) whether the child may be harmed if the defendant is permitted to maintain contact with the child; and~~.~~<br>(2) whether the child may be endangered if there is contact outside the presence of the plaintiff. |

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| | parenting time and may provide for child exchanges under circumstances not involving contact with the plaintiff in person.<br>b. When a family law action is not pending, but there is an active custody order issued by an Arizona court involving the defendant or a child of the defendant, a limited jurisdiction court may issue an *ex parte* protective order, but then shall transfer the matter to the superior court in accordance with the procedures set forth in Rule 4(A)(4).<br>6.<br>a. A superior court judicial officer may issue an original protective order or modify an existing protective order that includes an exception allowing the defendant to come near or contact the plaintiff in person in order to implement a child custody order or parenting time order after giving consideration to the following factors and making specific findings on the record:<br>1) Alternatives regarding contact that are feasible to carry out the child custody order or parenting time order such as exchanges at a protected setting, public facility or other safe haven or through a third person;<br>2) The wishes of the parties;<br>3) Each party's history of domestic violence;<br>4) The safety of the parties and child or children;<br>5) The behavioral health of each of the parties; and<br>6) Reports and recommendations of behavioral health professionals.<br>b. Any modification made by a superior court judicial officer to an existing protective order shall be included in a modified protective order. Each modification shall be set forth in the modified protective order with sufficient detail to assure understanding and compliance by the parties and ease of enforcement by law enforcement officers. The superior court judicial officer shall obtain an acceptance of service signed by the defendant if the parties are present at the time the modification is made. If the defendant refuses to sign the acceptance of | | **(c) Provisions for Parenting Time and Child Exchanges.** ~~5. a. No protective order issued by~~<br>**(1)** A limited jurisdiction court that ~~prohibits~~ issues an order prohibiting contact with the plaintiff ~~shall~~ cannot include exceptions that allow the defendant to come near or contact the plaintiff in person for ~~child custody~~ legal decision-making or parenting time with ~~the children~~ a child. A limited jurisdiction court may allow contact by mail or e-mail ~~for the purpose of arranging~~ to arrange parenting time and may provide for child exchanges under circumstances not involving contact with the plaintiff in person.<br>**(2)** A superior court judicial officer may issue ~~an original~~ a protective order or modify an existing protective order that includes an exception allowing the defendant to come near or contact the plaintiff in person ~~in order~~ to implement a ~~child custody order~~ legal decision-making or a parenting time order after ~~giving consideration to~~ considering the following factors and making specific findings on the record:<br>(A) feasible alternatives regarding contact ~~that are feasible~~ to carry out the ~~child custody order~~ legal decision-making or parenting time order, such as exchanges at a protected setting, a public facility, or other safe haven, or through a third person;<br>(B) the parties' wishes ~~of the parties~~;<br>(C) each party's history of domestic violence;<br>(D) the safety of the parties and the child ~~or children~~;<br>(E) ~~The~~ each party's behavioral health ~~of each of the parties~~; and<br>(F) reports and recommendations of behavioral health professionals. |

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| | service, the judicial officer shall have the defendant served in open court in accordance with Rule 1(M)(4). | | **(d) Modification of an Existing Protective Order.** Any modification made by a superior court judicial officer to an existing protective order ~~shall~~ must be included in a modified protective order. Each modification ~~shall~~ must be set forth in the modified protective order with sufficient detail to assure understanding and compliance by the parties and ease of enforcement by law enforcement officers. The superior court judicial officer ~~shall~~ must obtain an acceptance of service signed by the defendant if the parties are present at the time the modification is made. If the defendant refuses to sign the acceptance of service, the judicial officer ~~shall~~ must have the defendant served in open court in accordance with Rule ~~1(M)(4)~~ 31.<br>**(e)** ~~b.~~ **Active Legal Decision-Making Order.** When a family law action is not pending~~,~~ but there is an active ~~custody~~ legal decision-making order issued by an Arizona court that involves ~~the defendant or~~ a child of the defendant, a limited jurisdiction court may issue an *ex parte* protective order~~,~~ but then ~~shall~~ must transfer the matter to the superior court in accordance with the procedures set forth in Rule ~~4(A)(4)~~ 34. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 4(B).** When an action under Title 25 is pending, Family Law Judicial officers should refer to the options set forth in A.R.S. § 25-403.03(F), including supervised exchanges of parenting time, when a protective order is in effect. | | ~~**Rule 4(B).**~~ When an action under Title 25 is pending, family law judicial officers should refer to the options ~~set forth~~ in A.R.S. § 25-403.03(F), including supervised exchanges ~~of~~ for parenting time, when a protective order is in effect. |
| | | | **Part VIII. Contested Protective Order Hearings** |
| 5.A. | **A. Admissible Evidence**<br>1. All relevant evidence is admissible, except the court may exclude evidence if:<br>a. the probative value is outweighed by the danger of unfair prejudice;<br>b. the evidence results in confusion of the issues;<br>c. admitting the evidence may result in undue delay; | **36.** | ~~**A.**~~ **Admissible evidence**<br>~~**(a)**~~ **Relevant Evidence and Exclusions.** ~~All relevant~~ Relevant evidence is admissible, provided, however, that the court must exclude evidence if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, undue delay, wasting time, needlessly presenting cumulative evidence, |

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| | d. a needless presentation of cumulative evidence would result, or<br>e. the evidence lacks reliability.<br>2. Any report, document, or standardized form required to be submitted to the court may be considered as evidence if either filed with the court or admitted into evidence by the court. | | or lack of reliability. ~~except the court may exclude evidence if:~~<br>~~(1) the probative value is outweighed by the danger of unfair prejudice;~~<br>~~(2) the evidence results in confusion of the issues;~~<br>~~(3) admitting the evidence may result in undue delay;~~<br>~~(4) a needless presentation of cumulative evidence would result, or~~<br>~~(5) the evidence lacks reliability.~~<br>**(b) Reports, Documents, or Forms as Evidence.** Any report, document, or standardized form required to be submitted to ~~the~~ a court may be considered as evidence if either filed with the court or admitted into evidence by the court. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 5(A)(1).** This rule is intended to give the court broad discretion in determining whether proffered evidence shall be admissible in any individual protective order hearing.<br>**Rule 5(A)(2).** This rule allows the court to consider as evidence at any stage of the proceedings any report or document ordered or required by the court to be submitted to the court, such as drug testing results and reports from Offender Treatment Programs, custody evaluators, Conciliation Services, Family Law Masters, Parenting Coordinators, and other court-appointed experts. | | **Rule ~~5(A)(1)~~ 36(a).** This rule is intended to give the court broad discretion in determining whether proffered evidence ~~shall be~~ is admissible in any individual protective order hearing. The language of Rule 36(a) has been amended to adopt the standard used in Rule 2(B)(2) of the *Arizona Rules of Family Law Procedure*, except the "or failure to adequately and timely disclose same," given Rule 37 provides that disclosure requirements generally "do not apply to hearings on Orders of Protection, Injunctions Against Harassment and Injunctions Against Workplace Harassment." These changes are intended to adopt the same standard for admissible evidence in cases governed by the *Arizona Rules of Protective Order Procedure* that is used in cases governed by the *Arizona Rules of Family Law Procedure* when strict compliance with the *Arizona Rules of Evidence* is not demanded. To the extent those standards differed under the prior rules, this amendment is a change in the standard for admissible evidence in cases governed by the *Arizona Rules of Protective Order Procedure*.<br>**Rule ~~5(A)(2)~~ 36(b).** This rule allows the court to consider as evidence at any stage of |

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| | | | the proceedings any report or document ordered or required by the court to be submitted to the court, such as drug testing results and reports from offender treatment programs, custody evaluators, conciliation services, family law masters, parenting coordinators, and other court-appointed experts. |
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| 5.B. | **B. Disclosure.** The disclosure requirements set forth in Rule 26.1, *Arizona Rules of Civil Procedure*, and Rules 49 and 50, *Arizona Rules of Family Law Procedure*, do not apply to hearings on Orders of Protection, Injunctions Against Harassment and Injunctions Against Workplace Harassment, unless otherwise specifically ordered by the court. | **37.** | **~~B.~~ Disclosure~~.~~**<br>The disclosure requirements ~~set forth~~ in Rule 26.1, *Arizona Rules of Civil Procedure*~~,~~ and Rules 49 and 50, *Arizona Rules of Family Law Procedure*, do not apply to hearings on Orders of Protection, Injunctions Against Harassment, and Injunctions Against Workplace Harassment, unless otherwise specifically ordered by the court. |
| 8. | **A. Requesting a Hearing.** At any time while a protective order or modified protective order is in effect, a defendant may request one hearing in writing. *See* A.R.S. § 13-3602(I).<br>1. A judicial officer shall hold a hearing at the earliest possible time.<br>a. If an Order of Protection grants exclusive use of the home, a judicial officer shall hold a hearing within five court business days of the request.<br>b. For all other protective orders, a judicial officer shall hold a hearing within 10 court business days of the request unless the judicial officer finds good cause to continue the hearing for a longer period of time.<br>**B. Notice of Hearing.** The court shall notify the plaintiff of the hearing. There is no statutory requirement for personal service of notice of the hearing.<br>**C. Court Security Measures.** The court shall take reasonable measures to ensure that the parties and their witnesses at the hearing are not subject to harassment or intimidation in the courthouse or adjoining property. For each hearing, the judicial officer shall determine whether there is a need to have a law enforcement officer, a security officer, or | **38.** | **Contested hearing procedures**<br>**(a) Requesting a Hearing.** At any time while a protective order or a modified protective order is in effect, a defendant may request one hearing in writing. *See* A.R.S. § 13-3602(I).<br>**(b) Scheduling the Hearing.** A judicial officer ~~shall~~ must hold ~~a~~ the hearing at the earliest possible time.<br>(1) If an Order of Protection grants exclusive use of the home, a judicial officer ~~shall~~ must hold a hearing within five court business days of the request.<br>(2) For all other protective orders, a judicial officer ~~shall~~ must hold a hearing within 10 court business days of the request unless the judicial officer finds good cause to continue the hearing for a longer period of time.<br>**(c) ~~B.~~ Notice of Hearing.** The court ~~shall~~ must notify the plaintiff of the hearing. There is no statutory requirement for personal service of the hearing notice ~~of the hearing~~.<br>**(d) ~~C.~~ Court Security Measures.** The court ~~shall~~ must take reasonable measures to ensure that the parties and ~~their~~ any witnesses at the hearing are not subject to |

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| | a victim's advocate present to help ensure the hearing is orderly.<br>**D. Parties' Right to be Heard.** The judicial officer shall ensure that both parties have an opportunity to be heard, to present evidence and to call and examine and cross-examine witnesses.<br>**E. Oath or Affirmation.** The court shall administer an oath or affirmation to all parties and witnesses at all hearings.<br>**F. Standard of Proof.** The plaintiff shall prove the case by a preponderance of the evidence, in order for a protective order to remain in effect as originally issued or as modified after the hearing.<br>**G. Basis for Continuing, Modifying or Revoking Protective Orders.** At the conclusion of the hearing, the judicial officer shall state the basis for continuing, modifying or revoking the protective order.<br>**H. Service of Modified Protective Order.** The plaintiff or the court shall arrange for service of a modified protective order on the defendant. A judicial officer should assist this process by requesting the defendant sign an acceptance of service form in court. | | harassment or intimidation in the courthouse or on adjoining property. For each hearing, the judicial officer ~~shall~~ must determine whether there is a need to have a law enforcement officer or a security officer~~, or a victim's advocate~~ present to help ensure the hearing is orderly or to provide escort for either party. The court may direct the defendant to remain in the courtroom for a period of time after the plaintiff is excused.<br>**(e) ~~D.~~ Parties' Right to Be Heard.** The judicial officer ~~shall~~ must ensure that both parties have an opportunity to be heard, to present evidence, and to call and examine and cross-examine witnesses.<br>**(f) ~~E.~~ Oath or Affirmation.** The court ~~shall~~ must administer an oath or affirmation to all parties and witnesses at all hearings.<br>**(g) ~~F.~~ Standard of Proof.** For a protective order to remain in effect as originally issued or as modified ~~after~~ at a hearing, the plaintiff ~~shall~~ must prove the case by a preponderance of the evidence~~, in order~~.<br>**(h) ~~G.~~ Basis for Continuing, Modifying, or Revoking Protective Orders.** At the conclusion of the hearing, the judicial officer ~~shall~~ must state the basis for continuing, modifying, or revoking the protective order.<br>**(i) ~~H.~~ Service of Modified Protective Order.** The plaintiff or the court ~~shall~~ must arrange for service of a modified protective order on the defendant. A judicial officer should assist this process by ~~requesting~~ asking the defendant to sign an acceptance of service form in the ~~court~~ courtroom. |
| 2.C. | **Costs and Attorneys' Fees.** Costs of the action, including attorneys' fees, may be assessed against any party.<br>1. After a hearing with notice to the affected party, a judicial officer may order any party to pay the costs of the action, including reasonable attorneys' fees, if any. *See* A.R.S. §§ 13-3602(P), 12-1809(N) and 12-1810(N). | **39.** | **Costs and attorneys' fees~~.~~**<br>~~Costs of the action, including attorneys' fees, may be assessed against any party.~~<br>**(a) Award.** After a hearing with notice to the affected party, a judicial officer may order any party to pay the costs of the action, including reasonable attorneys' fees, if any. *See* A.R.S. §§ 13-3602(P), 12-1809(N), and 12-1810(N). |

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| | 2. In determining whether to award costs and/or attorneys' fees, considerations include:<br>a. The merits of the claim or defense asserted by the unsuccessful party,<br>b. Whether the award would pose an extreme hardship to the unsuccessful party, and<br>c. Whether the award may deter others from making valid claims. | | **(b) Considerations.** In determining whether to award costs ~~and/or~~ or attorneys' fees~~, considerations include~~ the judicial officer may consider:<br>(1) the merits of the claim or the defense asserted by the unsuccessful party;<br>(2) whether the award ~~would~~ will pose an extreme hardship ~~to~~ on the unsuccessful party~~,~~; and<br>(3) whether the award may deter others from making valid claims. |
| | | | **Part IX. Motions to Modify or Dismiss** |
| 7.B. | **B. Motion to Modify.** A plaintiff may request that a protective order be modified at any time during the term of the order.<br>1. At the time a Motion to Modify is filed or requested, court personnel shall verify the identity of the plaintiff.<br>2. The plaintiff shall personally appear before the judicial officer and explain why modification of the order is sought. The judicial officer shall make sufficient inquiry of the plaintiff to determine that the plaintiff is not making the request under duress or coercion. The judicial officer may interview the plaintiff separately only when the defendant has been served but has not requested a hearing.<br>3. A motion to modify made after a hearing cannot be granted without setting a hearing and giving notice to the defendant.<br>4. The service and registration requirements applicable to the original protective order also apply to a modified protective order. A modified protective order is effective upon service and expires one year after the date of service of the original protective order. *See* A.R.S. §§ 13-3602(L), 12-1809(J) and 12-1810(I).<br>5. If an Order of Protection or Injunction Against Harassment is modified and served, the sheriff in the county where the original Order of Protection or Injunction Against Harassment was registered shall be notified in writing within 24 hours after the court | **40.** | **~~B.~~ Motion to modify.**<br>**(a) Request for Modification.** A plaintiff may ~~request that~~ ask for modification of a protective order ~~be modified~~ at any time during the term of the order.<br>**(b) Verification of Identity.** ~~At the time a Motion to Modify~~ When a plaintiff files a motion to modify, ~~is filed or requested~~, court personnel ~~shall~~ must verify the plaintiff's identity ~~of the plaintiff~~.<br>**(c) Modification Prior to Contested Hearing Request.** If a contested hearing has not yet been requested or held, the judicial officer must personally interview the plaintiff and make sufficient inquiry of the plaintiff to determine that the plaintiff is not making the request under duress or coercion.<br>**(d) Modification After Contested Hearing or Request for Contested Hearing.** If a contested hearing has been requested or has occurred, the motion to modify must be set for hearing with notice to the defendant.<br><br>~~The plaintiff shall personally appear before the judicial officer and explain why modification of the order is sought. The judicial officer shall make sufficient inquiry of the plaintiff to determine that the plaintiff is not making the request under duress or coercion.~~ |

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| | receives the Certificate or Acceptance of Service. *See* A.R.S. §§ 13-3602(M), 12-1809(K) and 12-1810(J). Notice of modification of a protective order shall be sent to the sheriff in the county where the original protective order was registered. The modification order shall be in writing and sent electronically via facsimile or e-mail, not by telephone, to the sheriff. | | ~~The judicial officer may interview the plaintiff separately only when the defendant has been served but has not requested a hearing.~~<br><br>~~A motion to modify made after a contested hearing cannot be granted without setting a hearing and giving notice to the defendant.~~<br><br>**(e) Service and Registration of a Modified Order.** The service and registration requirements applicable to the original protective order also apply to a modified protective order. *See* Part IV. Service and Registration. ~~A modified protective order is effective upon service and expires one year after the date of service of the original protective order. *See* A.R.S. §§ 13-3602(L), 12-1809(J) and 12-1810(I).~~<br>~~**5.** If an Order of Protection or an Injunction Against Harassment is modified and served, the sheriff in the county where the original Order of Protection or Injunction Against Harassment was is registered shall must be notified in writing within 24 hours after the court receives the Certificate or Acceptance proof of service. *See* A.R.S. §§ 13-3602(M), 12-1809(K) and 12-1810(J). Notice of modification of a protective order shall be sent to the sheriff in the county where the original protective order was registered. The modification order shall must be in writing and sent electronically via facsimile or e-mail not by telephone to the sheriff.~~ |
| 7.A. | **A. Motion to Dismiss or Quash.** A plaintiff may request that a protective order be dismissed or quashed at any time during the term of the order.<br>1. At the time a Motion to Dismiss or Quash is filed or requested, court personnel shall verify the identity of the plaintiff.<br>2. The plaintiff shall personally appear before the judicial officer and explain why dismissal of the order is sought. The judicial officer shall make sufficient inquiry of the | **41.** | **~~A.~~ Motion to dismiss ~~or Quash.~~**<br>**(a) Request for Dismissal.** A plaintiff may request the dismissal of ~~that~~ a protective order ~~be dismissed or quashed~~ at any time during the term of the order.<br>**(b) Verification of Identity.** ~~At the time~~ When a plaintiff files a motion to dismiss ~~or Quash is filed or requested~~, court personnel ~~shall~~ must verify the plaintiff's identity ~~of the plaintiff~~. |

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| | plaintiff to determine that the plaintiff is not making the request under duress or coercion.<br>3. If the plaintiff and defendant appear jointly on a Motion to Dismiss or Quash, the judicial officer may interview the plaintiff separately only when the defendant has been served but has not requested a hearing. If the plaintiff requests that an order of the court be dismissed and the defendant is not present, the judicial officer may take action without notice to the defendant.<br>4. If an Order of Protection or Injunction Against Harassment is dismissed or quashed, the sheriff in the county where the original Order of Protection or Injunction Against Harassment was registered shall be notified in writing within 24 hours of the entry of the order. Notice of dismissal of a protective order shall be sent to the sheriff in the county where the original protective order was registered. The dismissal of the order shall be in writing and sent electronically via facsimile or e-mail, not by telephone, to the sheriff. | | **(c) Personal Interview.** The judicial officer must personally interview the plaintiff ~~shall personally appear before the judicial officer and explain why dismissal of the order is sought. The judicial officer shall~~ and make sufficient inquiry of the plaintiff to determine that the plaintiff is not making the request under duress or coercion.<br>**(d) Request with Defendant Present.** If the plaintiff and the defendant appear jointly on a motion to dismiss ~~or Quash~~, the judicial officer may interview the plaintiff separately only ~~when~~ if the defendant has been served but has not requested a hearing.<br>**(e) Request with Defendant Absent.** If the plaintiff requests dismissal of ~~that~~ an order ~~of the court be dismissed~~ and the defendant is not present, the judicial officer may ~~take action~~ act without notice to the defendant.<br><br>~~If an Order of Protection or Injunction Against Harassment is dismissed or quashed, the sheriff in the county where the original Order of Protection or Injunction Against Harassment was registered shall be notified in writing within 24 hours of the entry of the order. Notice of dismissal of a protective order shall be sent to the sheriff in the county where the original protective order was registered. The dismissal of the order shall be in writing and sent electronically via facsimile or e-mail, not by telephone, to the sheriff.~~ |
| | | **Part X. Appeals** | |
| 9. | **A. Appealable Orders.** The following orders are appealable:<br>1. An order denying a petition for an Order of Protection, Injunction Against Harassment, or an Injunction Against Workplace Harassment.<br>2. An Order of Protection, Injunction Against Harassment, or Injunction Against Workplace Harassment that is entered, affirmed, modified or quashed after a hearing at which both parties had an opportunity to appear. An *ex parte* protective order is not | **42.** | **Appeals**<br>**(a)** ~~**A.**~~ **Appealable Orders.** The following orders are appealable:<br>(1) An order denying a petition for an Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment.<br>(2) An Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment that is entered, affirmed, modified, or quashed after a hearing at |

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| | appealable unless affirmed or modified after a hearing.<br>**B. Court to Which Appeal Is to Be Made.** All appealable orders may be appealed as follows:<br>1. To the superior court from an order entered by a limited jurisdiction court.<br>2. To the court of appeals from an order entered by the superior court. | | which both parties had an opportunity to appear.<br>(3) An *ex parte* protective order is not appealable ~~unless affirmed or modified after a hearing~~ ; rather, a defendant may contest it by requesting a hearing as set forth in Part VIII.<br>**(b) ~~B.~~ Court to Which Appeal ~~Is to~~ Must Be Made.** ~~All appealable~~ Orders ~~may be~~ are appealed as follows:<br>(1) ~~To the superior court from~~ An order entered by a limited jurisdiction court is appealed to the superior court.<br>(2) ~~To the court of appeals from~~ An order entered by ~~the~~ a superior court is appealed to the court of appeals. |
| | **COMMITTEE COMMENTS** | | **COMMENT** |
| | **Rule 9(B)(1).** A protective order entered by a limited jurisdiction court after a hearing at which both parties had an opportunity to appear may be appealed to the superior court. *See* A.R.S. §§ 13-3602(O), 12-1809(N) and 12-1810(N). The procedures to be followed are set forth in A.R.S. § 22-261 for justice courts, are made applicable to municipal courts by A.R.S. § 22-425, and are governed by the Superior Court Rules on Appellate Procedure-Civil. | | ~~**Rule 9(B)(1).**~~ A protective order entered by a limited jurisdiction court after a hearing at which both parties had an opportunity to appear may be appealed to the superior court. *See* A.R.S. §§ 13-3602(O), 12-1809(N), and 12-1810(N). The procedures to be followed are set forth in A.R.S. § 22-261 for justice courts, are made applicable to municipal courts by A.R.S. § 22-425, and are governed by the *Superior Court Rules on Appellate Procedure-Civil*. |

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## Part I. General Administration

### 1. Scope

These rules govern procedure~~s~~ in Arizona courts for any case brought under Arizona Revised Statutes ("A.R.S.") § 13-3602, Order of Protection; A.R.S. § 13-3624, Emergency Order of Protection; A.R.S. § 12-1809, Injunction Against Harassment; or A.R.S. § 12-1810, Injunction Against Workplace Harassment.

**COMMENT**

These rules contain statutory references that may change from time to time, but the committee determined it would be helpful to include the specific statutory references upon which the rules are based. Whenever the word "See" precedes a statutory reference in these rules, this means the cited statute directly supports the preceding text of the rule.

### 2. Applicability of other rules

To the extent not inconsistent with these rules, the *Arizona Rules of Family Law Procedure* apply to protective order matters heard in conjunction with pending family law cases. In all other cases, the *Arizona Rules of Civil Procedure* apply when not inconsistent with these rules.

### 3. Definitions

**(a) "Domestic violence"** means any act specified in A.R.S. § 13-3601(A) combined with any relationship listed in A.R.S. § 13-3601(A).

**(b) "*Ex parte*"** means a court procedure carried out for the benefit of one party, without notice to or the presence of the other party.

**(c) "Harassment,"** when applicable to an Injunction Against Harassment, means a series of acts over any period of time that are directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, or harassed, and the conduct in fact seriously alarms, annoys, or harasses the person and serves no legitimate purpose. *See* A.R.S. § 12-1809(R).

**(d) "Harassment,"** when applicable to an Injunction Against Workplace Harassment, means a single threat or act of physical harm or damage or a series of acts over any period of time that would cause a reasonable person to be seriously alarmed or annoyed. *See* A.R.S. § 12-1810(R)(2).

**(e) "Harassment,"** when applicable to an Order of Protection or an Emergency Order of Protection, means conduct that is directed at a specific person and that would cause a reasonable person to be seriously alarmed, annoyed, or harassed and the conduct in fact seriously alarms, annoys, or harasses the person. *See* A.R.S. §§ 13-2921, 13-3601(A), and 13-3624(B).

**(f) "Legal decision-making"** means the legal right and responsibility of a parent to make major decisions for a child. Legal decision-making may be either joint with both parents or sole with one parent. *See* A.R.S. § 25-401(3).

**(g) "Protective order,"** as used in these rules, means an Order of Protection, an Emergency Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment.

## Part II. Types of Protective Orders

### 4. Protective orders governed by these rules

**(a) Order of Protection.** An Order of Protection, governed by A.R.S. § 13-3602, may be granted to prevent a person from engaging in acts of domestic violence. It is limited to parties with relationships specified in A.R.S. § 13-3601(A), the domestic violence statute.

**(b) Emergency Order of Protection.** An Emergency Order of Protection, governed

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by A.R.S. § 13-3624, may be requested by a peace officer on an emergency or *ex parte* basis when a person's life or health is in imminent danger. It is limited to parties with relationships specified in A.R.S. § 13-3601(A), the domestic violence statute.

**(c) Injunction Against Harassment.** An Injunction Against Harassment, governed by A.R.S. § 12-1809, may be granted to prevent a person from committing acts of harassment against another. There is no relationship requirement.

**(d) Injunction Against Workplace Harassment.** An Injunction Against Workplace Harassment, governed by A.R.S. § 12-1810, authorizes an employer to seek a court order preventing a person from being on the employer's premises and from committing acts of harassment against the employer, the workplace, employees, or any other person who is on the employer's property or at the place of business or who is performing official work duties.

## Part III. Parties

### 5. Parties

**(a) Plaintiff and other appropriate requesting persons**

(1) *Plaintiff*. The plaintiff is the person or another appropriate requesting person who files the petition for a protective order.

(2) *Plaintiff for an Injunction Against Workplace Harassment*. The plaintiff may be an employer or an authorized agent of the employer.

(3) *Victim*. As used in these rules, the terms "victim" and "plaintiff" are interchangeable.

(4) *Other Appropriate Requesting Persons*.

(A) Parent, Legal Guardian, or Legal Custodian of a Minor. If the person in need of protection is a minor, then the parent, legal guardian, or person who has statutorily defined legal custody of the minor must file the petition unless the court determines otherwise. The petition must name the parent, guardian, or custodian as the plaintiff and the minor as a specifically designated person.

(B) Third Party. If the person in need of protection is either temporarily or permanently unable to request an order, a third party may request a protective order on the person's behalf. After the request, the judicial officer must determine whether the third party is an appropriate requesting party. *See* A.R.S. §§ 13-3602(A) and 12-1809(A).

**(b) Protected person**. A protected person is any other specifically designated person who the court has determined should be protected by the order.

(1) *Child as a Protected Person.* A judicial officer cannot include a defendant's child in a protective order unless there is reasonable cause to believe:

(A) physical harm may result or has resulted to the child, or

(B) the alleged acts of domestic violence involved the child.

(2) *Child and Defendant with No Legal Relationship.* If the defendant and the child have no legal relationship, the judicial officer, upon request, may prohibit the defendant's contact with the child based on danger to the plaintiff.

**(c) Defendant**.

(1) *Defendant.* The defendant is the person against whom the plaintiff or another

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appropriate person is seeking protection.

(2) *Minor as a Defendant.* Only the juvenile division of the superior court may issue a protective order against a person under 12 years of age. *See* A.R.S. §§ 13-3602(B)(2) and 12-1809(B)(2).

**COMMENTS**

**Rule 5(a)(3).** Crime Victims' Rights arise upon the arrest or formal charging of a person who is alleged to be responsible for a criminal offense against a victim. *See* A.R.S. § 13-4402(A).

**Rule 5(b)(1).** A protective order must never be used as a way to modify, amend, affect, or diminish a parent's rights to legal decision-making or parenting time as previously granted in a legal decision-making decree or a parenting time order from a court of competent jurisdiction, unless the judicial officer makes either of the findings listed in subparts (A) and (B) of this paragraph. Under the Violence Against Women Reauthorization Act of 2013, foreign protective orders that include child custody or child support qualify for enforcement through the full faith and credit provision. *See* 18 U.S.C. § 2265 and 42 U.S.C. § 13925(24)(B).

## Part IV. Access to Courts

### 6. Court availability for protective orders

**(a) Court Hours.** All municipal, justice, and superior courts must be available during normal operating hours to issue and enforce protective orders. For an Emergency Order~~s~~ of Protection after normal operating hours, see Rule 23.

**(b) Where to File a Petition.** A plaintiff may file a petition for a protective order with any municipal, justice, or superior court judicial officer, regardless of the parties' residence. All limited and general jurisdiction courts must accept a person's request to file a petition for a protective order even if that particular court does not normally issue protective orders.

**(c) Designated Court.** Courts located within a one-mile proximity may agree to designate a court for issuance of protective orders. If courts enter into such an agreement, the referring court must provide written or verbal information and directions regarding the designated court and, prior to referral, must ensure that the designated court is open to issue an order that day. If the designated court is not available to issue orders, the referring court must conduct the individual hearing with the plaintiff.

**(d) Courts with Part-time Judicial Officers.** A court having only a part-time judicial officer must provide coverage for the court, or court staff must direct a person requesting a protective order to the appropriate court location, after ensuring a judicial officer is available.

### 7. Public access to case information

For as long as a plaintiff has the ability by law to have a protective order served or unless otherwise ordered by the court, the court must not make publicly available any information regarding the filing for, contents of a petition for, or issuance of a protective order until proof of service of the protective order has been filed with the court. The court may share information about the protective order with the plaintiff, prosecutors, or law enforcement.

### 8. Court security

**(a) Generally.** At all stages of proceedings involving protective orders, the court must:

(1) maintain appropriate security for the parties and court personnel;

(2) ensure that the parties are treated with fairness, respect, and dignity and are free

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from intimidation, harassment, or abuse during the court process; and

(3) provide appropriate safeguards to minimize contact among the parties, their families, and witnesses.

**(b) Request for Security.** The plaintiff may request the presence of a law enforcement or security officer, if available, in the courtroom during a hearing or for escort to or from the courtroom.

**9. Telephonic or video conference proceedings**

**(a) Grant of Permission.** At the request of a party or a witness or on its own motion, the court may allow a party or a witness to testify at any evidentiary hearing or trial by telephone or video conference upon finding that:

(1) no substantial prejudice will be caused to either party by allowing telephonic or video conference testimony; and

(2) as to a party, the party is reasonably prevented from attending the hearing or trial;

(3) as to a witness, the witness is either reasonably prevented from attending or would be unduly inconvenienced by attending the hearing or trial; or

(4) as to a party or a witness, attendance in person at the hearing or trial would be a burdensome expense.

**(b) Documents.** Any document~~s~~ a party wishes to introduce into evidence through a party or a witness appearing telephonically or by video conference must, where practicable, be provided in advance to the party or the witness.

**10. No limit on number of protective orders**

**(a) No Limit on Requests.** The number of times a plaintiff may request a protective order is not limited.

**(b) No Limit on Orders Granted.** The number of protective orders that courts may grant to the same plaintiff is not limited by statute.

**(c) New Order Pending Expiration of Current Order.** A plaintiff may a petition for another protective order if the plaintiff believes protection is still needed pending expiration of the current protective order.

**11. Immigration status**

A protective order cannot be denied on the basis of immigration status. *See* 42 § U.S.C. 1981(a).

**COMMENT**

Immigrants and their children are entitled to the full protection of the law, including protective orders, regardless of status. Denial of a protective order based on national origin would be discriminatory and is prohibited by law. *See* 42 U.S.C. § 1981(a).

**12. Party addresses**

**(a) Change of Address.** Each party must report any change of address or telephone number to the court to permit notification of any scheduled hearing. If the plaintiff's address and telephone number are protected, any changes must also be protected.

**(b) Continuing Duty to Provide Current Address.** Any person whose address is protected from disclosure has a continuing duty to provide the clerk of the court with a current and correct mailing address where the person can be served or notified.

**13. Forms**

**(a) Mandated Forms.** All courts and parties must use only those protective order forms adopted by the Arizona Supreme Court. Individual court identification information,

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including the name, address, and two assigned court identification numbers, must appear at the top of each form if indicated.

(1) Courts may make margin changes and print only those provisions that apply to the issued order. The first page of every protective order must contain the information in the same format and location as the mandated form.

(2) Any other proposed alterations to or deviations from the approved forms, including text changes, must be submitted to the executive director of the Administrative Office of the Courts for approval prior to use. The executive director is authorized by Arizona Code of Judicial Administration (ACJA) § 5-207 to approve or modify the forms in response to changes in state or federal laws or procedures and make necessary administrative amendments or corrections.

**(b) No Charge for Forms.** Courts must provide, without charge, all protective order forms, which are mandated for use in all Arizona courts by Arizona Code of Judicial Administration (ACJA) § 5-207.

**(c) Plaintiff's Guide Sheet.** The court must ensure that every plaintiff is given a copy of the *Plaintiff's Guide Sheet,* together with a petition form.

**(d) Defendant's Guide Sheet.** When issuing a protective order, the court must ensure that a copy of the *Defendant's Guide Sheet* is included with copies of the petition and the protective order for service on the defendant.

**14. Filing and service fees**

**(a) Notice to Parties.** The court must provide notice to the parties of the following filing and service fees. *See* A.R.S. §§ 12-284, 12-1810, 12-2107, 22-281, and 22-404.

**(b) Filing Fees.**

(1) A court cannot charge a filing fee for:

(A) a petition for an Order of Protection or an Injunction Against Harassment;

(B) a request to modify an Order of Protection or an Injunction Against Harassment;

(C) a request for a hearing for an Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment; or

(D) a motion to dismiss an Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment.

(2) A court may charge a filing fee for a petition for an Injunction Against Workplace Harassment pursuant to A.R.S. §§ 12-1810 and 12-284(A).

(3) A court cannot charge a filing fee for a notice of appeal or an answer for an Order of Protection or an Injunction Against Harassment, but a party can be charged the cost of preparing the record.

(4) A court may charge a fee for a notice of appeal of an Injunction Against Workplace Harassment pursuant to A.R.S. § 12-284(A).

**(c) Service Fees.**

(1) A service fee cannot be charged for:

(A) an Order of Protection that is served by any court-contracted or law enforcement agency. *See* A.R.S. § 13-3602(D).

(B) an Injunction Against Harassment—between parties in a dating relationship—that is served by any court-contracted or law enforcement agency. *See* A.R.S. § 12-

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1809(D).

(2) For an Injunction Against Harassment—between parties not in a dating relationship—or an Injunction Against Workplace Harassment, the fee is determined by the serving agency. *See* A.R.S. §§ 12-1809(D) and 12-284(A).

**(d) Fee Deferrals and Waivers.**

(1) A judicial officer may defer or waive any of the fees listed above. *See* A.R.S. § 12-302. A judicial officer cannot require the plaintiff to perform community service as a condition to the waiver or deferral of these fees. Any filing or service fees not waived-may be assessed against the plaintiff.

(2) A law enforcement agency or a constable cannot require advance payment of fees for service of process of an Injunction Against Harassment not involving a dating relationship. *See* A.R.S. § 12-1809(D). Court personnel cannot collect advance payment on behalf of the serving agency.

**COMMENT**

For standards for fee deferrals and waivers, see ACJA § 5-206.

**15. Resource information**

Courts must make reasonable efforts to direct both parties to information on the Judicial Branch website regarding emergency and support services, approved domestic violence offender treatment programs, safety plans, and other resources. *See* A.R.S. § 13-3602(D)**.**

## Part V. Issuance of Protective Orders

**16. Commencement of proceedings**

A plaintiff must begin an action for a protective order by filing a verified petition with the clerk of the court.

**17. Priority for protective orders**

A judicial officer must expeditiously schedule an *ex parte* hearing for a protective order involving a threat to personal safety even if previously scheduled matters are interrupted.

**18. Record of hearings**

A judicial officer must cause all contested protective order hearings and, where practicable, all *ex parte* hearings to be recorded electronically or by a court reporter. An appeal from a contested hearing that was not electronically recorded or otherwise reported results automatically in a new hearing in the original trial court.

**19. Prior dismissed orders not considered**

A judicial officer must not consider the number of times a protective order has been dismissed as a basis for denying a request for protective relief. Each time a plaintiff petitions for protective relief, the judicial officer must make an independent determination whether there is reasonable cause to issue a protective order under the applicable statute. *See* A.R.S. §§ 13-3602(E), 12-1809(E) and 12-1810.

**20. Confidentiality of plaintiff's address**

**(a) Protected Address.** At an *ex parte* hearing, a judicial officer must ask whether the plaintiff's address should be protected from disclosure. The plaintiff's address must be protected if it is unknown to the defendant. If the plaintiff’s address is protected, the judicial officer must verify that it does not appear on the petition and the protective order and must avoid stating the address on the record *See* A.R.S. § 13-3602(C)(1).

**(b) Domestic Violence Shelter Address.** A plaintiff who is staying in a domestic violence shelter cannot be asked to disclose the location of

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the shelter. But subject to Rule 12(b), the plaintiff must provide an alternate address to allow for court contact. *See* A.R.S. § 36-3009.

**(c) Address Confidentiality Program.** A participant in the Address Confidentiality Program may ask the court to use the participant's substitute address as the participant's residential, work, or school address in court records pertaining to a protective order. *See* A.R.S. §§ 41-161 to 169.

**21. Other existing orders**

**(a) Duty to Inquire About Other Existing Protective Orders.** Before issuing a protective order, a judicial officer must examine all available records and question the plaintiff to determine whether any other protective order affecting the parties has been issued or served.

**(b) Pre-Issuance Hearing.** Upon finding that the parties have an existing protective order between them, the judicial officer may schedule a pre-issuance hearing with notice to both parties, unless the judicial officer determines, after reviewing all available records and questioning the plaintiff, that failure to issue the *ex parte* protective order is likely to result in imminent danger to the plaintiff or a protected person.

**(c) Orders Affecting Family Law Matters.** If a protective order conflicts with an existing legal decision-making order, the protective order controls until further order of a court.

**22. Mutual protective orders prohibited**

A judicial officer cannot:

(1) grant a mutual protective order, which means a single order that restrains the conduct of both the plaintiff and the defendant;

(2) issue a protective order that restricts the plaintiff's conduct based on the plaintiff's own petition, or

(3) issue two protective orders within the same case number.

**COMMENT**

States that issue mutual protective orders may be at risk of losing federal funding. *See* 18 U.S.C. § 2265.

**23. Order of Protection.**

**(a) Individual Hearing.** A judicial officer must conduct an individual hearing with each plaintiff who requests an Order of Protection.

**(b) Contents of Petition.** In the petition, the plaintiff must:

(1) allege each specific act of domestic violence that will be relied on at hearing, and

(2) name each person the plaintiff believes should be protected by the order.

**(c) Petition Verification.** A plaintiff must sign and swear or affirm to the truth of the petition before a judicial officer or another person authorized to administer an oath. If the plaintiff signs the petition outside the presence of the judicial officer or another authorized person, the judicial officer should ask the plaintiff, on the record, to affirm the truth of the allegations and the authenticity of the signature in the petition.

**(d) Petition Review.** A judicial officer must review the petition, any other pleadings on file, and any other evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication. *See* A.R.S. § 13-3602(E).

**(e) Reasonable Cause Determination.**

(1) To grant an ex parte Order of Protection, a judicial officer must find reasonable cause to believe that the defendant may commit an act of domestic violence or

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has committed an act of domestic violence within the past year or within a longer period if the court finds good cause exists to consider a longer period. Periods when a defendant was absent from the state or incarcerated are excluded from the one-year calculation. A.R.S. § 13-3602(C)(3), (E)(2) and (F).

(2) A separate reasonable cause determination must be made as to the plaintiff individually and as to any other person listed in the petition, including any child with whom the defendant has a legal relationship. A separate reasonable cause determination is not required for a plaintiff's child with whom the defendant has no legal relationship.

**(f) Relationship Test.**

(1) A judicial officer must find that a specific relationship exists, either by statute, blood, or marriage, between the plaintiff and the defendant. *See* A.R.S. § 13-3601(A).

(2) Statutory relationships include:

(A) persons who are residing or who have resided in the same household;

(B) a victim and a defendant who have a child in common;

(C) a victim or a defendant who is pregnant by the other party;

(D) the victim is a child who resides or has resided in the same household as the defendant, and

(i) is related by blood to a former spouse of the defendant, or

(ii) is related by blood to a person who resides, or who has resided in the same household as the defendant, or

(E) a victim and a defendant who currently share or previously shared a romantic or sexual relationship. In determining whether the relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship, the court may consider the following factors:

(i) the type of relationship;

(ii) the length of the relationship;

(iii) the frequency of the interaction between the victim and the defendant; and

(iv) if the relationship has terminated, the length of time since the termination.

(3) Blood relationships include a victim related to the defendant or the defendant's spouse by blood or court order as a parent, grandparent, child, grandchild, brother or sister.

(4) Marriage relationships include:

(A) a victim and a defendant who are either married or who have been previously married; and

(B) a victim who is related to the defendant or the defendant's spouse by marriage as a parent-in-law, grandparent-in-law, stepparent, step-grandparent, stepchild, step-grandchild, brother-in-law, or sister-in-law. *See* A.R.S. § 13-3601(A).

(5) The relationship test is also met when a plaintiff acts on behalf of a victim if any of the following apply:

(A) the plaintiff is the parent, legal guardian, or person who has legal custody of a minor or an incapacitated person who is a victim, unless the court determines otherwise; or

(B) the victim is either temporarily or permanently unable to request an order. *See* A.R.S. § 13-3602(A).

**(g) Additional Review for Limited**

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**Jurisdiction Courts.** A court must ask the plaintiff whether a family law action is pending in the superior court and determine whether the court has jurisdiction pursuant to Rule 34.

**(h) Relief.** When issuing an Order of Protection, *ex parte* or after a hearing, a judicial officer may:

(1) prohibit the defendant from having any contact with the plaintiff or other protected persons, with any exceptions specified in the order. *See* A.R.S. § 13-3602(G)(3).

(2) exclusive use of the parties' residence if there is reasonable cause to believe that physical harm otherwise may result. *See* A.R.S. § 13-3602(G)(2). A plaintiff who is not the owner of the residence may be granted exclusive use for a limited time. The defendant may be permitted to return one time, accompanied by law enforcement, to pick up personal belongings. At a contested hearing, a judicial officer may consider ownership of the parties' residence as a factor in continuing the order of exclusive use.

(3) order the defendant not to go on or near the residence, place of employment or school of the plaintiff or other protected persons. Other specifically designated locations may be included in the order. If the defendant does not know the address of these additional places, a judicial officer may, at the plaintiff's request, protect the additional addresses. *See* A.R.S. § 13-3602(G)(3).

(4) grant the plaintiff the exclusive care, custody, or control of any animal that is owned, possessed, leased, kept, or held by the plaintiff, the defendant, or a minor child residing in the residence or household of the plaintiff or the defendant and order the defendant to stay away from the animal and forbid the defendant from taking, transferring, encumbering, concealing, committing an act of cruelty or neglect in violation of A.R.S. § 13-2910, or otherwise disposing of the animal.

(5) grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and proper under the circumstances.

**(i) Firearms**

(1) When issuing an Order of Protection, *ex parte* or after a hearing, the judicial officer must ask the plaintiff about the defendant's use of or access to firearms to determine whether the defendant poses a credible threat to the physical safety of the plaintiff or other protected persons.

(2) Upon finding that the defendant is a credible threat to the physical safety of the plaintiff or other protected persons, the judicial officer may, for the duration of the Order of Protection:

(A) prohibit the defendant from possessing, purchasing, or receiving firearms; and

(B) order the defendant, immediately after service of the Order of Protection, to transfer any firearm owned or possessed~~,~~ to the appropriate law enforcement agency. *See* A.R.S. § 13-3602(G)(4).

(3) A plaintiff reporting violation~~s~~ of the order to transfer firearms must be referred to the appropriate law enforcement agency.

**(j) Effectiveness.** An Order of Protection takes effect when it is served. *See* A.R.S. § 13-3602(D).

**(k) Denial of Request or Setting of Pre-Issuance Hearing.** If after the *ex parte* hearing the judicial officer has insufficient information on which to issue an order, the judicial officer

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may either deny the request or set a hearing within 10 days and provide reasonable notice to the defendant. The judicial officer must document denial of any request. *See* A.R.S. § 13-3602(F).

**COMMENTS**

**Rule 23(e).** Significant or repetitive acts of domestic violence by the defendant that posed a grave danger to the plaintiff or protected persons may present good cause to consider time periods beyond the one year.

**Rule 23(g)(2)-(3).** If the residence is included in the no-contact provision of an Order of Protection, an apartment number must not be listed. By listing the address and location without the apartment number, the defendant is prohibited from being on the premises, including the parking lot.

**Rule 23(h).** The appropriate law enforcement agency referenced in subpart (2)(B) is generally the police department or the sheriff's office with jurisdiction over the location of the defendant or the firearm.

**24. Order of Protection**

**(a) Authority to Issue an Emergency Order of Protection.**

(1) In a county having a population of 150,000 or more, the presiding judge of the superior court in that county must make available on a rotating basis a judge, a justice of the peace, a magistrate, or a commissioner to issue an Emergency Order of Protection by telephone during hours that the courts are closed. *See* A.R.S. § 13-3624(A).

(2) In a county having a population of less than 150,000, a judge, a justice of the peace, a magistrate, or a commissioner may issue an Emergency Order of Protection by telephone. *See* A.R.S. § 13-3624(B).

**(b) Issuance.** A judicial officer may issue an order in writing or orally:

(1) if a law enforcement officer has reasonable grounds to believe that a person is in immediate and present danger of domestic violence based on an allegation of a recent incident of actual domestic violence, or

(2) at the plaintiff's request upon finding that the plaintiff's life or health is in imminent danger. *See* A.R.S. §§ 13-3624(C) and (F).

(3) The availability of an Emergency Order of Protection is not affected by either party leaving the residence. *See* A.R.S. § 13-3624(G).

**(c) Relief**. When issuing an Emergency Order of Protection, a judicial officer may:

(1) enjoin the defendant from committing an act of domestic violence;

(2) grant one party exclusive use and possession of the parties' residence if there is reasonable cause to believe physical harm may otherwise result;

(3) restrain the defendant from contacting the plaintiff or other specifically designated persons and coming near the residence, place of employment, or school of the plaintiff or other designated persons, if there is reasonable cause to believe physical harm may otherwise result; or

(4) prohibit the defendant from possessing or purchasing a firearm for the duration of the order, upon a finding that the defendant may inflict bodily injury or death on the plaintiff. *See* A.R.S. § 13-3624(D).

**(d) Service.**

(1) A law enforcement officer who receives verbal authorization for an

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Emergency Order of Protection is required to:

(A) complete and sign the emergency order as instructed by the judicial officer;

(B) give a copy of the Emergency Order of Protection to the plaintiff or an appropriate third party;

(C) arrange for service upon the defendant; and

(D) file a certificate of service with the court and verbally notify the sheriff's office that a judicial officer has issued an Emergency Order of Protection. *See* A.R.S. § 13-3624(F).

**(f) Duration.** An emergency order expires at the close of the next judicial business day following the day of issuance, unless the court extends it. *See* A.R.S. § 13-3624(E). The plaintiff may file a petition for an Order of Protection on the next judicial business day.

**COMMENT**

Regardless of the authorizing judicial officer's jurisdiction, the judicial officer may issue an Emergency Order of Protection using the superior court name and case number. Statute requires the law enforcement agency to file the Emergency Order of Protection and proof of service in superior court.

**25. Injunction Against Harassment**

**(a) Individual Hearing.** The judicial officer must conduct an individual hearing with each plaintiff who requests an Injunction Against Harassment.

**(b) Contents of Petition.** The petition must allege a series of specific acts of harassment and the dates of occurrence. A series of acts means at least two events. *See* A.R.S. § 12-1809(C).

**(c) Petition Verification.** A plaintiff must sign and swear or affirm to the truth of the petition before a judicial officer or other person authorized to administer an oath. If the plaintiff signs the petition outside the presence of the judicial officer or another authorized person, the judicial officer should ask the plaintiff, on the record, to affirm the truth of the allegations and the authenticity of the signature in the petition.

**(d) Petition Review.** A judicial officer must review the petition, any other pleadings on file, and any evidence offered by the plaintiff, including any evidence of harassment by electronic contact or communication.

**(e) Findings Required.**

(1) The judicial officer must issue an Injunction Against Harassment upon finding:

(A) reasonable evidence that the defendant has committed a series of acts of harassment against the plaintiff during the year preceding the filing; or

(B) that good cause exists to believe that great or irreparable harm would result to the plaintiff if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition and specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given. *See* A.R.S. § 12-1809(E).

**(f) Relief**. When issuing an Injunction Against Harassment, *ex parte* or after a hearing, a judicial officer may:

(a) prohibit all contact with the plaintiff or other protected persons, except as otherwise specifically ordered in writing by the court. *See* A.R.S. § 12-1809(F)(2).

(b) prohibit the defendant from going near the residence, place of employment, or school of the plaintiff or other protected

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persons. The judicial officer may include other specifically designated locations in the Injunction Against Harassment. *See* A.R.S. § 12-1809(F)(2).

(c) grant relief that is necessary for the protection of the plaintiff and other specifically designated persons and that is proper under the circumstances. *See* A.R.S. § 12-1809(F)(3).

**(g) Firearms.** The judicial officer must ask the plaintiff about the defendant's use of or access to firearms. If necessary to protect the plaintiff or any other specifically designated person, the judicial officer may prohibit the defendant from possessing, purchasing, or receiving firearms for the duration of the order.

**(h) Denial of Request or Setting of Pre-Issuance Hearing.** If after the *ex parte* hearing the judicial officer has insufficient information on which to issue an order, the judicial officer may either deny the request or set a hearing within 10 days and provide reasonable notice to the defendant. The judicial officer must document denial of any request. *See* A.R.S. § 12-1809(E).

**COMMENT**

There is no statutory provision regarding an Injunction Against Harassment that would prohibit issuance by a limited jurisdiction court when a family law action is pending in superior court.

## 26. Injunction Against Workplace Harassment

**(a) Individual Hearing.** A judicial officer must hold an individual hearing with each plaintiff—an employer or an authorized agent of the employer—who requests an Injunction Against Workplace Harassment.

**(b) Contents of Petition.** The petition must allege at least one act of harassment and the dates of occurrence. *See* A.R.S. § 12-1810(C)(3).

**(c) Petition Verification.** The plaintiff must sign and swear or affirm to the truth of the petition before a judicial officer or another person authorized to administer an oath. If the plaintiff signs the petition outside the presence of the judicial officer or another authorized person, the judicial officer should ask the plaintiff, on the record, to affirm the truth of the allegations and the authenticity of the signature in the petition.

**(d) Petition Review.** A judicial officer must review the petition, any other pleadings on file, and any evidence offered by the plaintiff. *See* A.R.S. § 12-1810(E).

**(e) Findings Required.**

(1) The judicial officer must issue an Injunction Against Workplace Harassment upon finding:

(A) reasonable evidence of workplace harassment by the defendant during the year preceding the filing; or

(B) that good cause to believe that great or irreparable harm would result to the plaintiff or another person who enters the plaintiff's property or who is performing official work duties, if the injunction is not granted before the defendant or the defendant's attorney can be heard in opposition and specific facts attesting to the plaintiff's efforts to give notice to the defendant or reasons supporting the plaintiff's claim that notice should not be given.

**(f) Relief**. When issuing an Injunction Against Workplace Harassment, *ex parte* or after a hearing, a judicial officer may:

(1) prohibit all contact with the plaintiff or other protected persons, except as

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otherwise specifically ordered in writing by the court. *See* A.R.S. § 12-1809(F)(2).

(2) grant relief that is necessary for the protection of the plaintiff, employees, or other persons who enter the employer's property and that is proper under the circumstances.

**(g) Denial of Petition or Setting of Pre-Issuance Hearing.** If after the *ex parte* hearing the judicial officer has insufficient information on which to issue an order, the judicial officer may either deny the request or set a hearing within 10 days and provide reasonable notice to the defendant. The judicial officer must document denial of any request.

**COMMENT**

There is no statutory provision regarding an Injunction Against Workplace Harassment that would prohibit issuance by a limited jurisdiction court when a family law action is pending in superior court.

**27. Cross petitions**

**(a) Separate Orders.** Where each party has separately petitioned a court for a protective order, a judicial officer may grant separate protective orders upon finding that each petitioning party is entitled to protection and has requested appropriate relief. The judicial officer should make reasonable effort to ensure that no conflicting relief is granted.

**(b) Hearing on Separate Petitions.** If opposing parties file separate petitions for protective orders, the judicial officer may:

(1) hear each petition at separate *ex parte* hearings, or

(2) set a joint hearing on both cases.

(c) **Case Numbers.** The cross petition may be assigned a new case number or a case number associated with a pending family law case in superior court. But if a court assigns the same number to a family law and a protective order case, the court cannot allow remote electronic access to any case information regarding the registration, filing of a petition for, or issuance of the protective order, if such publication would be likely to reveal to the general public the identity or location of the party protected by the order. *See* Rule 123(g)(1)(E)(ii) and (iii), *Rules of the Supreme Court*. *See also* 18 U.S.C. § 2265(d)(3).

**28. Conflicting orders**

**(a) Effectiveness of Conflicting Orders.** When two parties have obtained conflicting protective orders, both orders must be given full force and effect, regardless of whether the orders were issued by courts of limited or general jurisdiction.

**(b) Hearing on Conflicting Orders.** If two judicial officers have issued protective orders that involve the same parties and grant conflicting relief, the orders must be set for hearing within five court business days after discovery of the conflict. The judicial officers who issued the conflicting orders must consult with each other and assign the cases to one jurisdiction to resolve the parts that conflict. Between two limited jurisdiction orders, it is presumed that the court where the first petition was filed will conduct the hearings to resolve the conflicting orders. In all other cases, the conflicting orders must be heard in superior court. *See* A.R.S. § 13-3602(H).

**29. Alternative dispute resolution**

**(a) Prohibition on Mediation of an Order of Protection.** Parties to an Order of Protection cannot be referred to alternative dispute

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resolution regarding the Order of Protection. *But see* Rule 67(B)(3), *Arizona Rules of Family Law Procedure*, regarding mediation of parenting time or legal decision-making when an Order of Protection is in effect.

**(b) Mediation of a Harassment Injunction.** If the court determines that an alternative dispute resolution (ADR) process is appropriate for a harassment injunction case, the court may refer the case to ADR.

**(c) Notification Regarding Nonparticipation in ADR.** Before beginning ADR, every party must be notified in writing or orally in open court of the ability to decline to participate in ADR. Neither party can be required to appear for ADR pending determination of this matter.

**COMMENT**

Matters other than family or domestic violence may be appropriate for alternative dispute resolution. These controversies should be considered separately from domestic and family violence issues.

Domestic violence matters may impact alternative dispute resolution, and it is important for domestic violence victims to have an opt-out prerogative. The Mediation and Domestic Violence Policy adopted by the American Bar Association House of Delegates in July 2000, states: "RESOLVED, That the American Bar Association recommends that court-mandated mediation include an opt-out prerogative in any action in which one party has perpetrated domestic violence upon the other party."

**30. Offender treatment programs**

**(a) When Offender Treatment May Be Ordered.** After a hearing of which the defendant had notice and in which the defendant had an opportunity to participate, a judicial officer may order a defendant to complete a domestic violence offender treatment program that is approved by the department of health services or a probation department or any other program deemed appropriate by the court. *See* A.R.S. § 13-3602(G)(5).

**(b) Noncompliance with Offender Treatment.** If a judicial officer becomes aware that a defendant has failed to comply with an order to complete a domestic violence offender treatment program, the judicial officer may refer the matter to an appropriate law enforcement agency. A superior court judicial officer may also set the matter for an Order to Show Cause hearing. *See* A.R.S. § 13-3602(M).

**COMMENT**

Anger management programs and couple's counseling are not substitutes for domestic violence offender treatment programs. A list of approved facilities that provide misdemeanor domestic violence treatment programs can be obtained from the Arizona Department of Health Services, Division of Licensing Services, Office of Behavioral Health Licensing. The list of DHS-approved providers also is published on the Judicial Branch website.

## Part VI. Service and Registration

**31. Service of protective orders**

**(a) Who Can Effect Service.** A protective order can be served only by a person authorized by Rule 4(d), Ariz. R. Civ. P., A.R.S. §§ 13-3602(R), 12-1809(Q), or 12-1810(Q) or as otherwise provided in this rule.

**(b) Expiration of an Unserved Order.** A protective order expires if it is not served on the defendant, together with a copy of the petition, within one year from the date the judicial officer

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signs the protective order. *See* A.R.S. §§ 13-3602(K), 12-1809(J) and 12-1810(I).

**(c) Certification Not Required.** There is no requirement that the copy of the order served on the defendant be certified.

**(d) Service of a Modified Order.** The service and registration requirements applicable to the original protective order also apply to a modified protective order.

**(e) Acceptance of Service.** A defendant may sign an acceptance of service form, which has the same effect as service. If the defendant refuses to sign an acceptance of service form, the judicial officer may have the defendant served in open court. In superior court, the minute entry must reflect the method of service that was used. *See* A.R.S. § 13-3602(R).

**(f) Service in Court.** If the defendant is present in court and refuses to sign an acceptance of service form, the judicial officer must have the defendant served in open court by a person specially appointed by the court. A judicial appointment to effectuate service may be granted freely, is valid only for the service of the protective order or modification entered in the cause, and does not constitute an appointment as a registered private process server. A specially appointed person directed to serve such process must be a court employee who is at least 21years old and cannot be a party, an attorney, or the employee of an attorney in the action whose process is being served. If such an appointment is entered on the record, a signed order is not required provided a minute entry reflects the special appointment and the nature of service.

**(g) Service at the Scene.** If a defendant is physically present with the plaintiff and has not yet been served, a peace officer may be summoned to the scene and may use the plaintiff's copy of the protective order to effect service on the defendant.

**(h) Filing the Proof of Service.** The original proof of service must be promptly filed with the clerk of the issuing court. If mailed, ~~such~~ proof of service must be postmarked no later than the end of the seventh court business day after the date of service. Proof of service may be submitted by facsimile, provided the original proof of service is promptly filed with the court. *See* A.R.S. §§ 13-3602(L), 12-1809(K) and 12-1810(J).

**(i) Effective Date.** An initial protective order takes effect when the defendant is served with a copy of the order and the petition, and it expires one year from the date it is served. A modified order takes effect upon service but expires one year after service of the initial order.

**COMMENT**

The defendant must be personally served because 1) personal service on the defendant satisfies the criminal notice requirement if a violation of the protective order is prosecuted under criminal statutes, and 2) unless the affidavit of service, acceptance of service or return of service shows personal service on the defendant, many sheriffs' offices, which are the holders of record, will not accept a protective order for entry into protective order databases.

### 32. Registration of protective order and proof of service

**(a) Notification to Sheriff.** Each issuing court must, within 24 hours of receipt of proof of service, forward a copy of the protective order and proof of service to the sheriff's office in the county in which the protective order was issued~~,~~ for registration by the sheriff. *See* A.R.S. §§ 13-3602(L), 12-1809(K) and 12-1810(J).

**(b) Central Repository.** Each county sheriff

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is required to maintain a central repository for so the existence and validity of protective orders may be verified. *See* A.R.S. §§ 13-3602(L), 12-1809(K) and 12-1810(J).

**(c) Notice of Modified or Dismissed Order.** Within 24 hours after entry, the court must send notice of modification or dismissal of a protective order to the sheriff in the county where the original protective order is registered. The modification or dismissal order must be in writing and sent electronically via facsimile or e-mail, not by telephone, to the sheriff.

**(d) Validity.** A protective order, whether or not registered, is a valid court order one year from the date of service.

### 33. Notification of transferred protective order

A court that transfers a protective order to another court must, within 24 hours, notify its sheriff's office in writing of the transfer and update information in its case management system.

## Part VII. Family Law Cases

### 34. Jurisdiction

**(a) Superior Court Jurisdiction.** The superior court has exclusive jurisdiction to issue a protective order when a family law action is pending between the parties. A limited jurisdiction court must refer a plaintiff who has a pending family law action to the superior court. An action is pending if either:

**(1)** an action has begun but no final judgment, decree, or order has been entered; or

**(2)** a post-decree proceeding has begun but no final order determining that proceeding has been entered. *See* A.R.S. § 13-3602(O).

**(b) Limitation on Limited Jurisdiction Courts.** A limited jurisdiction court cannot issue a protective order if the plaintiff's petition or other evidence reveal that an action for maternity, paternity, annulment, legal decision-making and parenting time, dissolution of marriage, or legal separation is pending in an Arizona superior court. Nevertheless, if a limited jurisdiction court does issue a protective order when an action for maternity, paternity, annulment, legal decision-making, legal separation, or dissolution of marriage is pending in superior court, the order is valid and effective. *See* A.R.S. § 13-3602(O).

**(c) Transfer to Superior Court.** If, after issuance of a protective order, a limited jurisdiction court is notified in writing or verifies that a family law action is pending, the court must promptly transfer all documents relating to the protective order to the superior court.

(1) Within 24 hours of notification, all papers, together with a certified copy of docket entries or other records, must be transferred to the superior court where the action is pending. Proof of service that arrives after the protective order ~~is~~ has been transferred to the superior court must be sent to the superior court immediately.

(2) Despite this transfer requirement, unless prohibited by a superior court order, a limited jurisdiction court may hold a hearing on all matters relating to an *ex parte* protective order if the hearing was requested before the court received written notice of the pending superior court action.

(3) If a hearing has been requested in a transferred case, the superior court must hold the hearing within five days if exclusive use of the home is involved and within 10 days for all other cases. This time period begins on the date the transferred protective order is

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filed with the superior court.

**35. Legal decision-making and parenting time**

**(a) Provisions for Legal Decision-Making and Parenting Time.** Except as otherwise provided in this rule, a protective order cannot contain provisions regarding legal decision-making or parenting time issues. Legal issues such as maternity, paternity, child support, legal decision-making, parenting time, dissolution of marriage, or legal separation may be addressed only by the superior court in a separate action under A.R.S. Title 25.

**(b) Contact Between a Child and a Defendant Who Have a Legal Relationship.** Before granting a protective order prohibiting contact with a child with whom the defendant has a legal relationship, the judicial officer must consider:

(1) whether the child may be harmed if the defendant is permitted to maintain contact with the child; and

(2) whether the child may be endangered if there is contact outside the presence of the plaintiff.

**(c) Provisions for Parenting Time and Child Exchanges.**

(1) A limited jurisdiction court that issues an order prohibiting contact with the plaintiff cannot include exceptions that allow the defendant to come near or contact the plaintiff in person for legal decision-making or parenting time with a child. A limited jurisdiction court may allow contact by mail or e-mail to arrange parenting time and may provide for child exchanges under circumstances not involving contact with the plaintiff in person.

(2) A superior court judicial officer may issue a protective order or modify an existing protective order that includes an exception allowing the defendant to come near or contact the plaintiff in person to implement a legal decision-making or a parenting time order after considering the following factors and making specific findings on the record:

(A) feasible alternatives regarding contact to carry out the legal decision-making or parenting time order, such as exchanges at a protected setting, a public facility, or other safe haven, or through a third person;

(B) the parties' wishes;

(C) each party's history of domestic violence;

(D) the safety of the parties and the child;

(E) each party's behavioral health; and

(F) reports and recommendations of behavioral health professionals.

**(d) Modification of an Existing Protective Order.** Any modification made by a superior court judicial officer to an existing protective order must be included in a modified protective order. Each modification must be set forth in the modified protective order with sufficient detail to assure understanding and compliance by the parties and ease of enforcement by law enforcement officers. The superior court judicial officer must obtain an acceptance of service signed by the defendant if the parties are present at the time the modification is made. If the defendant refuses to sign the acceptance of service, the judicial officer must have the defendant served in open court in accordance with Rule 31.

**(e) Active Legal Decision-Making Order.**

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When a family law action is not pending but there is an active legal decision-making order issued by an Arizona court that involves a child of the defendant, a limited jurisdiction court may issue an *ex parte* protective order but then must transfer the matter to the superior court in accordance with the procedures set forth in Rule 34.

**COMMENT**

When an action under Title 25 is pending, family law judicial officers should refer to the options in A.R.S. § 25-403.03(F), including supervised exchanges for parenting time, when a protective order is in effect.

## Part VIII. Contested Protective Order Hearings

### 36. Admissible evidence

**(a) Relevant Evidence and Exclusions.** Relevant evidence is admissible, provided, however, that the court must exclude evidence if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, undue delay, wasting time, needlessly presenting cumulative evidence, or lack of reliability.

**(b) Reports, Documents, or Forms as Evidence.** Any report, document, or standardized form required to be submitted to a court may be considered as evidence if either filed with the court or admitted into evidence by the court.

**COMMENT**

**Rule 36(a).** This rule is intended to give the court broad discretion in determining whether proffered evidence is admissible in any individual protective order hearing. The language of Rule 36(a) has been amended to adopt the standard used in Rule 2(B)(2) of the *Arizona Rules of Family Law Procedure*, except the "or failure to adequately and timely disclose same," given Rule 37 provides that disclosure requirements generally "do not apply to hearings on Orders of Protection, Injunctions Against Harassment and Injunctions Against Workplace Harassment." These changes are intended to adopt the same standard for admissible evidence in cases governed by the *Arizona Rules of Protective Order Procedure* that is used in cases governed by the *Arizona Rules of Family Law Procedure* when strict compliance with the *Arizona Rules of Evidence* is not demanded. To the extent those standards differed under the prior rules, this amendment is a change in the standard for admissible evidence in cases governed by the *Arizona Rules of Protective Order Procedure*.

**Rule 36(b).** This rule allows the court to consider as evidence at any stage of the proceedings any report or document ordered or required by the court to be submitted to the court, such as drug testing results and reports from offender treatment programs, custody evaluators, conciliation services, family law masters, parenting coordinators, and other court-appointed experts.

### 37. Disclosure

The disclosure requirements in Rule 26.1, *Arizona Rules of Civil Procedure*~~,~~ and Rules 49 and 50, *Arizona Rules of Family Law Procedure*, do not apply to hearings on Orders of Protection, Injunctions Against Harassment, and Injunctions Against Workplace Harassment, unless otherwise specifically ordered by the court.

### 38. Contested hearing procedures

**(a) Requesting a Hearing.** At any time

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while a protective order or a modified protective order is in effect, a defendant may request one hearing in writing. *See* A.R.S. § 13-3602(I).

**(b) Scheduling the Hearing.** A judicial officer must hold the hearing at the earliest possible time.

(1) If an Order of Protection grants exclusive use of the home, a judicial officer must hold a hearing within five court business days of the request.

(2) For all other protective orders, a judicial officer must hold a hearing within 10 court business days of the request unless the judicial officer finds good cause to continue the hearing for a longer period of time.

**(c) Notice of Hearing.** The court must notify the plaintiff of the hearing. There is no statutory requirement for personal service of the hearing notice.

**(d) Court Security Measures.** The court must take reasonable measures to ensure that the parties and any witnesses at the hearing are not subject to harassment or intimidation in the courthouse or on adjoining property. For each hearing, the judicial officer must determine whether there is a need to have a law enforcement officer or a security officer present to help ensure the hearing is orderly or to provide escort for either party. The court may direct the defendant to remain in the courtroom for a period of time after the plaintiff is excused.

**(e) Parties' Right to Be Heard.** The judicial officer must ensure that both parties have an opportunity to be heard, to present evidence, and to call and examine and cross-examine witnesses.

**(f) Oath or Affirmation.** The court must administer an oath or affirmation to all parties and witnesses at all hearings.

**(g) Standard of Proof.** For a protective order to remain in effect as originally issued or as modified at a hearing, the plaintiff must prove the case by a preponderance of the evidence.

**(h) Basis for Continuing, Modifying, or Revoking Protective Orders.** At the conclusion of the hearing, the judicial officer must state the basis for continuing, modifying, or revoking the protective order.

**(i) Service of Modified Protective Order.** The plaintiff or the court must arrange for service of a modified protective order on the defendant. A judicial officer should assist this process by asking the defendant to sign an acceptance of service form in the courtroom.

### 39. Costs and attorneys' fees

**(a) Award.** After a hearing with notice to the affected party, a judicial officer may order any party to pay the costs of the action, including reasonable attorneys' fees, if any. *See* A.R.S. §§ 13-3602(P), 12-1809(N), and 12-1810(N).

**(b) Considerations.** In determining whether to award costs or attorneys' fees, the judicial officer may consider:

(1) the merits of the claim or the defense asserted by the unsuccessful party;

(2) whether the award will pose an extreme hardship on the unsuccessful party; and

(3) whether the award may deter others from making valid claims.

## Part IX. Motions to Modify or Dismiss

### 40. Motion to modify

**(a) Request for Modification.** A plaintiff may ask for modification of a protective order at any time during the term of the order.

**(b) Verification of Identity.** When a plaintiff files a motion to modify, court personnel must verify the plaintiff's identity.

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**(c) Modification Prior to Contested Hearing Request.** If a contested hearing has not yet been requested or held, the judicial officer must personally interview the plaintiff and make sufficient inquiry of the plaintiff to determine that the plaintiff is not making the request under duress or coercion.

**(d) Modification After Contested Hearing or Request for Contested Hearing.** If a contested hearing has been requested or has occurred, the motion to modify must be set for hearing with notice to the defendant.

**(e) Service and Registration of a Modified Order.** The service and registration requirements applicable to the original protective order also apply to a modified protective order. *See* Part IV. Service and Registration.

**41. Motion to dismiss**

**(a) Request for Dismissal.** A plaintiff may request the dismissal of a protective order at any time during the term of the order.

**(b) Verification of Identity.** When a plaintiff files a motion to dismiss, court personnel must verify the plaintiff's identity.

**(c) Personal Interview.** The judicial officer must personally interview the plaintiff and make sufficient inquiry of the plaintiff to determine that the plaintiff is not making the request under duress or coercion.

**(d) Request with Defendant Present.** If the plaintiff and the defendant appear jointly on a motion to dismiss, the judicial officer may interview the plaintiff separately only if the defendant has been served but has not requested a hearing.

**(e) Request with Defendant Absent.** If the plaintiff requests dismissal of an order and the defendant is not present, the judicial officer may act without notice to the defendant.

## Part X. Appeals

**42. Appeals.**

**(a) Appealable Orders.** The following orders are appealable:

(1) An order denying a petition for an Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment.

(2) An Order of Protection, an Injunction Against Harassment, or an Injunction Against Workplace Harassment that is entered, affirmed, modified, or quashed after a hearing at which both parties had an opportunity to appear.

(3) An *ex parte* protective order is not appealable; rather, a defendant may contest it by requesting a hearing as set forth in Part VIII.

**(b) Court to Which Appeal Must Be Made.** Orders are appealed as follows:

(1) An order entered by a limited jurisdiction court is appealed to the superior court.

(2) An order entered by a superior court is appealed to the court of appeals.

**COMMENT**

A protective order entered by a limited jurisdiction court after a hearing at which both parties had an opportunity to appear may be appealed to the superior court. *See* A.R.S. §§ 13-3602(O), 12-1809(N), and 12-1810(N). The procedures to be followed are set forth in A.R.S. § 22-261 for justice courts, are made applicable to municipal courts by A.R.S. § 22-425, and are governed by the *Superior Court Rules on Appellate Procedure-Civil*.

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| Current Rule Number | | Proposed Rule Number | |
|---|---|---|---|
| **Rule 1. General Administration** | | | |
| 1.A. | Applicability of Rules | | |
| | 1.A.1. Scope of these Rules | 1 | Scope |
| | 1.A.2. Applicability of Other Rules | 2 | Applicability of other rules |
| 1.B. | Definitions | 3 | Definitions |
| | 1.B.1. Parties | 5 | Parties |
| | 1.B.2. Protective Orders | 4 | Protective orders governed by these rules |
| 1.C. | Access to the courts and protective order case information | | |
| | 1.C.1. – 1.C.4. | 6 | Court availability for protective orders |
| | 1.C.5. | 11 | Immigration status |
| | 1.C.6. | 7 | Case information |
| 1.D. | Court security | | |
| | 1.D.1.- 1.D.3. | 8 | Court security |
| | 1.D.4. | 38 | Contested hearing procedures<br>(d) Court Security Measures |
| 1.E. | Alternative dispute resolution | 29 | Alternative dispute resolution |
| 1.F. | Children as protected persons | 5 | Parties<br>(b)(1) Minor as a protected person |
| 1.G. | Mutual protective orders prohibited | 22 | Mutual protective orders prohibited |
| 1.H. | Cross petitions | 27 | Cross petitions |
| 1.I. | Multiple orders, cross orders and conflicting orders | 21 | Other existing orders |
| | | 28 | Conflicting orders |
| 1.J. | Transfer of protective orders | 33 | Transfer of protective orders |
| 1.K. | No limit on number of protective orders | 10 | No limit on number of protective orders |
| | | 19 | Prior dismissed orders not considered |
| 1.L. | Record of hearings | 18 | Record of hearings |
| 1.M. | Service of protective orders | 31 | Service of protective orders |
| 1.N. | Information for parties | | *deleted* |
| 1.O. | Registration of protective order and affidavit, acceptance or return of service | 32 | Registration of protective order and proof of service |
| 1.P. | Offender treatment programs | 30 | Offender Treatment Programs |
| 1.Q. | Change of address | 12 | Party Addresses<br>(a) Change of address |
| 1.R. | Telephonic/video conference proceedings | 9 | Telephonic or video conference proceedings |
| **Rule 2. Fees and Costs** | | | |
| 2.A. | Notice to parties | 14 | Filing and services fees<br>(a) Notice to Parties |
| 2.B. | Fee deferrals and waivers | 14 | Filing and service fees<br>(b) Fee deferrals and waivers |
| 2.C. | Costs and attorneys' fees | 39 | Costs and attorneys' fees |
| **Rule 3. Protected and Unpublished Addresses** | | | |
| 3.A. | Confidentiality of plaintiff's address | 20 | Confidentiality of Plaintiff's Address |

| Current Rule Number | | Proposed Rule Number | |
|---|---|---|---|
| 3.B. | Continuing duty to provide the clerk with current address | 12 | Party Addresses<br>(b) Continuing duty to provide current address |
| **Rule 4. Family Law Cases** | | | |
| 4.A. | Jurisdiction | 34 | Jurisdiction |
| | 4.A.5. | 5 | Parties<br>5(c)(2) Minor as a defendant |
| 4.B. | Child custody and parenting time | 35 | Legal decision-making and parenting time |
| | 4.B.3. | 5 | Parties<br>5(b)(2) Minor and defendant with no legal relationship |
| **Rule 5. Rules of Evidence and Disclosure for Protective Order Hearings** | | | |
| 5.A. | Admissible evidence | 36 | Admissible evidence |
| 5.B. | Disclosure | 37 | Disclosure |
| **Rule 6. Rules of Procedure for Issuing Protective Orders** | | | |
| 6.A. | Commencement of proceedings | 16 | Commencement of proceedings |
| 6.B. | Priority for protective orders | 17 | Priority for protective orders |
| 6.C. | Order of Protection | 23 | Order of Protection |
| 6.D. | Emergency Orders of Protection | 24 | Emergency Order of Protection |
| 6.E. | Injunction Against Harassment | 25 | Injunction Against Harassment |
| 6.F. | Injunction Against Workplace Harassment | 26 | Injunction Against Workplace Harassment |
| **Rule 7. Motion to Dismiss, Quash or Modify** | | | |
| 7.A. | Motion to dismiss or quash | 40 | Motion to dismiss |
| 7.B. | Motion to modify | 41 | Motion to modify |
| **Rule 8. Contested Hearing Procedures** | | 38 | Contested hearing procedures |
| **Rule 9. Appeals** | | 42 | Appeals |
| **Rule 10. Forms** | | | |
| 10.A. | Forms adopted by the Arizona Supreme Court | 13 | Forms adopted by the Arizona Supreme Court<br>(a) Mandated forms |
| 10.B. | Courts required to provide all forms without charge | 13 | Forms adopted by the Arizona Supreme Court<br>(b) No charge for forms |
| 10.C. | Information sheet on available emergency and support services | 15 | Resource information |
| 10.D. | Safety plan | 15 | Resource information |

| | |
|---|---|
| Rule 1. General Administration | Part I. General Administration |
| Rule 2. Fees and Costs | Part II. Types of Protective Orders |
| Rule 3. Protected and Unpublished Addresses | Part III. Parties |
| Rule 4. Family Law Cases | Part IV. Access to Courts |
| Rule 5. Rules of Evidence and Disclosure for Protective Order Hearings | Part V. Issuance of Protective Orders |
| Rule 6. Rules of Procedure for Issuing Protective Orders | Part VI. Service and Registration |
| Rule 7. Motion to Dismiss, Quash or Modify | Part VII. Family Law Cases |
| Rule 8. Contested Hearing Procedures | Part VIII. Contested Protective Order Hearings |
| Rule 9. Appeals | Part IX. Motions to Dismiss or Modify |
| Rule 10. Forms | Part X. Appeals |

| Proposed Rule Number | | Current Rule Number | |
|---|---|---|---|
| ***Part I. General Administration*** | | | |
| 1 | Scope | 1 | A.1. Scope of these Rules |
| 2 | Applicability of other rules | 1 | A.2. Applicability of Other Rules |
| 3 | Definitions | 1 | B. Definitions |
| ***Part II. Types of Protective Orders*** | | | |
| 4 | Protective orders governed by these rules | 1 | B.2. Protective Orders |
| | Order of Protection | 1 | B.2.d. Order of Protection |
| | Emergency Order of Protection | 1 | B.2.a. Emergency Order of Protection |
| | Injunction Against Harassment | 1 | B.2.b. Injunction Against Harassment |
| | Injunction Against Workplace Harassment | 1 | B.2.c. Injunction Against Workplace Harassment |
| ***Part III. Parties*** | | | |
| 5 | Parties | 1 | B.1. Parties |
| | (a) Plaintiff and other appropriate requesting persons | | |
| | (1) Plaintiff | 1 | B.1.b.1. Plaintiff |
| | (2) Victim | 1 | B.1.d. Victim |
| | (3) Other appropriate requesting persons | 1 | B.1.b.2. Other Appropriate Requesting Parties |
| | (b) Protected person | 1 | B.1.c. Protected Persons |
| | (1) Minor as a protected person | 1 | F. Children as Protected Persons |
| | (2) Minor and defendant with no legal relationship | 4 | B.3. |
| | (c) Defendant | | |
| | (1) Defendant | 1 | B.1.a. Defendant |
| | (2) Minor as a defendant | 4 | A.5. |
| ***Part IV. Access to Courts*** | | | |
| 6 | Court availability for protective orders | 1 | C.1.-4. |
| 7 | Public access to case information | 1 | C.6. |
| 8 | Court security | 1 | D. Court Security |
| 9 | Telephonic or video conference proceedings | 1 | R. Telephonic/Video Conference Proceedings |
| 10 | No limit on number of protective orders | 1 | K. No Limit on Number of Protective Orders |
| 11 | Immigration status | 1 | C.5. |
| 12 | Party addresses | | |
| | (a) Change of address | 1 | Q. Change of Address |
| | (b) Continuing duty to provide current address | 3 | B. Continuing Duty to Provide the Clerk with Current Address |
| 13 | Forms adopted by the Arizona Supreme Court | 10 | Forms |

| Proposed Rule Number | | Current Rule Number | |
|---|---|---|---|
| | (a) Mandated forms | 10 | A. Forms adopted by the Arizona Supreme Court |
| | (b) No charge for forms | 10 | B. Courts Required to Provide All Forms Without Charge |
| 14 | Filing and service fees | 2 | Fees and Costs |
| | (a) Notice to parties | 2 | A. Notice to Parties |
| | (b) Fee deferrals and waivers | 2 | B. Fee Deferrals and Waivers |
| 15 | Resource information | 10 | C. Information Sheet on Available Emergency and Support Services<br>D. Safety Plan |
| ***Part V. Issuance of Protective Orders*** | | | |
| 16 | Commencement of proceedings | 6 | A. Commencement of Proceedings |
| 17 | Priority for protective orders | 6 | B. Priority for Protective Orders |
| 18 | Record of hearings | 1 | L. Record of Hearings |
| 19 | Prior dismissed orders not considered | 1 | K. No Limit on Number of Protective Orders |
| 20 | Confidentiality of plaintiff's address | 3 | A. Confidentiality of Plaintiff's Address |
| 21 | Other existing orders | 1 | I. Multiple Orders, Cross Orders and Conflicting Orders |
| 22 | Mutual protective orders prohibited | 1 | G. Mutual Protective Orders Prohibited |
| 23 | Order of Protection | 6 | C. Order of Protection |
| 24 | Emergency Order of Protection | 6 | D. Emergency Order of Protection |
| 25 | Injunction Against Harassment | 6 | E. Injunction Against Harassment |
| 26 | Injunction Against Workplace Harassment | 6 | F. Injunction Against Workplace Harassment |
| 27 | Cross petitions | 1 | H. Cross Petitions |
| 28 | Conflicting orders | 1 | I. Multiple Orders, Cross Orders and Conflicting Orders |
| 29 | Alternative dispute resolution | 1 | E. Alternative Dispute Resolution |
| 30 | Offender treatment programs | 1 | P. Offender Treatment Programs |
| ***Part VI. Service and Registration*** | | | |
| 31 | Service of protective orders | 1 | M. Service of Protective Orders |
| 32 | Registration of protective order and proof of service | 1 | O. Registration of Protective Order and Affidavit, Acceptance or Return of Service |
| 33 | Transfer of protective orders | 1 | J. Transfer of Protective Orders |
| ***Part VII. Family Law Cases*** | | 4 | Family Law Cases |
| 34 | Jurisdiction | 4 | A. Jurisdiction |
| 35 | Legal decision-making and parenting time | 4 | B. Child Custody and Parenting Time |
| ***Part VIII. Contested Protective Order Hearings*** | | | |
| 36 | Admissible evidence | 5 | A. Admissible Evidence |

| Proposed Rule Number | | Current Rule Number | |
|---|---|---|---|
| 37 | Disclosure | 5 | B. Disclosure |
| 38 | Contested hearing procedures | 8 | Contested Hearing Procedures |
| | (a) Requesting a hearing | 8 | A. Requesting a Hearing |
| | (b) Notice of hearing | 8 | B. Notice of Hearing |
| | (c) Court security measures | 8 | C. Court Security Measures |
| | (d) Parties' right to be heard | 8 | D. Parties' Right to Be Heard |
| | (e) Oath or affirmation | 8 | E. Oath or Affirmation |
| | (f) Standard of proof | 8 | F. Standard of Proof |
| | (g) Basis for continuing, modifying or revoking protective orders | 8 | G. Basis for Continuing, Modifying or Revoking Protective Orders |
| | (h) Service of modified protective order | 8 | H. Service of Modified Protective Order |
| 39 | Costs and attorneys' fees | 2 | C. |
| ***Part IX. Motions to Dismiss or Modify*** | | 7 | Motion to Dismiss, Quash or Modify |
| 40 | Motion to dismiss | 7 | A. Motion to Dismiss or Quash |
| 41 | Motion to modify | 7 | B. Motion to Modify |
| ***Part X. Appeals*** | | | |
| 42 | Appeals | 9 | Appeals |
| | (a) Appealable orders | 9 | A. Appealable Orders |
| | (b) Court to which appeal must be made | 9 | B. Court to Which Appeal Is to Be Made |

| | |
|---|---|
| Part I. General Administration | Rule 1. General Administration |
| Part II. Types of Protective Orders | Rule 2. Fees and Costs |
| Part III. Parties | Rule 3. Protected and Unpublished Addresses |
| Part IV. Access to Courts | Rule 4. Family Law Cases |
| Part V. Issuance of Protective Orders | Rule 5. Rules of Evidence and Disclosure for Protective Order Hearings |
| Part VI. Service and Registration | Rule 6. Rules of Procedure for Issuing Protective Orders |
| Part VII. Family Law Cases | Rule 7. Motion to Dismiss, Quash or Modify |
| Part VIII. Contested Protective Order Hearings | Rule 8. Contested Hearing Procedures |
| Part IX. Motions to Dismiss or Modify | Rule 9. Appeals |
| Part X. Appeals | Rule 10. Forms |

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | __ Formal Action/Request<br>_X_ Information Only<br>__ Other | Court Rule 7.5: Review of Conditions; Revocation of Release |

**FROM:**

Ms. Kathy Waters, Adult Probation Services Division Director, on behalf of David K. Byers, Petitioner

**DISCUSSION:**

Review of proposed changes to Rule 7.5.

The proposed amendments to this Rule seek to add the option of the judge issuing a warrant or summons on the written report from pretrial services staff to the existing option of issuing a warrant or summons on the petition of a prosecutor. The proposed amendment will require that a copy of the report is provided to the prosecutor and served with the warrant or summons.

**RECOMMENDED COUNCIL ACTION:**

Information Only

David K. Byers
Administrative Director of the Courts
1501 W. Washington, Suite 411
Phoenix, AZ 85007-3327
Phone: (602)452-3301

**ARIZONA SUPREME COURT**

| | | |
|---|---|---|
| In the matter of : | ) | |
| | ) | |
| PETITION TO AMEND RULE 7.5, | ) | Supreme Court No. R-15_____ |
| RULES OF CRIMINAL | ) | (Emergency or Expedited |
| PROCEDURE | ) | Adoption Requested) |
| _____ | ) | |

Pursuant to Arizona Supreme Court Rule 28, David K. Byers, Director, Administrative Office of the Courts, Arizona Supreme Court, respectfully petitions this court to adopt the attached proposed rule amendment to the Rules of Criminal Procedure.

## I. Background and Purpose of the Proposed Rule Amendment

In support of the Court's new strategic agenda which includes improving and expanding the use of evidence-based practices to determine pretrial release conditions for low-risk offenders, the Administrative Office of the Courts reviewed existing Rules of Criminal Procedure related to release conditions for defendants while their case is pending.

Relevant to this petition, Rule 7.5 of the Rules of Criminal Procedure, as currently written, only allows for the issuance of a warrant or summons for

breaches of the conditions of release to be submitted upon verified petition by the prosecutor. With the implementation of evidence-based practices, eligible defendants will be released while pending trial under conditions that include supervision or monitoring by pretrial services. When breaches of these conditions are discovered, the pretrial service officers need the ability to provide the court with a report of the violations and, if necessary, request that the court issue a warrant or summons to bring the defendant before the court for a hearing to determine if the conditions should be revoked or modified. This is particularly important when the nature of the breach may pose a substantial danger to any person or the community.

The proposed amendment will allow a judge to timely issue a summons or a warrant when a pre-trial officer determines conditions of release are violated and reports the violation to the court. This is particularly important when a case presents an immediate risk of flight or danger to any person or the community. Allowing the court to act upon a written report submitted by pre-trial services will provide improved efficiency in processing these cases, minimize the risk of flight, and improve public safety. Presiding judges have indicated support of this amendment to Rule 7.5.

## II. Contents of the Proposed Rule Amendment

The proposed amendments to this rule seek to add the option of the judge issuing a warrant or summons on the written report from pretrial services staff to the existing option of issuing a warrant or summons on the petition of a prosecutor. The proposed amendment will require that a copy of the report is provided to the prosecutor and served with the warrant or summons.

## III. Pre-Petition Distribution and Comment

The proposed amendment was presented to the Presiding Judges and the Arizona Judicial Council at their December 2014 Meeting.

## IV. Effective Date of the Proposed New Rule

We respectfully request emergency adoption of this rule.

Respectfully submitted this _____day of _____2014.

By_____

David K. Byers, Administrative Director
Administrative Office of the Courts
1501 W. Washington, Suite 411
Phoenix, Arizona 85007

# Appendix A

**Rule 7.5. Review of conditions; revocation of release**

**a. Issuance of warrant or summons on prosecutor petition**. 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. A copy of the petition shall be served with the warrant or summons.

**b. Issuance of warrant or summons on written report.** 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. A copy of the report shall be provided to the prosecutor and served with the warrant or summons.

**~~b~~c.Victim's right to petition for revocation of bond or modification of conditions of release.** After consultation with the prosecutor, and if the prosecutor decides not to file a petition pursuant to section (a) of this Rule, the victim may petition the court to revoke the bond or release on personal recognizance of the defendant, or otherwise modify the conditions of the defendant's release, based on the victim's notarized statement asserting that harassment, threats, physical violence or intimidation against the victim or the victim's immediate family by the defendant or on behalf of the defendant has occurred.

**~~c~~d. Hearing; review of conditions; revocation.**

(1) *Modification of conditions of release.* If, after a hearing on the matters set forth in the petition or report, the court finds that the person released has wilfully violated the conditions of release, the court may impose different or additional conditions upon his or her release. However, if the defendant has violated the conditions of an appearance bond executed as a condition of release, the court shall determine conditions reasonably necessary to secure that person's appearance in the future. If the violation is not excused, the court shall not impose less restrictive conditions of release. If the court determines that an increase in the amount of a secured appearance bond is necessary, that security shall be in addition to any previously existing security.

(2) *Revocation of release.* The court may revoke release of a person charged with a felony if, after hearing, the court finds (A) that there is probable cause to believe that the person committed a felony during the period of release and that the proof is evident or the presumption great as to the present charge; or (B) that the person poses a substantial danger to any person or the community, that no

other conditions of release will reasonably assure the safety of the other person or the community, and that the proof is evident or the presumption great as to the present charge.

~~d~~e.**Revocation of Release; DNA Testing.** The prosecutor may file a motion stating facts or circumstances constituting probable cause to believe that a defendant who has been ordered as a condition of release to provide a sample of buccal cells or other bodily substances for DNA testing pursuant to A.R.S. section 13-3967(F)(4) and provide proof of compliance has not complied with that order. At the defendant's next court appearance, the court shall proceed in accordance with the requirements of this rule and A.R.S. section 13-3967(F)(4).

~~e~~f. **Revocation of release; Ten-print fingerprinting**. If a defendant fails to timely present a completed mandatory fingerprint compliance form or if the court has not received the process control number, the court on its own motion may remand the defendant into custody for ten-print fingerprinting. If otherwise eligible for release, the defendant shall be released from custody after being ten-print fingerprinted.

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

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| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | _X_ Formal Action/Request<br>__ Information Only<br>__ Other | PROPOSED AMENDMENT TO RULE 74 OF THE ARIZONA RULES OF FAMILY LAW PROCEDURE REGARDING PARENTING COORDINATORS |

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**FROM:**

Jerry Landau, Government Affairs Director, AOC
Theresa Barrett, Court Programs Unit Manager, Court Services Division, AOC
Judge Janet Barton, Associate Presiding Judge, Superior Court in Maricopa County and Chair, Ad Hoc Parenting Coordinator Workgroup

**DISCUSSION:**

During the 2014 Legislature, multiple issues were raised by constituents to legislators regarding parenting coordinators. These issues, while not acted upon during that session, were relayed to the Administrative Office of the Courts' Government Affairs Director and Legislative Liaison. The issues fell within the range of the following categories:

- Parent coordinator fees (range, cap, inquiry about parents' finances, length of services, etc.).
- Lack of recourse/appeal process for litigants.
- Qualifications of parenting coordinators.
- Scope of authority of parenting coordinators.

Then Chief Justice Rebecca White Berch set the Ad Hoc Parenting Coordinator Workgroup to the task of studying and forming recommendations to address these issues. Those recommendations are set forth in the proposed amendments to Rule 74 of the Rules of Family Law Procedure.

The members of the Ad Hoc Parenting Coordinator Workgroup reviewed the rule in its entirety to restyle, simplify, and clarify the rule. As a result, every subparagraph of Rule 74 has been amended for either or both grammar and substantive reasons.

The proposed amendments to Rule 74 were presented to the Committee on Superior Court on November 7th. Their comments were positive overall, with minor inquiries about:

- allowing a presiding judge's designee to deem a person with the education, experience and special expertise qualified; and
- why this effort was not widely known.

**RECOMMENDED COUNCIL ACTION:**

Authorize the filing of a Rule 28 Petition regarding amendments of Rule 74 of the Arizona Rules of Family Law Procedure which incorporates input received from the Council today.

**Proposed Rule Changes**

(Proposed changes shown with additions identified by underscoring and deletions identified by ~~strike through~~.)

**Arizona Rules of Family Law Procedure**

**Rule 74. Parenting Coordinator**

**A. Determination of Need for Parenting Coordinator and Appointment.** ~~Prior to, simultaneously with, or after entry of a decree, judgment, or legal decision-making or parenting time order, at the request of either party or on the court's own motion, the~~ The overall objective of parenting coordination is to assist parents in conflict to implement their parenting plan, to assist with compliance with the details of the plan, to resolve conflict regarding their children and the parenting plan in a timely manner, and, in so doing, to protect and sustain safe, healthy and meaningful parent-child relationships.

**B. Appointment of a Parenting Coordinator.** The court may appoint a ~~Parenting Coordinator~~ parenting coordinator in any proceeding under Title 25, A.R.S.~~, involving children if it finds~~ at any time after entry of a legal decision-making or parenting time order. The appointment of a parenting coordinator is appropriate when ~~of the following~~ either:

1. ~~the~~ The parents ~~are persistently in conflict with one another~~ stipulate to the appointment of a parenting coordinator; or

2. ~~there is a history of substance abuse by either parent or family violence;~~ The court finds one or both parents have demonstrated an inability or unwillingness to agree on legal decision-making or parenting time issues and that without a parenting coordinator the parents would engage in protracted litigation.

Before the court appoints a parenting coordinator, the court must first give the parties the opportunity to identify a person instead of a parenting coordinator with appropriate education, experience, and expertise to whom they both agree to submit any future disputes regarding the implementation of the parenting plan or legal decision-making orders.

~~3. there are serious concerns about the mental health or behavior of either parent;~~

~~4. a child has special needs; or~~

~~5. it would otherwise be in the children's best interests to do so.~~

~~Parents may agree to use a Parenting Coordinator and agree to a specific person, subject to approval by the court, or the court may make the choice of the person to serve as the Parenting Coordinator.~~

**C. Selection of a Parenting Coordinator.** Any parenting coordinator appointed by the court must qualify as a parenting coordinator under subparagraph ~~B~~ D. The parents must first be given the opportunity to agree on who their parenting coordinator will be. If the parents are unable to agree, the court may select the parenting coordinator. A person appointed as a parenting coordinator may not serve in any other function or role in the case. A person who is or has already served in a legal, treatment, evaluative, or therapeutic role in the case must not be appointed as the parenting coordinator and must not serve in any other role in the case unless both the parents and the parenting coordinator agree.

~~B~~ **D. Persons Who May Serve as Parenting Coordinators.** ~~A~~ The following persons may serve as a ~~Parenting Coordinator~~ parenting coordinator ~~may be~~:

1. ~~an~~ An attorney who is licensed to practice law in Arizona;

2. ~~a~~ A psychiatrist who is licensed to practice medicine or osteopathy in Arizona;

3. ~~a~~ A psychologist who is licensed to practice psychology in Arizona;

4. ~~a~~ A person who is licensed to practice independently by the Arizona Board of Behavioral Health Examiners~~ as a social worker, professional counselor, marriage and family therapist, or substance abuse counselor; any other Arizona licensed or certified professional with education, experience, and special expertise regarding the particular issues referred~~; ~~or~~

5. ~~professional~~ Professional staff of a court's conciliation services department; or

6. A person with education, experience, and expertise who is deemed qualified by the court's presiding judge or a designee.

The court may prescribe additional requirements for service as ~~Parenting Coordinator~~ a parenting coordinator.

~~C~~ **E. Term of Service.** The term of the ~~Parenting Coordinator~~ parenting coordinator will be designated in the Order of Appointment.

**1. Initial Term.** A parenting coordinator's initial term must not exceed one year unless the parents agree to a longer term.

**2. Reappointment.** The parenting coordinator may contact the court in writing to request reappointment or to notify the court that the appointment term has ended or is about to end. A copy must also be sent to each parent or counsel, if represented. A parenting coordinator must not contact a parent to seek or suggest reappointment. Either or both parents may contact the court in writing to request reappointment of the parenting coordinator.

**3. Replacement of the Parenting Coordinator.** A parent may file a motion with the court requesting that the court replace the existing parenting coordinator. The motion will not be granted unless the moving parent establishes good cause for the requested relief. Mere disagreement with one or more of the parenting coordinator's recommendations will not constitute good cause for replacement of the parenting coordinator.

**4. Resignation.** The ~~Parenting Coordinator~~ parenting coordinator may resign upon notice to ~~the parties~~ each parent and order of the court.

**5. Discharge.** A parent may file a motion with the court requesting that the court discharge the parenting coordinator prior to the expiration of the appointment. Absent an order of the court~~,~~; however, one or both ~~parties~~ parents cannot unilaterally discharge the ~~Parenting Coordinator~~ parenting coordinator. ~~Complaints about the Parenting Coordinator shall be addressed in the manner specified in the Order of Appointment. If such complaints remain unresolved after following the procedures specified in the order, a motion may be filed with the court requesting removal of the Parenting Coordinator.~~ The court may terminate the service of the ~~Parenting Coordinator~~ parenting coordinator at any time for good cause or upon finding that there is no longer a need for ~~the assistance of~~ the ~~Parenting Coordinator~~ parenting coordinator.

~~D~~ **F. Fees.** ~~The court will determine the allocation of fees between the parties. The court may order that the parents pay the Parenting Coordinator a retainer before the Parenting Coordinator begins work with a family. The Parenting Coordinator may recommend to the court an adjustment in the division of payment under special circumstances.~~ **1. Ability to Pay.** Unless the parents stipulate or agree to the appointment of a parenting coordinator,

the court may not appoint a parenting coordinator without first determining that the parents can afford the parenting coordinator's fees. In determining if a parent can afford the parenting coordinator's fees, the court must consider all of the parents' then-existing financial resources and obligations, including child support and spousal maintenance. The court may not appoint a parenting coordinator if the court determines that one of the parents is unable to pay the parent's allocated portion of the fees, unless the other parent consents to paying all of the parenting coordinator's fees. Based upon the parents' financial circumstances, the court will determine how to allocate the parenting coordinator's fees between the parents.

**2. Adjustment to Allocation of Fees.** A parenting coordinator may recommend to or a parent may request of the court an adjustment in allocation of fees. Circumstances that may warrant an adjustment to the allocation of the parenting coordinator's fees include, but are not limited to, a change in one or both parent's financial circumstances or instances where one parent is using the parenting coordination process excessively to harass the other parent. Any such recommendation or request must be submitted to the court in writing and must explain in detail the basis for the recommendation or request. If submitted by the parenting coordinator, a copy of the recommendation must be provided to each parent or counsel, if represented. If submitted by a parent, a copy of the request must be provided to the other parent or the other parent's counsel, if represented, and the parenting coordinator.

**3. Time of Payment.** Prior to the first substantive meeting with the parents, the parenting coordinator must fully disclose and explain the basis of any fees and charges to the parents. A parenting coordinator can require a retainer as long as the retainer is used to

pay for services as they are rendered. If a parenting coordinator does not charge a retainer, a parenting coordinator can require prepayment for the specific service to be rendered prior to the time that service is rendered.

**G. Confidentiality.** Parenting coordination is not a confidential process, either for communications among the parents and their children and the parenting coordinator, or for communications among the parenting coordinator and other relevant parties to the parenting coordination process, or for communications with the court.

**~~E~~ H. Powers and Scope of Appointment.** ~~The court order appointing~~ Except pursuant to subparagraph J, ~~the~~ a ~~Parenting Coordinator~~ parenting coordinator ~~shall specify the scope of the appointment. The scope may include assisting with implementation of~~ cannot change any existing court orders~~,~~. ~~making~~ A parenting coordinator can, however, make recommendations to the court regarding implementation, clarification, modification, and enforcement of any ~~temporary or permanent~~ court order regarding legal decision-making or parenting time. A parenting coordinator cannot recommend a change to the court's existing order allocating legal decision-making authority or recommend a substantial change in parenting time. ~~order, and making recommendations on the day-to-day issues experienced by the parties. By way of example only, these issues include disagreements around exchanges, holiday scheduling, discipline, health issues, school and extracurricular activities, choice of schools, and managing problematic behaviors by the parents or child(ren). The Parenting Coordinator shall not have the authority to make a recommendation affecting child support, a change of legal decision-making, or a substantial change in parenting time. In the event the Parenting Coordinator determines parenting or family issues or circumstances exist that are significantly detrimental to the~~

~~welfare of the child(ren) and that a change in legal decision-making or a substantial change in parenting time is warranted, the Parenting Coordinator may submit the Parenting Coordinator's concerns in writing to the parties and the court.~~ Counsel are not permitted to attend parenting coordinator meetings unless agreed to jointly by the ~~parties~~ parents and the parenting coordinator, or ordered by ~~Court~~ the court.

**~~G~~ I. Time Sensitive Issue Authority and Procedure.**

**1. Binding Temporary Decision.** Notwithstanding the limitations of subparagraph H,~~When~~ a short-term, emerging, and time sensitive situation or dispute within the scope of authority of the ~~Parenting Coordinator~~ parenting coordinator may ~~arises~~ arise that requires an immediate decision for the welfare of the children and ~~parties~~ the parents, but does not require a substantial change to either parent's legal decision-making authority or parenting time. On such occasion, a ~~Parenting Coordinator~~ parenting coordinator may make a binding temporary decision. The decision and any additional recommendations of the parenting coordinator must be submitted to the assigned judge and each parent or counsel, if represented, in accordance with subparagraph L, below.

**2. Binding Temporary Change on an Emergency Basis.** A parenting coordinator, during the course and scope of the appointment, may determine that a parent's functioning is impaired and, as a result, the parent is either incapable of fulfilling the court-ordered legal decision-making or parenting functions, or will expose the children to an imminent risk of harm. On such occasion, a parenting coordinator may make a binding temporary change in the court's legal decision-making or parenting time orders if doing so is in the best interest of the children. The parenting coordinator must notify in writing the assigned judge and each parent or counsel, if represented, of any such binding

temporary change and the reason therefore by the next business day. The court must hold a hearing within 10 calendar days of receiving this written notification. At that hearing the court may affirm, modify, or vacate the parenting coordinator's binding temporary change. If the court determines, as a result of this hearing, that an evidentiary hearing is necessary, the court must set such evidentiary hearing within 60 calendar days, unless additional medical, psychological, psychiatric, or substance abuse testing is ordered, in which case the evidentiary hearing is to be set within 30 calendar days of the completion of such testing. Unless modified or vacated by the court, the parenting coordinator's binding temporary change must remain in effect until the evidentiary hearing. ~~This interim decision shall be made without prejudice and shall not be regarded as precedent as to any future action or procedure for any other dispute. The decision shall be submitted to the assigned judge with a copy to the parties (or counsel, if represented) in a written report that shall document all substantive issues addressed and the basis for the decision for review and entry of any appropriate orders at the judge's earliest opportunity. Thereafter, the procedures set forth in paragraph H shall apply.~~

**~~F~~ K. Additional Authority of Parenting Coordinator.** The ~~Parenting Coordinator~~ parenting coordinator may interview all members of the immediate and extended family or household of both ~~parties~~ parents and the children. To the extent provided in the Order of Appointment, the ~~Parenting Coordinator~~ parenting coordinator may interview and request information from any persons ~~who~~ whom the ~~Parenting Coordinator~~ parenting coordinator deems to have ~~relevant~~ information relevant to the issue currently before the parenting coordinator, including doctors, therapists, schools, or other caretakers. The parenting coordinator must notify each parent and the court in

writing of any person, other than the children's school personnel or members of the immediate and extended family or household of both parents and the children, whom the parenting coordinator intends to interview, and any person or entities from whom the parenting coordinator intends to request documents. The ~~Parenting Coordinator~~ parenting coordinator may recommend that the court order the ~~parties~~ parents or children to participate in ancillary services, to be provided by the court or third parties, including but not limited to physical or psychological examinations or assessments, counseling, and alcohol or drug monitoring and testing. ~~The court shall allocate between the parties the cost of any ancillary services ordered.~~

~~**G. Time Sensitive Issue Authority and Procedure.** When a short-term, emerging, and time sensitive situation or dispute within the scope of authority of the Parenting Coordinator arises that requires an immediate decision for the welfare of the children and parties, a Parenting Coordinator may make a binding temporary decision. This interim decision shall be made without prejudice and shall not be regarded as precedent as to any future action or procedure for any other dispute. The decision shall be submitted to the assigned judge with a copy to the parties (or counsel, if represented) in a written report that shall document all substantive issues addressed and the basis for the decision for review and entry of any appropriate orders at the judge's earliest opportunity. Thereafter, the procedures set forth in paragraph H shall apply.~~

**~~H~~ L. Report**. Recommendations by the ~~Parenting Coordinator~~ parenting coordinator ~~shall~~ must be made or confirmed to the court and ~~parties~~ parents in a form substantially similar to ~~Form 9,~~ the Parenting Coordinator's Report and Recommendation, in Rule 97 of these rules, which ~~shall~~ must be ~~submitted~~ mailed or transmitted to the

assigned judge no later than five ~~(5)~~ business days after ~~an oral determination or~~ receipt of all information necessary to make a recommendation. A copy of the report ~~will~~ must be mailed or transmitted to the ~~parties~~ parents or ~~their~~ counsel, if represented, on the ~~date of submission~~ same day it is mailed or transmitted to the court. The report may be transmitted by fax or email to the ~~parties~~ parents at a fax number or email address provided by the ~~parties~~ parents to the ~~Parenting Coordinator~~ parenting coordinator. The parenting coordinator must not file its report with the clerk of the court, unless the court specifically authorizes the parenting coordinator to do so.

**~~J~~ M. Court Action.** The court, upon receipt of a report and recommendation from a ~~Parenting Coordinator~~ parenting coordinator, may, subject to subparagraph O, do any of the following:

~~(1)~~. ~~approve~~ Approve or modify the recommendation and adopt it as an ~~interim~~ order of the court~~, subject to either party objecting or requesting a hearing not later than 10 days after the date of filing of the court's order~~;

~~(2). modify the recommendation and adopt the modified recommendation as an interim order of the court, subject to either party objecting or requesting a hearing not later than 10 days after the date of filing of the court's order; (3)~~ ~~reject~~ Reject the recommendation report in whole or in part and affirm the current order~~, subject to either party objecting or requesting a hearing not later than 10 days after the date of filing of the court's order~~; or ~~(4~~ ~~3)~~. ~~set~~ Set a hearing ~~on the assigned judicial officer's calendar~~ regarding the recommendation.

The court may use ~~Form 10,~~ the Order Regarding Parenting Coordinator's Report and Recommendations, in Rule 97 of these rules, for purposes of this subparagraph.

~~I~~ **N. Objection**. A ~~party~~ parent who objects to a recommendation made by the parenting coordinator ~~shall~~ must, within 10 business days of the date of the court's order, file with the court a pleading entitled, Objection. The pleading must set forth ~~clearly state in writing~~ the objection to the recommendation, the basis for the objection, a proposed solution, and whether a hearing is requested. ~~The judicial officer shall set a hearing if requested. If no hearing is requested, the judicial officer may rule on the objection without further hearing. By agreement of the parties or order of the court, the recommendations of the Parenting Coordinator will remain in effect during this objection period and process unless and until it is affected by a further order of the court.~~

**O. Action on Objection.** If an objection to the report and recommendation of the parenting coordinator is filed, the action taken by the court pursuant to subsection M will remain in effect pending resolution of the objection.

~~K~~ **P. Immunity.** The ~~Parenting Coordinator~~ parenting coordinator has immunity in accordance with Arizona law as to all acts undertaken pursuant to and consistent with the appointment order of the court.

**Q. Parent Grievance or Complaint against a Parenting Coordinator for Unethical or Unprofessional Conduct.** In addition to any action a parent may take as provided by law, at any time during the parenting coordination process a parent may file a motion with the court regarding any alleged impropriety or unethical conduct by the parenting coordinator. The court must take whatever action it deems appropriate with respect to such compliant. At minimum, if the court concludes that there is a reasonable basis for the parent's complaint, the court must refer the parent's complaint to the parenting coordinator's regulatory or licensing agency.

~~L~~ **R. Applicability.** No ~~county~~ court is required to employ or ~~utilize~~ use ~~Parenting Coordinators~~ parenting coordinators; however, in the event a ~~county~~ court elects to use ~~Parenting Coordinators~~ parenting coordinators, these rules ~~shall~~ must apply.

**PARENTING COORDINATOR WORKGROUP COMMENTS**

The term "fees" includes all fees, costs and charges associated with the services of the parenting coordinator.

The term "financial circumstances" includes income, assets, liabilities, and financial obligations. Primary to any financial obligations are child support and spousal maintenance.

By way of example only, a parenting coordinator may make recommendations regarding legal decision-making and parenting time issues about choice of school, exchanges, holiday scheduling, discipline, health issues, school and extracurricular activities, and managing problematic behaviors of the parents or the children.

Examples of time sensitive issues where a parenting coordinator may make a binding temporary decision include the exchange time for Mother's Day, because it was not defined in the Parenting Plan; and whether a child can attend a short notice, significant family event with a parent that does not impact the amount of parenting time with the other parent.

A binding temporary change differs from a binding temporary decision in that it can impact legal decision-making and parenting time. The intent is to prevent or end a risk of harm to the children for example, alcohol or drug abuse by a parent, child abuse, or family violence.

In a case where the parenting coordinator is licensed by the Arizona Board of Psychologist Examiners and a parent has filed a complaint with the court regarding unprofessional conduct, pursuant to A.R.S. § 32-2081(b), prior to referring a complaint arising out of a court ordered evaluation, treatment or psychoeducation to the board, the court must find that there is a substantial basis to refer the complaint for consideration by the board.

**Arizona Rules of Family Law Procedure**

**Rule 74. Parenting Coordinator**

**A. Determination of Need for Parenting Coordinator and Appointment.** The overall objective of parenting coordination is to assist parents in conflict to implement their parenting plan, to assist with compliance with the details of the plan, to resolve conflict regarding their children and the parenting plan in a timely manner, and, in so doing, to protect and sustain safe, healthy and meaningful parent-child relationships.

**B. Appointment of a Parenting Coordinator.** The court may appoint a parenting coordinator in any proceeding under Title 25, A.R.S. at any time after entry of a legal decision-making or parenting time order. The appointment of a parenting coordinator is appropriate when either:

1. The parents stipulate to the appointment of a parenting coordinator; or

2. The court finds one or both parents have demonstrated an inability or unwillingness to agree on legal decision-making or parenting time issues and that without a parenting coordinator the parents would engage in protracted litigation.

Before the court appoints a parenting coordinator, the court must first give the parties the opportunity to identify a person instead of a parenting coordinator with appropriate education, experience, and expertise to whom they both agree to submit any future disputes regarding the implementation of the parenting plan or legal decision-making orders.

**C. Selection of a Parenting Coordinator.** Any parenting coordinator appointed by the court must qualify as a parenting coordinator under subparagraph D. The parents must first be given the opportunity to agree on who their parenting coordinator will be. If the

parents are unable to agree, the court may select the parenting coordinator. A person appointed as a parenting coordinator may not serve in any other function or role in the case. A person who is or has already served in a legal, treatment, evaluative, or therapeutic role in the case must not be appointed as the parenting coordinator and must not serve in any other role in the case unless both the parents and the parenting coordinator agree.

**D. Persons Who May Serve as Parenting Coordinators.** The following persons may serve as a parenting coordinator:

1. An attorney who is licensed to practice law in Arizona;
2. A psychiatrist who is licensed to practice medicine or osteopathy in Arizona;
3. A psychologist who is licensed to practice psychology in Arizona;
4. A person who is licensed to practice independently by the Arizona Board of Behavioral Health Examiners;
5. Professional staff of a court's conciliation services department; or
6. A person with education, experience, and expertise who is deemed qualified by the court's presiding judge or a designee.

The court may prescribe additional requirements for service as a parenting coordinator.

**E. Term of Service.** The term of the parenting coordinator will be designated in the Order of Appointment.

**1. Initial Term.** A parenting coordinator's initial term must not exceed one year unless the parents agree to a longer term.

**2. Reappointment.** The parenting coordinator may contact the court in writing to request reappointment or to notify the court that the appointment term has ended or is about to

end. A copy must also be sent to each parent or counsel, if represented. A parenting coordinator must not contact a parent to seek or suggest reappointment. Either or both parents may contact the court in writing to request reappointment of the parenting coordinator.

**3. Replacement of the Parenting Coordinator.** A parent may file a motion with the court requesting that the court replace the existing parenting coordinator. The motion will not be granted unless the moving parent establishes good cause for the requested relief. Mere disagreement with one or more of the parenting coordinator's recommendations will not constitute good cause for replacement of the parenting coordinator.

**4. Resignation.** The parenting coordinator may resign upon notice to each parent and order of the court.

**5. Discharge.** A parent may file a motion with the court requesting that the court discharge the parenting coordinator prior to the expiration of the appointment. Absent an order of the court; however, one or both parents cannot unilaterally discharge the parenting coordinator. The court may terminate the service of the parenting coordinator at any time for good cause or upon finding that there is no longer a need for the parenting coordinator.

**F. Fees.**

**1. Ability to Pay.** Unless the parents stipulate or agree to the appointment of a parenting coordinator, the court may not appoint a parenting coordinator without first determining that the parents can afford the parenting coordinator's fees. In determining if a parent can afford the parenting coordinator's fees, the court must consider all of the parents' then-existing financial resources and obligations, including child support and spousal maintenance. The court may not appoint a parenting coordinator if the court determines that one of the parents is unable to pay the parent's allocated portion of the fees, unless the other parent consents to paying all of the parenting coordinator's fees. Based upon the parents' financial circumstances, the court will determine how to allocate the parenting coordinator's fees between the parents.

**2. Adjustment to Allocation of Fees.** A parenting coordinator may recommend to or a parent may request of the court an adjustment in allocation of fees. Circumstances that may warrant an adjustment to the allocation of the parenting coordinator's fees include, but are not limited to, a change in one or both parent's financial circumstances or instances where one parent is using the parenting coordination process excessively to harass the other parent. Any such recommendation or request must be submitted to the court in writing and must explain in detail the basis for the recommendation or request. If submitted by the parenting coordinator, a copy of the recommendation must be provided to each parent or counsel, if represented. If submitted by a parent, a copy of the request must be provided to the other parent or the other parent's counsel, if represented, and the parenting coordinator.

**3. Time of Payment.** Prior to the first substantive meeting with the parents, the parenting coordinator must fully disclose and explain the basis of any fees and charges to the parents. A parenting coordinator can require a retainer as long as the retainer is used to pay for services as they are rendered. If a parenting coordinator does not charge a retainer, a parenting coordinator can require prepayment for the specific service to be rendered prior to the time that service is rendered.

**G. Confidentiality.** Parenting coordination is not a confidential process, either for communications among the parents and their children and the parenting coordinator, or for communications among the parenting coordinator and other relevant parties to the parenting coordination process, or for communications with the court.

**H. Powers and Scope of Appointment.** Except pursuant to subparagraph J, a parenting coordinator cannot change any existing court orders. A parenting coordinator can, however, make recommendations to the court regarding implementation, clarification, modification, and enforcement of any court order regarding legal decision-making or parenting time. A parenting coordinator cannot recommend a change to the court's existing order allocating legal decision-making authority or recommend a substantial change in parenting time. Counsel are not permitted to attend parenting coordinator meetings unless agreed to jointly by the parents and the parenting coordinator, or ordered by the court.

**I. Time Sensitive Issue Authority and Procedure.**

**1. Binding Temporary Decision.** Notwithstanding the limitations of subparagraph H, a short-term, emerging, and time sensitive situation or dispute within the scope of authority of the parenting coordinator may arise that requires an immediate decision for the welfare

of the children and the parents, but does not require a substantial change to either parent's legal decision-making authority or parenting time. On such occasion, a parenting coordinator may make a binding temporary decision. The decision and any additional recommendations of the parenting coordinator must be submitted to the assigned judge and each parent or counsel, if represented, in accordance with subparagraph L, below.

**2. Binding Temporary Change on an Emergency Basis.** A parenting coordinator, during the course and scope of the appointment, may determine that a parent's functioning is impaired and, as a result, the parent is either incapable of fulfilling the court-ordered legal decision-making or parenting functions, or will expose the children to an imminent risk of harm. On such occasion, a parenting coordinator may make a binding temporary change in the court's legal decision-making or parenting time orders if doing so is in the best interest of the children. The parenting coordinator must notify in writing the assigned judge and each parent or counsel, if represented, of any such binding temporary change and the reason therefore by the next business day. The court must hold a hearing within 10 calendar days of receiving this written notification. At that hearing the court may affirm, modify, or vacate the parenting coordinator's binding temporary change. If the court determines, as a result of this hearing, that an evidentiary hearing is necessary, the court must set such evidentiary hearing within 60 calendar days, unless additional medical, psychological, psychiatric, or substance abuse testing is ordered, in which case the evidentiary hearing is to be set within 30 calendar days of the completion of such testing. Unless modified or vacated by the court, the parenting coordinator's binding temporary change must remain in effect until the evidentiary hearing.

**K. Additional Authority of Parenting Coordinator.** The parenting coordinator may interview all members of the immediate and extended family or household of both parents and the children. To the extent provided in the Order of Appointment, the parenting coordinator may interview and request information from any persons whom the parenting coordinator deems to have information relevant to the issue currently before the parenting coordinator, including doctors, therapists, schools, or other caretakers. The parenting coordinator must notify each parent and the court in writing of any person, other than the children's school personnel or members of the immediate and extended family or household of both parents and the children, whom the parenting coordinator intends to interview, and any person or entities from whom the parenting coordinator intends to request documents. The parenting coordinator may recommend that the court order the parents or children to participate in ancillary services, to be provided by the court or third parties, including but not limited to physical or psychological examinations or assessments, counseling, and alcohol or drug monitoring and testing.

**L. Report**. Recommendations by the parenting coordinator must be made or confirmed to the court and parents in a form substantially similar to the Parenting Coordinator's Report and Recommendation, in Rule 97 of these rules, which must be mailed or transmitted to the assigned judge no later than five business days after receipt of all information necessary to make a recommendation. A copy of the report must be mailed or transmitted to the parents or counsel, if represented, on the same day it is mailed or transmitted to the court. The report may be transmitted by fax or email to the parents at a fax number or email address provided by the parents to the parenting coordinator. The

parenting coordinator must not file its report with the clerk of the court, unless the court specifically authorizes the parenting coordinator to do so.

**M. Court Action.** The court, upon receipt of a report and recommendation from a parenting coordinator, may, subject to subparagraph O, do any of the following:

1. Approve or modify the recommendation and adopt it as an order of the court;

2. Reject the recommendation report in whole or in part and affirm the current order; or

3. Set a hearing regarding the recommendation.

The court may use the Order Regarding Parenting Coordinator's Report and Recommendations, in Rule 97 of these rules, for purposes of this subparagraph.

**N. Objection**. A parent who objects to a recommendation made by the parenting coordinator must, within 10 business days of the date of the court's order, file with the court a pleading entitled, Objection. The pleading must set forth the objection to the recommendation, the basis for the objection, a proposed solution, and whether a hearing is requested.

**O. Action on Objection.** If an objection to the report and recommendation of the parenting coordinator is filed, the action taken by the court pursuant to subsection M will remain in effect pending resolution of the objection.

**P. Immunity.** The parenting coordinator has immunity in accordance with Arizona law as to all acts undertaken pursuant to and consistent with the appointment order of the court.

**Q. Parent Grievance or Complaint against a Parenting Coordinator for Unethical or Unprofessional Conduct.** In addition to any action a parent may take as provided by law, at any time during the parenting coordination process a parent may file a motion with the court regarding any alleged impropriety or unethical conduct by the parenting

coordinator. The court must take whatever action it deems appropriate with respect to such compliant. At minimum, if the court concludes that there is a reasonable basis for the parent's complaint, the court must refer the parent's complaint to the parenting coordinator's regulatory or licensing agency.

**R. Applicability.** No court is required to employ or use parenting coordinators; however, in the event a court elects to use parenting coordinators, these rules must apply.

**PARENTING COORDINATOR WORKGROUP COMMENTS**

The term "fees" includes all fees, costs and charges associated with the services of the parenting coordinator.

The term "financial circumstances" includes income, assets, liabilities, and financial obligations. Primary to any financial obligations are child support and spousal maintenance.

By way of example only, a parenting coordinator may make recommendations regarding legal decision-making and parenting time issues about choice of school, exchanges, holiday scheduling, discipline, health issues, school and extracurricular activities, and managing problematic behaviors of the parents or the children.

Examples of time sensitive issues where a parenting coordinator may make a binding temporary decision include the exchange time for Mother's Day, because it was not defined in the Parenting Plan; and whether a child can attend a short notice, significant family event with a parent that does not impact the amount of parenting time with the other parent.

A binding temporary change differs from a binding temporary decision in that it can impact legal decision-making and parenting time. The intent is to prevent or end a risk of harm to the children for example, alcohol or drug abuse by a parent, child abuse, or family violence.

In a case where the parenting coordinator is licensed by the Arizona Board of Psychologist Examiners and a parent has filed a complaint with the court regarding unprofessional conduct, pursuant to A.R.S. § 32-2081(b), prior to referring a complaint arising out of a court ordered evaluation, treatment or psychoeducation to the board, the court must find that there is a substantial basis to refer the complaint for consideration by the board.

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | X Formal Action/Request<br>__ Information Only<br>__ Other | COJET Requirements – Arizona Code of Judicial Administration § 1-302: Education and Training (Amend) |

**FROM:**

Mr. Jeffrey Schrade, AOC Education Services Division Director

**DISCUSSION:**

The Committee on Judicial Education and Training (COJET), at the recommendation of AOC Information Technology Division, proposes an additional annual training requirement for computer security and network security that will apply to all judges and judicial branch personnel.

This code change proposal also clarifies language regarding pro-rated requirements for new and part-time court personnel, and applicability of faculty credit toward the live training requirement.

Review of the code change proposal by standing committees of COJET and local Training Coordinators yielded additional language defining “computer security/network security training” and clarifying concurrent accreditation.

Some concerns were voiced by members of the Judicial College of Arizona (JCA) and the Committee on Superior Court (COSC) about whether this requirement should apply to judges. A few judges on these committees feel that greater priority should be given to mandatory training for judges in other law-related areas instead of computer security.

All committees recommended the code change as presented.

**RECOMMENDED COUNCIL ACTION:**

Approve code change as recommended.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**
**Part 1: Judicial Branch Administration**
**Chapter 3: Judicial Officers and Employees**
**Section 1-302: Education and Training**

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

"Computer security/network security training" means training addressing measures that strengthen the security of the Arizona judiciary's data, systems and network to protect confidentiality, integrity and availability of information.

**B. through D. [No change]**

**E.** 1. through 3. **[No change]**

4. ~~Dual~~ Concurrent accreditation. Courses of at least two hours in duration may be accredited for ~~two~~ more than one required area~~s~~, including ethics, ~~and~~ core curricula, and computer/network security.

5. **[No Change]**

6. Faculty Credit. COJET recognizes the educational mastery necessary to teach a course and values teaching by judges and court staff. An individual may receive up to eight hours of faculty credit in a calendar year in accordance with the following criteria:

   a. Credit hours may be granted to faculty at the rate of three-for-one the first time a course is taught and two-for-one the second and each consecutive time that course is taught;

   b. Credit hours may be granted to a program facilitator at the rate of two-for-one for the time spent facilitating the program; ~~and~~

   c. Credit hours may be granted for developing curriculum not to exceed four credit hours in a calendar year~~.~~; and

   d. Faculty credit for live trainings can be used to meet the live training requirement.

7. through 9. **[No change]**

**F. through G. [No change]**

**H. General Requirements for Compliance.**

1. All full-time judges and court personnel governed by these standards shall complete at least sixteen credit hours of judicial education each year, including at least one half hour

of ethics training, one half hour of computer security/network security training and ~~at least~~ six hours of live training.

~~2. New full-time judges and court personnel shall complete the requirements according to a prorated schedule.~~

~~3.~~2.~~New~~ ~~f~~Full-time judges~~,~~ and full-time and part-time court personnel starting employment ~~between~~ after January 1, as well as court personnel with a regular part-time schedule shall complete the requirements (including live training, core curricula, ethics and computer security/network security training) according to a prorated schedule:

a. ~~January 1 – March 31 must complete twelve credit hours of judicial education, including orientation, ethics and core curricula;~~ Those starting between January 1 – March 31 or with part-time schedule of between 30 and 39 hours each week shall complete seventy-five percent of the requirements;

b. ~~April 1 – June 30 must complete eight credit hours of judicial education, including orientation, ethics and core curricula;~~ Those starting between April 1 – June 30 or with part-time schedule of between 20 and 29 hours each week shall complete fifty percent of the requirements;

c. ~~July 1 – September 30 must complete four credit hours of judicial education, including orientation, ethics and core curricula~~ Those starting between July 1 - September 30 or with a part-time schedule of less than 20 hours each week shall complete twenty-five percent of the requirements; or

d. Those starting between October 1 – December 31~~ must~~ shall complete orientation and ethics as appropriate to the job position.

~~4. Part-time court personnel regularly scheduled each week, who are neither judges nor new employees:~~

~~a. Between 30 and 39 hours shall complete twelve credit hours of judicial education each year, including ethics;~~

~~b. Between 20 and 29 hours shall complete eight credit hours of judicial education each year, including ethics; or~~

~~c. Less than 20 hours shall complete four credit hours of judicial education each year, including ethics.~~

~~5~~3. Specialized training.

a. Core Curricula. The court has identified areas of education essential to performing duties in the court system effectively. Administrators, clerks, probation and court

personnel shall complete training in the following two core curricula, to be alternated annually as determined by COJET:
(1) Current and local issues within Arizona's court system; and
(2) Public service, effective communication and customer service.

b. Judges, clerks and staff who process Orders of Protection and Injunctions Against Harassment shall attend training on such orders and injunctions on a regular basis.

~~6~~4. Non-compliance. Judges not meeting requirements and without an exemption are subject to disciplinary action in accordance with the Code of Judicial Conduct. Probation and court personnel not meeting requirements and without an exemption may be subject to disciplinary action by their respective administrative authorities.

**I. [No change]**

**J. Standards for Administrators, Clerks and Court Personnel.**

1. Education requirements. All administrators, clerks and court personnel shall complete the general requirements.

2. Orientation. Orientation for administrators, clerks, probation and court personnel shall take place no later than 90 days after assuming duties and shall include an explanation of their specific job duties and familiarization with court structure and procedures, including an overview of:

a. The Arizona judiciary, including the structure and function of each court;

b. Current issues in the courts;

c. Expectations when dealing with the public in the courts;

d. An introduction to effective communication skills for court employees;

e. Computer/network security awareness;

~~e~~f. Local court-related issues; and

~~f~~g. Judicial education.

3. through 4. **[No change]**

**K. through N. [No change]**

## ARIZONA JUDICIAL COUNCIL

Request for Council Action

| Date Action Requested: | Type of Action Requested: | Subject: |
|---|---|---|
| December 11, 2014 | _X_ Formal Action/Request<br>__ Information Only<br>__ Other | Arizona Code of Judicial Administration |

**FROM:**

Administrative Office of the Courts, Legal Services

**DISCUSSION:**

We continue to amend the Arizona Code of Judicial Administration to provide administrative direction to judicial officers and employees throughout the state.

Enclosed are two proposed code sections for consideration with their respective proposal cover sheets summarizing each of the proposals and comments received.

- 1-302: Education and Training (Amend)
- 6-113: Firearms Standards (Amend)

Mr. Jeff Schrade, Education Services Director, will present the proposed amendments to code section 1-302. Ms. Kathy Waters, Adult Probation Services Director, will present the proposed amendments to code section 6-113.

**RECOMMENDED COUNCIL ACTION:**

Recommend adoption of the proposed amendments to code sections 1-302 and 6-113.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**
**Proposal Cover Sheet**

**Section 6-113: Firearms Standards**

1. **Effect of the proposal:** On October 22, 2014, the Arizona Judicial Council supported the recommendation to allow fugitive apprehension officers to be issued AR 15 long guns following the presentation by officers. The changes give the authority for firearms to include the issuance of long guns to adult fugitive apprehension officers.

2. **Significant new or changed provisions:** Provisions of issuance and qualifications for long guns. Previous version is limited to issuance of firearms which are handguns only.

3. **Committee actions and comments:** Adopted by Committee on Superior Court with two suggested revisions.

4. **Controversial issues:** None known

5. **Recommendation:** Request adoption of changes.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**
**Part 6: Probation**
**Chapter 1: General Administration**
**Section 6-113: Firearms Standards**

**A. Definitions.** In this section, unless otherwise specified, the following definitions apply:

"Certified firearms instructor" means an individual trained in accordance with national law enforcement ~~firearms~~ handgun or long gun training standards and approved by the Administrative Office of the Courts (AOC).

"Firearms" means either a handgun or long gun.

"Firearms automated training system" means a system which visually presents situations the officer may encounter in the officer's duties and requires the officer to make use-of-force decisions relating to the use of a firearm.

"Firearms involved incident" means an event in which an officer discharges a duty weapon or is victimized by a firearm.

"Handgun" means a pistol as approved by the AOC for use by trained and qualified officers.

"Immediate threat" means the subject poses a risk of instant harm or attack with the elements of jeopardy, opportunity and ability.

"Intentional discharge" means a non-training discharge of a department issued firearm by an officer who is on or off duty, where the officer believes the firearm is loaded and consciously performs all of the actions necessary to cause a discharge.

"Life-threatening" means actions that may cause serious bodily injury or death.

"Long gun" means a shoulder fired weapon approved by the AOC intended for the use of trained and qualified full-time warrants officers or fugitive apprehension officers.

"Low light condition" means firearms training designed to expose officers to situations they may encounter while working at night or in reduced light situations.

"On duty" means the time period during which the officer performs probation duties or is functioning at the direction of the probation department.

"Off duty" means the time period during which the officer is not performing probation duties or functioning at the direction of the probation department.

"Officer" means both adult and juvenile probation and surveillance officers.

"Tactical condition" means training involving the use of distance, shielding and movement, and other issues the officer may encounter during the course of duty.

"Unintentional discharge" means the discharge of a department issued firearm by an officer that is either on or off duty, where the firearm discharges by an action of the officer without the officer's intent to cause a discharge or when the officer unconsciously acts to cause the firearm to discharge or when outside forces cause the discharge.

"Warrants officer" means a specialized non-case carrying adult officer assigned full-time to the duties of locating and arresting individuals on warrant status. This includes fugitive apprehension officers.

**B. Applicability.** An officer of a probation department~~s~~ with the authority of a peace officer pursuant to A.R.S. §§ 12-253, 13-916, 8-205 and Arizona Code of Judicial Administration (ACJA) §§ 6-105 and 6-105.01, may carry and use a firearm~~s~~ while on duty only if authorized by the chief probation officer or director of juvenile court services and under the conditions specified in this section.

**C. Purpose.** This code governs the administration and authority of an officer to use a firearm while on duty.

**D. General Policy**. An officer may be armed pursuant to the following:

1. The chief probation officer or director of juvenile court services may require that certain job assignments are staffed by an armed officer. Examples include, but are not limited to:

   a. Warrant teams; or

   b. Specialized supervised caseloads.

2. The chief probation officer or director of juvenile court services shall determine when an officer authorized to carry a firearm is restricted from carrying in certain job assignments or in the performance of certain duties.

3. The chief probation officer or director of juvenile court services shall not order an officer to be armed.

4. The chief probation officer or director of juvenile court services may require the transfer of an unauthorized officer to another job assignment if the current assignment requires an armed officer.

~~5. Officers shall not carry any firearm on their person, at their job location or in their vehicle, while on official business except with prior approval and authorization of the chief probation officer or director of juvenile court services.~~

**E. Request for Authorization to Carry a Handgun ~~Firearm~~.**

1. An officer seeking authorization to carry a ~~firearm~~ handgun or training on ~~firearms~~ handguns shall submit a written request to the chief probation officer or director of juvenile court services.

2. The chief probation officer or director of juvenile court services shall confirm and document, prior to granting authorization, that the requesting officer has:

   a. Completed psychological testing meeting minimum standards established by the AOC;

   b. Completed a criminal history records check;

   c. Successfully completed and demonstrated proficiency in all required defensive tactics training;

   d. Completed and certified, on a form approved by the AOC, that they are medically and physically able to perform the job duties of an armed officer;

   e. Successfully completed the Committee on Probation Education (COPE) approved ~~firearms~~ handgun training academy with the ~~firearm~~ handgun intended for use;

   f. Successfully completed a COPE approved competency test and training course on ACJA §§ 6-112 and -113, and legal issues relating to ~~firearms~~ handguns; and

   g. Submitted a form, approved by AOC, attesting that:

      (1) The officer agrees to submit to an AOC approved psychological evaluation;
      (2) The officer has no medical, psychological, or health condition including a physical or mental disability, substantially impairing their ability to responsibly carry a ~~firearm~~ handgun or interfering with the safe use of or handling of a ~~firearm~~ handgun;
      (3) The officer is not addicted to alcohol or prescription drugs;
      (4) The officer does not use unlawful narcotics or drugs;
      (5) The officer agrees to submit to random drug tests if authorized to carry a ~~firearm~~ handgun;
      (6) The officer agrees to submit to drug testing based on reasonable suspicion pursuant to departmental policy and procedures; and
      (7) The officer shall abide by all ACJA requirements and department policies regarding ~~firearms~~ handguns.

3. The chief probation officer or director of juvenile court services may require that the requesting officer submit to a polygraph examination to inquire about matters that would reasonably be the basis for not authorizing an officer to carry a ~~firearm~~ handgun including, but not limited to, sexual misconduct, use of excessive force and abuse of

authority. A polygraph examination may also be used to question officers where the truthfulness or accuracy of information provided in the request to be armed is at issue.

4. The chief probation officer or director of juvenile court services shall act on the request for initial authorization, within 30 days, by initiating arrangements for the probation officer to undergo the necessary tests, evaluations, checks and training.

**F. Required Firearms Training and Qualifications.**

1. COPE shall approve ~~a~~ uniform, standardized and statewide firearms training academ~~y~~ies and annual re-qualification.

2. The Certified Firearms Instructor (CFI) shall only use curriculum approved by COPE to provide firearms training that meets the following minimum standards.

   a. Annual handgun training in:

      (1) Daylight conditions and qualification;
      (2) Low light conditions and qualification;
      (3) Tactical conditions;
      (4) ~~Firearms automated training system or a~~ ~~j~~Judgmental shooting simulation; and
      (5) Range safety.

   b. Annual long gun training in:

      (1) Daylight conditions and qualification;
      (2) Low light conditions;
      (3) Tactical conditions;
      (4) Judgmental shooting simulation; and
      (5) Range safety.

   ~~b~~c. Required instruction on the safe and effective use of department firearms.

3. Departments shall provide range equipment including eye and ear protection for use during training and qualifications.

4. An officer shall comply with all directives of the CFI concerning firearms training and safety.

5. An officer's direct supervisor may give written authorization for the officer to use a department issued firearm for practice while off duty on a range approved by the department.

6. The CFI shall confiscate and take control of the firearm of any officer who exhibits inappropriate or unsafe behavior while on the range or of any firearm determined to be unsafe.

**G. Procedures for Handgun Authorization, Denial, Temporary Suspension or Revocation**

1. The chief probation officer or director of juvenile court services shall deny authorization to carry a ~~firearm~~ handgun if an officer:

    a. Has been convicted in any court of a qualifying misdemeanor crime of domestic violence under federal law. See 18 U.S.C. § 922 (g)(9).

    b. Is subject to a qualifying protection order under federal law. See 18 U.S.C. § 922 (g)(8).

2. The chief probation officer or director of juvenile court services may deny authorization to carry a ~~firearm~~ handgun during any point of the screening and testing process based on the criteria stated in subsection (G)(6).

3. The chief probation officer or director of juvenile court services shall approve or disapprove the request to carry a ~~firearm~~ handgun in writing within 30 days after the officer satisfactorily completes all requirements stated in subsection (E)(2).

4. The chief probation officer or director of juvenile court services shall provide written reasons for denial, temporary suspension, or revocation to the officer and a copy of the approval, denial, temporary suspension, or revocation shall be kept on file.

5. The chief probation officer or director of juvenile court services or designee shall place the original request and the approval or reasons for denial, temporary suspension, or revocation in the officer's personnel file and provide copies to the officer, and to the officer's supervisor.

6. The chief probation officer or director of juvenile court services shall deny, revoke, or temporarily suspend authorization to carry a ~~firearm~~ handgun for the following reasons:

    a. Results from the psychological evaluation indicating unfitness to carry a ~~firearm~~ handgun;

    b. The officer is currently diagnosed with a mental disability or illness by a licensed mental health professional that may impact the officer's ability to safely use a ~~firearm~~ handgun;

    c. The denial or revocation of a permit to carry a concealed weapon by the State of Arizona;

    d. A result from a criminal history record check or a self report indicating any or all of the following:

        (1) The conviction of a felony or an offense, which would be a felony if committed in this state;

(2) The commission of any offense involving dishonesty, unlawful sexual conduct, physical violence or domestic violence;
(3) The violation of statutes governing firearms or lethal and non-lethal weapons; and
(4) The commission of a misdemeanor involving the carrying or use of a firearm.

e. The violation of departmental policy or this code relating to the carrying or use of firearms;

f. Carrying, exhibiting, or using a firearm in an unsafe or careless manner;

g. Disciplinary charges pending or action taken relating to the fitness to carry a ~~firearm~~ handgun;

h. Any use of alcoholic beverages on duty or excessive use of alcoholic beverages off duty that affects job performance;

i. The administrative reassignment of an officer as a result of a documented stress related disorder or post traumatic stress disorder as diagnosed by a licensed mental health professional that may impact the officer's ability to safely use a firearm;

j. A medical, psychological, or health condition including a physical or mental disability, which substantially impairs the officer's ability to responsibly carry a firearm or interferes with the safe use of or handling of a firearm;

k. The addiction to alcohol or prescription drugs that would interfere with the safe use of a ~~firearm~~ handgun and render the officer unfit to carry a ~~firearm~~ handgun;

l. An officer is found to have illegally used dangerous drugs or narcotics for any purpose within the past seven years;

m. An officer is found to have illegally used marijuana for any purpose within the past three years;

n. Transfer or reassignment of an officer to an assignment or unit where carrying a ~~firearm~~ handgun is not authorized pursuant to (D)(2) of this section;

o. The authorization was based solely upon a specific personal risk to the officer and the risk is determined to no longer exist;

p. Arrest for an offense punishable as a felony or for a misdemeanor involving the carrying or use of a firearm;

q. Discharge of a firearm by an officer in violation of any municipal, county or state law, regulation or policy;

r. Drawing a firearm or use of a non-lethal defensive weapon in violation of any municipal, county or state law, regulation or policy;

s. Any circumstance, temporary or permanent, other than time in service, which leads the chief probation officer or director of juvenile court services to believe that arming the officer could place that officer, other staff, probationers or the public in jeopardy; or

t. Failure to successfully complete the annual re-qualification program and participate in required practice sessions.

7. All screening and testing records shall be maintained in the officer's personnel file and remain confidential as required by law.

8. The presiding judge shall hear all appeals to the denial, temporary suspension, or revocation and the judicial decision is final and not appealable.

9. An officer wishing to have their authorization reinstated after revocation may submit a written request to the chief probation officer or director of juvenile court services after one year. The officer shall clearly state the reasons for reinstatement of the authorization. The presiding judge, presiding juvenile judge or judicial designee shall hear all appeals to the denial of reinstatement.

**H. <u>Handgun</u> Authorization.**

1. An officer granted authorization to carry a ~~firearm~~ <u>handgun</u> shall acknowledge and sign an authorization document indicating the officer understands the terms and conditions contained in the code and any department policy regarding the use of ~~firearms~~ <u>handguns</u>. The authorized officer shall agree to adhere to all state laws regarding the carrying and use of ~~firearms~~ <u>handguns</u>. This includes all laws relating to the use of force.

2. An officer failing to comply with regulations and limitations are subject to disciplinary action and loss of ~~firearm~~ <u>handgun</u> authorization.

3. An officer granted authorization to carry a ~~firearm~~ <u>handgun</u> shall successfully complete the annual re-qualification and participate in all required practice sessions.

4. The chief probation officer or director of juvenile court services may order an authorized officer to submit to an evaluation by a licensed or certified professional when the officer is not performing assigned job functions adequately or who is experiencing problems which could affect job performance or the safety of the public and employees.

**I. Restrictions for Carrying Firearms.** An officer authorized to carry and use a ~~weapon~~ <u>firearm</u> on duty is prohibited from carrying department issued firearms under the following conditions:

1. While in a condition resulting from the use of alcohol or medication where the officer's motor skills, reflexes, or judgment could be adversely affected or while displaying evidence of mental or emotional instability;

2. While injured or in a physical condition causing inability to use a firearm properly, for example, broken hand or an eye injury causing uncorrected impaired vision. This is not intended to limit an authorized officer's ability to defend oneself during the incident or others when injuries are incurred in a life-threatening situation;

3. While on disciplinary or investigative suspension;

4. While on leave, short term or extended, with or without pay, or other periods of unpaid absence from the department;

5. When the chief probation officer, director of juvenile court services, or other superior directs the officer not to carry a firearm;

6. When the chief probation officer or director of juvenile court services revokes the authorization to carry; and

7. When engaged in official travel out of state unless written permission is obtained from the chief probation officer or director of juvenile court services.

**J. Authority to Unholster Handgun~~, Draw and Display Firearms~~.** An officer shall only ~~draw~~ unholster their handgun ~~duty weapon~~ ~~from its holster~~, ~~or display it in public~~, under the following conditions and as authorized in subsection (L) of this section.

~~1. In compliance with department policy regarding firearm concealment or exposure;~~

~~2~~1. The circumstances surrounding the incident create a reasonable belief that it may become necessary to use the ~~firearm~~ handgun in the performance of probation supervision duties;

~~3~~2. When a law enforcement officer requests assistance from an officer in a life-threatening situation;

~~4~~3. For maintenance, inspection and training purposes; and

~~5~~4. When using the weapon in an approved training course, practice session or qualification with the CFI.

**K. Required Reporting of ~~Firearm~~ Handgun Unholstering~~, Drawing, or Displaying a Firearm~~ in the Course of Duty.**

1. Except for training or to secure a ~~weapon~~ handgun or when requested by a CFI for purposes of maintenance, or inspection, an officer who unholsters, ~~draws or displays,~~ but

does not discharge a ~~firearm~~ handgun while on duty, shall submit a written report to their supervisor no later than the next business day.

2. The supervisor shall immediately send the written report through the departmental chain of command to the chief probation officer or director of juvenile court services.

3. Failing to comply with reporting requirements may be cause for disciplinary actions, up to and including termination of employment.

**L. Authority to Discharge Firearm.**

1. An officer shall determine that deadly force is warranted under the circumstances provided by statute before using deadly force in the performance of the officer's duties.

   a. A.R.S. § 13-410(A)(1) provides:

> The threatened use of deadly physical force by a person against another is justified pursuant to § 13-409 only if a reasonable person effecting the arrest . . . would believe the suspect . . . is:
> (1) Actually resisting the discharge of a legal duty with deadly physical force or with the apparent capacity to use deadly physical force; or

   b. A.R.S. § 13-410(C)(1)(2)(a)(b)(c) and (D) provides:

> C. The use of deadly force by a peace officer against another is justified pursuant to section 13-409 only when the peace officer reasonably believes that it is necessary:
> 1. To defend himself or a third person from what the peace officer reasonably believes to be the use or imminent use of deadly physical force.
> 2. To effect an arrest . . . of a person whom the peace officer reasonably believes:
> (a) Has committed, attempted to commit, is committing or is attempting to commit a felony involving the use or a threatened use of a deadly weapon.
> (b) Is attempting to escape by use of a deadly weapon.
> (c) Through past or present conduct of the person which is known by the peace officer that the person is likely to endanger human life or inflict serious bodily injury to another unless apprehended without delay.
> . . . .
> D. Notwithstanding any other provision of this chapter, a peace officer is justified in threatening to use deadly physical force when and to the extent a reasonable officer believes it

necessary to protect himself against another's potential use of physical force or deadly physical force.

2. An officer shall not:

   a. ~~Draw or display~~ Unholster a handgun or deploy a long gun ~~weapon~~ unless the situation poses a threat that may warrant the use of the weapon;

   b. Fire warning shots;

   c. Fire in the immediate direction of a crowd;

   d. Fire into buildings or through doors or windows, when the subject is not clearly visible;

   e. Use firearms to protect property;

   f. Discharge firearms to apprehend a fleeing offender;

   g. Fire at a moving vehicle unless it is necessary to protect oneself or others against immediate threat of death or serious physical injury; or

   h. Fire at an animal unless justified in preventing substantial harm to oneself or another.

3. An officer may use firearms on an approved range or during other approved training, practice or qualification when supervised by a CFI or in other department-approved training.

**M. [No changes]**

**N. [No changes]**

**O. Authority to Carry and Use Handguns ~~Concealable Firearms~~ While Off Duty.**

1. An officer authorized to carry and use the issued ~~firearms~~ handgun and ammunition on duty may request, in writing, separate authorization from the chief probation officer or director of juvenile court services to carry and use the issued ~~firearm~~ handgun and ammunition off duty. Approval or denial of a request to carry off duty shall be in writing and placed in the officer's personnel file and shall be based on a specific personal risk or need to immediately respond based on assignment.

2. An officer authorized to carry and use a ~~firearm~~ handgun while off duty shall comply with all laws and regulations and ACJA code sections concerning the carrying of ~~firearms~~ handguns.

3. An officer who is carrying off duty without written authorization pursuant to this code section, shall be deemed to be acting outside the course and scope of employment and to be acting completely independently from the county or state.

    a. The county and state assume no responsibility or liability for those actions.

    b. Any liability arising from such possession or use of a ~~firearm~~ handgun shall be the sole, individual liability of the officer.

4. An officer shall not carry a department issued ~~firearms~~ handgun while working secondary employment.

5. Any officer found to have carried a department issued ~~firearm~~ handgun while off duty without written consent may lose authorization to be armed and may face other disciplinary actions up to and including termination of employment.

**P. Authorized Firearms, Ammunition and Holsters.**

1. An officer may only carry and use the firearm and ammunition that are approved by the AOC as their duty weapons.

2. The chief probation officer or director of juvenile court services shall ensure a database of each firearm serial number is maintained with the probation department.

3. The department shall maintain records of all firearms carried by on duty officers.

4. Only probation department approved armorers shall make adjustments to the firearm except for personalized grip or grip adapter that may be added by the officer.

5. All safety devices manufactured into the firearm shall be intact and functioning at all times.

6. An officer may use another officer's firearm in the case of a life-threatening emergency. An officer may only use another firearm on the range, under the direct supervision of a CFI.

7. The chief probation officer or director of juvenile court services shall approve holsters for the authorized ~~firearms~~ handgun based on guidelines issued by the AOC.

8. An officer shall qualify for use of a handgun with the approved holster or holsters prior to initiating use and upon re-qualifying.

9. The CFI shall ensure that only factory ammunition is used. The use of reload ammunition is prohibited.

10. An officer shall only carry ~~the~~ approved and authorized firearms.

11. An officer shall have in their possession their department issued badge, identification card and firearms authorization card whenever carrying a firearm.

12. An officer shall ensure that the firearm is fully loaded when it is carried or worn.

13. The chief probation officer or director of juvenile court services may grant written approval for an officer on official business to carry an issued firearm when traveling out of jurisdiction. The officer shall:

    a. Carry the written approval at all times while traveling;

    b. Follow all federal, state, and local laws and regulations; and

    c. Comply with the carrier's requirements.

**Q. Firearms Safety and Storage.**

1. An officer authorized to carry a firearm shall observe and practice the following safety regulations:

    a. All firearms shall be handled safely and treated as a loaded firearm until the handler has personally proven otherwise;

    b. An officer shall only dry-fire, clean, exhibit, load or unload in a safe manner and environment;

    ~~c. An officer shall ensure that any unholstered firearm that is brought into a probation department facility is unloaded. This does not include an officer's duty weapon for transfer to safe storage;~~

    ~~d~~c. An officer shall ensure that a firearm equipped with any safety device is carried in a "safe" position; and

    ~~e~~d. An officer shall ensure that the weapon is empty of ammunition prior to cleaning or inspection.

2. An officer shall ensure that the firearm and ammunition are stored in a designated safe and locked place that is not accessible to unauthorized persons when not carrying or wearing the firearm.

    a. An officer shall not keep a firearm in the office overnight unless secured in a department approved firearms storage unit.

    b. An officer shall not store a firearm overnight in any vehicle.

c. An officer shall ensure that a firearm is kept in a secure and safe place where the firearm is not accessible to other individuals, particularly children.

d. An on-duty armed officer not wanting to carry a firearm into a residence or public building, shall temporarily store the firearm in a locked automobile trunk or glove compartment.
   (1) An officer shall ensure that the automobile is locked if the firearm is stored in a glove compartment or if the trunk is accessible through the passenger area.
   (2) An officer shall exercise care that the placement of the firearm in the glove compartment or trunk is not observed by the public.
   (3) The chief probation officer or director of juvenile court services may approve alternative arrangements, such as secure lock boxes ~~under the seat.~~

e. An officer shall follow facility procedures for safekeeping and temporary storage of their firearm, ammunition, and other prohibited items at all correctional and court facilities.

3. An officer shall immediately notify their supervisor of any unauthorized use, handling, or discharge of a department issued firearm. Chief probation officers or directors of juvenile court shall ensure that all discharge investigations follow criteria provided in subsection M of this code section.

4. An officer failing to comply with the safety and storage regulations may be subject to disciplinary action, which may include the loss of authorization to carry a ~~firearm~~ handgun.

**R. Stolen or Lost Firearm.**

1. An officer shall immediately file a report with local law enforcement upon discovery that a firearm is missing.

2. An officer shall immediately report a stolen or lost firearm to the supervisor, who will in turn notify the chief probation officer or director of juvenile court services.

3. An officer shall provide a written report to the supervisor no later than the close of that business day. The supervisor shall review the report and forward it to the chief probation officer or director of juvenile court services. Upon review the chief probation officer or director of juvenile court services shall forward the report to an AOC probation safety specialist.

4. The chief probation officer or director of juvenile court services shall discipline an officer who is found negligent in the loss of their department issued firearm. The discipline shall minimally consist of a letter of reprimand and may include the loss of authorization to carry a ~~firearm~~ handgun.

5. An officer shall reimburse the county or state in the event that a probation department firearm and related equipment is lost or damaged through negligence.

**S. [No changes]**

**T. Approval for Warrants Officers or Fugitive Apprehension Officers to Carry Long Guns.**

1. The chief probation officer may approve a warrants officer or fugitive apprehension officer who is a specialized non-case carrying officer assigned full-time to the duties of locating and arresting individuals on warrant status to carry a long gun. This approval shall be based upon the officer meeting the following criteria:

   a. Is authorized to carry a handgun, pursuant to this code section.
   b. Carries the department issued handgun while carrying the long gun;
   c. Has successfully completed COPE approved long gun training; and
   d. Is current with annual requalification standards for all authorized and approved firearms established by AOC.

2. The chief probation officer shall determine when an officer authorized to carry a long gun is restricted from carrying the long gun in the performance of certain duties.

3. Warrants officers or fugitive apprehension officers shall not carry a non-department issued long gun on their person at their job location or in their vehicle, while on official business except with prior approval and authorization of the chief probation officer.

4. The long gun and ammunition must be consistent with standards established by AOC.

5. The chief probation officer may temporarily suspend or revoke an authorization to carry a long gun for cause.

6. The carrying of long guns off duty is prohibited, unless prior approval is given by the chief probation officer for range practice.

**U. Required Reporting For Warrants Officers or Fugitive Apprehension Officers.**

1. Warrant officers or fugitive apprehension officers who point a firearm at an individual, but do not discharge the firearm while on duty, shall submit a written report to their supervisor no later than the next business day.

2. The supervisor shall immediately send the written report through the departmental chain of command to the chief probation officer.

3. Failing to comply with reporting requirements may be cause for disciplinary actions, up to and including termination of employment.

**Comments and Responses to ACJA Section 6-113: Firearms Standards**

| PARAGRAPH | COMMENT | RESPONSE |
|---|---|---|
| **Subsection A: Definitions** | "Firearms" means either a handgun or long gun.<br>Consider the defined term to be: "Firearm" | Change not incorporated. |
| **Subsection A: Definitions** | Clarification. Officer is defined as "… both adult and juvenile probation and surveillance officers". Can a Juvenile Officer be a Warrants officer? If yes, not change suggested. If no, clarification is needed. | Added "Adult' before the word 'officer.' |
| **Subsection A: Definitions** | The "warrants officer" definition also has "fugitive apprehension officer" in quotations so it appears that is being defined as well in one sentence. That is the only place I can see that "fugitive apprehension officer" appears so it can either be deleted or it would have to be added elsewhere, like in the definition of "long gun" because that definition only mentions warrants officers. | Change incorporated. Included "fugitive apprehension officer" as a type of warrants officer and added the term, where appropriate, throughout the document. |
| **Subsections E: Request for Authorization to Carry a Handgun and F: Required Firearms Training and Qualifications** | Sub-Section F. talks about the required "firearms academies" yet under sub-section E. refers to a "handgun" academy. | Change not incorporated. Subsection E is specific to handguns. |
| **Subsection F(1): Required Firearms Training and Qualifications** | COPE shall approve uniform, standardized and statewide firearms academies and annual re-qualification.<br>Consider adding the word 'requirements' to the end of the sentence. | Not incorporated as it is current language. |
| **Subsection O: Authority to Carry and Use Handgun While Off Duty** | Authority to Carry and Use Handguns Firearms While Off Duty<br>Consider deleting the word 'Firearms' | Change incorporated. |
| **Subsection P: Authorized Firearms,** | Implies a non-warrants officer can fire a long gun at a range. Why allow that if officers are not trained on it? | Change not incorporated. |

| | | |
|---|---|---|
| **Ammunition and Holsters** | | |
| **Subsection R 4: Stolen or Lost Firearm** | Question from COSC: The discipline shall minimally consist of a letter of reprimand and may include the loss of authorization to carry a ~~firearm~~ handgun. – What if any officer loses their long gun? | Because the previous sentence states …" discipline an officer who is found negligent in the loss of their department issued firearm" and a requirement for approval to carry a long gun requires an officer to be authorized to carry a hand gun (subsection T), the loss of hand gun authorization would also been the loss of approval to carry a long gun. |
| **Subsection U: Required reporting for Warrants Officers** | At Section U.1. change does to do. | Change incorporated. |
| **Subsection U Required Reporting For Warrants Officers** | Recommend "Section U. Required Reporting for Warrants Officer" be incorporated in Section K. Required Reporting. For siting purposes during trainings, or possible investigations, all reporting requirements should be combined. | Change not incorporated. |
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# Arizona Judicial Council
# 2015 Legislative Proposals
# December 2014

**2015-A: Judgment of guilt; document (ACJC)**

Conforms the charges listed in §13-607 that requires a fingerprint be affixed to the judgment of guilt and sentencing document to those in §41-1750 that requires fingerprinting upon arrest for felonies and three misdemeanors (DUI, DV and Sex offenses).

Removes the requirement that the finger to be fingerprinted on the judgment must be the right index finger.

Allows for a two finger based biometric identifier be obtained in lieu of a fingerprint.

Requires a booking agency to ten-print fingerprint a person who is booked and who is required to provide the prints if the booking agency cannot determine whether the arresting agency obtained the prints.

**2015-B: Law enforcement courts; fingerprinting (ACJC)**

Splits the twenty five subsection statute, §41-1750 referencing the central state repository (DPS criminal history system) into two sections by moving all the criminal justice fingerprinting subsections to a new section, §41-1757, for easier reference.

**2015-C: NICS; prohibited possessor; criminal offenses (ACJC)**

Requires the clerk of court to transmit case information to the Supreme Court and the Supreme Court to transmit the case information to the Department of Public Safety if the defendant is under indictment or information for a serious offense.

Requires the DPS to transmit the case information to NICS. If the case is subsequently dismissed the clerk of court is required to transmit the dismissal or change in the condition of release to the Supreme Court, who shall transmit the dismissal to DPS, who then enters the information into NICS.

Adds a person under indictment or information for a serious offense or who is subject to a condition of release that the person not possess a firearm to the definition of "prohibited possessor".

**2015-D: Probationer; search (Arizona Association of Counties)**

Requires as a term of probation that a probationer submit to a search of the probationer's person, vehicle or home without a warrant if the officer has reasonable suspicion to believe the probationer is engaged in criminal activity or possesses illegal contraband.

12/04/14

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | _X_ Formal Action/Request<br>__ Information Only<br>__ Other | HB 2310: Arizona's Mental Health Courts and Statewide Standards |

**FROM:**

Marcus Reinkensmeyer, Director of the AOC's Court Services Division, and Chair of the Mental Health Court Advisory Committee

**DISCUSSION:**

House Bill 2310 (Laws 2013, Chapter 140) requires the Administrative Office of the Courts ("AOC") to submit a report to the Arizona Legislative and Executive Departments by December 31, 2014, concerning the AOC's findings and recommendations on mental health courts and specialized probation caseloads in Arizona.

Among other things, the legislation requires the AOC to provide standards that promote the efficiency, effectiveness, and accountability of mental health courts. The legislation authorized the AOC to retain a consultant, and the AOC thereafter retained the National Center for State Courts ("NCSC") as an expert in this field. The NCSC thereafter prepared a detailed study and evaluation of, and draft standards for, Arizona's mental health courts.

The Chief Justice established the Mental Health Court Advisory Committee ("MHC-AC") on April 24, 2014, by the entry of Administrative Order No. 2014-43. The Order directed this committee to review the draft standards for Arizona's mental health courts proposed by the National Center for State Courts, and to provide its comments to the AOC concerning those draft standards by October 1, 2014. The MHC-AC met five times and it made a number of revisions to the NCSC's draft. These revisions accommodate the specific processes used by Arizona mental health courts, and customize the standards to better fit the characteristics of these courts. These standards have been previously presented to the Committee on Probation, the Committee on Limited Jurisdiction Courts, and the Committee on Superior Court, and they are included in the AJC's meeting materials.

**RECOMMENDED COUNCIL ACTION:**

Approve the NCSC's report and the MHC-AC's proposed mental health court standards.

# Arizona's HB 2310: Mental Health Courts and Statewide Standards

## *Executive Summary*

***October 2014***

***Nicole L. Waters, Ph.D.***
***Jennifer K. Elek, Ph.D.***
***Tracey Johnson, B.A.***

The National Center for State Courts (NCSC) prepared this report for the Arizona Supreme Court, Administrative Office of the Courts (AOC) pursuant to the Arizona HB 2310. Following approval by the AOC and the Arizona Judicial Council (AJC), this report will be presented to the Arizona Legislature and Governor.

In early 2014, the NCSC facilitated two working group meetings to develop mental health court (MHC) standards. To inform these recommendations and the development of the standards, the NCSC also collected information from the state's MHCs via interviews with team members and participants, observations of MHC dockets and pre-docket team meetings, tours of treatment facilities, an on-line survey, reviews of written court documents, and if available, reviews of participant and program data.

The accompanying report is divided into four main sections, starting with an overview of the current practices in the state's MHCs, followed by proposed statewide standards, a third section summarizing the findings, and a fourth section with recommendations for overcoming barriers for optimal operations. Contained within the Appendix of this report are individual profiles of each of the MHCs in Arizona.

## Overview of Arizona MHCs

The term *mental health court* (MHC) is applied broadly to both courts with specialized dockets for defendants who have serious mental illnesses as well as to specialized probation caseloads (SPCs) for seriously mentally ill (SMI) probationers that work in conjunction with a court.

In Arizona, MHCs emerged to address a wide array of interrelated criminal justice and mental health issues, including:

- Improved linkages with treatment services;
- Improved public safety through reduced recidivism and compliance with conditions of probation;
- More cost-effective utilization of resources through reductions in use of jail, hospitalization, and failure to appear rates;
- Improved mental health and stability for participants; and
- Improved processes by providing timely and effective responses to mental health needs.

Each MHC program in Arizona works within the constraints and opportunities of the larger criminal justice and behavioral health systems. The MHCs rely on prosecutors (pre-adjudication) or probation officers (post-adjudication) to determine the legal eligibility criteria for program

admission. The MHCs also rely on an external agency to serve as the gatekeeper of clinical eligibility for admission. Unfortunately, the SMI designation process by which clinical eligibility is established is not well understood by many of the MHCs' team members. As a result, some MHC teams view the SMI designation process as unreliable and have sought ways to serve defendants perceived to have fallen through the administrative cracks.

## Standards

In developing statewide standards specific to MHCs, Arizona is among the leaders in the nation. As of this report, only three states currently have MHC standards (Georgia, Wisconsin, New York); development is underway in a handful of other states.

NCSC prepared an initial draft of proposed MHC standards for the Arizona Administrative Office of the Courts. The initial draft was shared with the MHC Standards Working Group of 26 stakeholders who work with MHCs statewide for review prior to meetings convened in January and February 2014. The discussions and insights provided by the Working Group in these meetings were the driving force behind a revised draft of the proposed standards. In April of 2014, the Chief Justice issued an administrative order to establish a Mental Health Court Advisory Committee. This Committee met four times between June and September of 2014 to review the proposed Working Group draft standards and make recommendations to the AOC on a final set of standards.

The final set of proposed standards, presented in a separate document, apply to general and limited jurisdiction courts (municipal, justice, and superior courts) in the state and include programs that employ diversionary and non-diversionary models. These proposed standards include procedures to establish and implement efficient, effective MHCs that are accountable to the public, judiciary, and the legislature. Most importantly, they are designed to facilitate communication between the interconnected criminal justice and behavioral health systems by establishing common expectations and guidance for mutually beneficial outcomes. At the same time, they are structured to encourage court leaders and collaborative agencies to proactively define the terms by which accountability and other performance measurements preserve independence.

An underlying theme throughout this report is the recognition that statewide standards must be inclusive of the vast differences in MHC models operating across the state and be mindful of the constraints by the systems within which they operate. Approval bodies of these proposed standards should avoid standardization, while enhancing accountability.

## Findings and Recommendations

Arizona MHCs exhibited clear strengths. The MHC teams were dedicated, innovative, and collaborative. Collaborating treatment agencies brought expertise to the team-based decision-making process in the MHCs. The teams were inclusive, incorporating law enforcement, peer support, and housing specialists. In the MHCs serving urban areas, a wide array of programs were offered to address individualized needs.

Arizona MHCs also faced several challenges. MHCs collected minimum data, which prevented teams from directly assessing whether their program addressed its intended purpose or served a defined target population. Training was limited across all teams. Finally, some MHCs did not operate with full support from all representatives, which threatened continuity in operations.

In response to the challenges, the NCSC recommends the following. Arizona MHCs should:

- Prioritize continuity and sustainability through standards on data collection and implementation of a data infrastructure;
- Revisit the court's purpose;
- Due to resource constraints, consider who is best served with a team-based approach as compared to a more traditional approach without regular judicial supervision;
- Formalize commitment from key stakeholder agencies or offices and secure dedicated team members with clearly defined roles; and
- Seek appropriate training for MHC team members, including judges.

Arizona MHCs represent a vast array of models at all stages of adjudication and must work within the constraints of the criminal justice and behavioral health systems to effectively serve defendants with mental illnesses. To ensure continuity of operations, all MHCs would benefit from data to assess efficiency and adequately evaluate effectiveness. This report should be used as a blueprint to capitalize on the synergy of the current evaluation efforts and standard development efforts for implementing evidence-based standards. Implementing standards and performance measures will ensure that MHCs can operate efficiently, effectively serve defendants and the public, and hold defendants accountable to protect its community.

# Arizona's HB 2310: Mental Health Courts and Statewide Standards

*Final Report*
*Prepared for the Arizona Administrative Office of the Courts*


**PROJECT DIRECTOR**
*Nicole L. Waters, Ph.D.*

**PROJECT STAFF**
*Jennifer K. Elek, Ph.D.*
*Tara Kunkel, M.S.W.*
*Tracey Johnson, B.A.*

**RESEARCH DIVISION | NATIONAL CENTER FOR STATE COURTS**

*October 2014*

National Center for State Courts

# Arizona's HB 2310: Mental Health Courts and Statewide Standards

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**NATIONAL CENTER FOR STATE COURTS**
*October 2014*

**PRESIDENT**
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National Center for State Courts

To promote the rule of law and to improve the administration of justice in the state courts and courts around the world.

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## Acknowledgements

We at the National Center for State Courts (NCSC) have had the pleasure of collaborating with the various people and organizations involved with Mental Health Courts (MHCs) in Arizona. It has been a gratifying experience for the NCSC to evaluate the MHCs in Arizona and prepare this report of the findings.

The Arizona Administrative Office of the Courts (AOC) graciously assisted and facilitated the responsibilities of the NCSC throughout the report. Our sincere gratitude is extended to the following AOC staff who offered their insight, experience, and wisdom to this effort: *Susan Alameda, Theresa Barrett, J. L. Doyle, Mark Meltzer, Marcus Reinkensmeyer, and Mark Stodola.*

NCSC staff members conducted onsite reviews with the following MHCs in Arizona:

- *Maricopa Superior Court: Seriously Mentally Ill Specialized Probation Caseload*
- *Pima County Consolidated Justice Court: Mental Health Court*
- *Pima County Superior Court: Mental Health Court*
- *Tempe Municipal Court: Mental Health Court*
- *Tucson City Court Mental Health Division: Mental Health Court*

NCSC staff members conducted phone interviews with the following MHCs in Arizona:

- *Flagstaff Justice Court: The Coconino County Mental Health Court Program*
- *Flagstaff Municipal Court: Mental Health Court*
- *Glendale Municipal Court: Mental Health Court*
- *Phoenix Municipal Court: Pre-screen Competency Program and Mental Health Diversion Program*
- *Sierra Vista Justice Court: Cochise County Provisional Rehabilitation Accountability (PRA) Program*
- *Yavapai County Superior Court: Seriously Mentally Ill Specialized Probation Caseload*
- *Yuma County Superior Court: Mental Health Court*

As a requirement of Arizona's HB 2310, the NCSC was responsible for developing statewide standards to establish and implement efficient, effective, and accountable performance measures for all mental health courts and seriously mentally ill specialized probation caseloads in Arizona. Meetings of a working group composed of key representatives of mental health court teams, facilitated by the AOC, were held January 29 and February 28, 2014. We at the NCSC greatly appreciate the efforts of the following Working Group Attendees:

Hon. Lisa Bleich
*(Yuma County Superior Court Presiding Judge)*
Bruce Chalk
*(Pima County Deputy County Attorney)*
Shelley Curran
*(Magellan Health Services Director Court Advocacy and Jail Diversion)*
Hon. Elizabeth Finn
*(Glendale City Court Presiding Judge)*
Andrea Hartwig
*(Supervisor of Community and Emergency Services, Centene Corporation)*
Lori Lashway
*(Clinical Social Worker)*
Kate Lawson
*(Community Partnership Care Coordination Criminal Justice Manager)*
Steve Lessard
*(*Past: *Maricopa County Adult Probation Director of Programs;*
Current: *Programs Manager, Administrative Office of the Courts)*
Hon. MaryAnne Majestic
*(Tempe Municipal Court Presiding Judge)*
Maria Mata
(Yavapai County Probation Officer)
Hon. Jim McDougall
*(Retired Supreme Court Judge; Maricopa County, Private Attorney)*
Ron Overholt
*(Pima County Deputy Court Administrator)*
Kelly Pasano
*(Pima County Senior Probation Officer)*
Terri Rahner
*(Pima County Superior Court Criminal Justice Clinical Coordinator)*
Laurel Rettle
*(Cenpatico Administrator of Prevention and Critical Care Coordination)*
Kathy Rhodes
*(Yavapai Business Manager and Specialty Court Supervisor/Probation)*
Debi Shafer
*(Yavapai County Superior Court Administrator)*
Hon. Susan Shetter
*(Tucson City Court Judge)*
Dr. Nitika Singh
*(Arizona Department of Health Services SCA Grant Project Manager)*

A special thanks is given to the following NCSC staff members for their involvement with this project: *Cassandra Roeder, Joseph Hamm, Kathryn Lewis, and Bethany Bostron.*

It is our pleasure to thank those who made this process evaluation and report of Arizona MHCs possible. We hope it is of value to the team in better serving the community.

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# Introduction

The National Center for State Courts (NCSC) prepared this report for the Arizona Supreme Court, Administrative Office of the Courts (AOC) pursuant to House Bill 2310 (HB 2310). Following approval by the AOC and the Arizona Judicial Council (AJC), this report will be presented to the Arizona Legislature and Governor.

This report presents a statewide evaluation on the effectiveness, efficiency, and accountability of 13 mental health court programs currently operating in Arizona. This report proposes standards for the design and operation of effective mental health courts (MHCs). The purpose of the MHC standards is to create accountability and enable performance monitoring, inform training and technical assistance efforts, increase public confidence in MHCs, and promote shared collaboration and communication across justice partners, treatment providers, and community service entities.

The NCSC gathered site-specific information for all identified MHCs in Arizona. Following a meeting on September 13, 2013, of 20 court representatives, including nine judicial officers, from twelve (4 Superior, 3 Justice, and 5 Municipal) of Arizona's MHCs, the NCSC, with the support of the AOC, selected 5 courts to conduct onsite reviews. The five courts were selected based on inception date (established prior to 2011), court structure (representative of all MHC types statewide), caseload (range in volume), and, for travel and cost considerations, proximity to one another.

In January and February of 2014, the NCSC visited the five selected MHCs. In total, the NCSC conducted in-person interviews with 67 team members, observed 8 dockets (including one video docket), observed 5 pre-docket team meetings, gathered feedback from 7 participants, and toured 3 treatment facilities (including an observation of one group session). The NCSC also conducted on-line surveys of the MHCs in Arizona.

## Methodology

During the onsite visits to 5 of Arizona's MHCs, the NCSC interviewed individual team members, observed team meetings and status review hearings using semi-structured protocol, visited treatment provider sites, and conducted interviews/focus groups with select participants. NCSC staff also reviewed data capabilities and compiled data maintained by the courts, as available.

The NCSC also conducted an online survey of all 12 of Arizona's MHCs. The survey requested descriptive information about the court's participants, types of services participants are engaged in, the assignment/term of judicial officers, team and advisory board representatives, data collection capabilities, performance (program and treatment) monitoring activities, training usage and needs, funding needs, and priority areas for standards to address. The NCSC received 7 complete surveys, 4 partially complete surveys, and 1 court did not respond. All 12 courts provided additional documents to describe their programs. The materials included statistics, contracts and forms for participants, program policies and procedures, external agency reporting documents, screening checklists, and/or training materials.

This report is based on the findings from the data gathering activities and is divided into four sections, starting with an overview of the current practices in MHCs, followed by proposed model statewide standards, a third section summarizing the findings, and a fourth section with recommendations for overcoming barriers and challenges for optimal operations. Contained within the Appendix of this report are court-specific profiles of each of the MHCs. The Appendix is divided into two sections: the five MHCs selected

for site visits appear in the first section while the other MHCs, involving telephone interviews with the teams, are described in the second section.

## Overview of Current Practices in Arizona MHCs

The Arizona judicial branch has made a commitment to problem-solving courts. In particular, the current Supreme Court strategic agenda has called for the expansion of problem-solving courts, evidence-based program evaluation, and community connections. The 2014-2019 Arizona Supreme Court Strategic Agenda includes several goals to protect children, families, communities, and vulnerable populations. Specific to MHCs is Goal 2, which calls for expansion of problem-solving courts through the enhancement of collaboration with partners and the development of evidence-based practices for problem-solving courts.[1]

Aligned with the strategic goals of the judiciary, Arizona currently has over 70 problem-solving courts in operation, including drug courts, DWI/drug hybrid courts, mental health courts, domestic violence courts, Veterans courts, and homelessness courts.[2] Recent legislation, HB 2457, provides for the establishment of regional mental health and veteran courts that draw on regional resources, such as the Department of Veterans Affairs, and enables courts to transfer of cases to other court jurisdictions within the region.

This report is the result of House Bill 2310 that called for the AOC to:

1) Evaluate the effectiveness, efficiency, and accountability for MHCs and specialized SMI probation caseloads;
2) Develop standards for MHCs; and
3) Identify training needs for MHC judges and staff.

Therefore, the overview presented in this section reflects a description of how Arizona MHCs operate within the context of the criminal justice system and the state and regional mental health systems. It also identifies overarching themes in the objectives of the MHCs and the interagency collaboration required for a team-based approach in MHCs.

Within this report, the term *mental health court* (MHC) is applied broadly to both courts with specialized dockets for defendants who have serious mental illnesses as well as to specialized probation caseloads (SPCs) that are designed to work with seriously mentally ill (SMI) probationers in conjunction with a court. Nationally, this term is used to describe a team-based approach to providing ongoing judicial supervision and treatment coordination to address the mental health needs of defendants and reduce recidivism among mentally ill offenders. In the MHC model, the court uses its authority to link defendants with serious mental illnesses to targeted therapeutic interventions. A MHC

[1] Advancing Justice Together: Courts and Communities. http://www.azcourts.gov/portals/0/AdvancingJusticeTogetherSA.pdf .

[2] The NCSC conducted a national *Census of Problem-Solving Courts* and identified 78 problem-solving courts and an additional 15 youth/teen courts in operation in Arizona during 2012.

team has specialized knowledge about mental illnesses and, with the guidance of clinical team members, can develop individualized case management and treatment plans for these defendants.

In Arizona, the MHCs represent a wide array of diverse models. Most importantly, the variations include limited jurisdiction courts (municipal and justice of the peace courts) and general jurisdiction courts (superior courts). Another important distinction is the point at which the defendant enters the MHC. Understanding this is important to fully appreciate each program's design and its operating policies. Some of the MHCs are diversion programs operated by the city or county attorney's office, others operate post-plea with a deferred sentence conditional upon the successful completion of the program, while still others are post-sentence with MHC terms, or terms of probation that operate with specialized probation officers and units designed for persons designated as SMI.

Jurisdiction type and program entry point are important distinctions for many reasons, but three variants are most pertinent to Arizona MHCs. First, limited jurisdiction courts typically hear misdemeanor cases, whereas general jurisdiction courts have exclusive jurisdiction over felony cases. General jurisdiction courts typically have more resources at their disposal, for example, to establish more sophisticated MHC screening and assessment protocols. Jurisdiction type may also dictate aspects of program design, such as whether the program uses a diversionary, post-conviction, post-plea, or hybrid model as the point of entry. Second, sentence length varies by offense type. Defendants may face, for probation-eligible felonies, a maximum sentence of seven years as compared to facing six months for misdemeanor charges. This may dictate, for example, the length of participant involvement with the MHC, the amount of progress that may be made in establishing mental health stability or addressing defendant needs, and the nature of legal consequences for graduation or termination from the MHC program. Finally, public defenders or court-appointed attorneys play different roles across the MHC models, as the point of entry (e.g., pre-plea, post-plea, post-sentence) varies. Defendants may not be routinely assigned legal representation for lower-level offenses.

As expected, the Arizona MHC programs do not operate in isolation of the larger criminal justice system or the operations of the state and regional mental health systems. Rather, each MHC works within the constraints and opportunities of these systems. It is precisely through the collaborative efforts of representatives of these systems that MHCs may:

- Facilitate timely access to community treatment services by defendants in need;

One MHC team member described the positive results of the MHC as: "The program is great because people do learn accountability. [The MHC] gives an incentive to maintain contact with the treatment agency. It helps keep people from recidivating because they keep going to treatment… Some people may not have sought out help on their own, or were in denial and didn't realize they needed help. It's great to have the [treatment provider] agencies available to provide free or low-cost treatment. MHC gives them the motivation they need to help themselves."

- Improve public safety through reduced recidivism and increased compliance with supervision terms;
- Improve the mental health, stability, social functioning, and overall quality of life of defendants with mental illnesses; and
- More effectively allocate state resources through more judicious use of incarceration and hospitalization, informed by the early identification of persons with mental illness.

Several features of this broader context clearly influence MHC program design features and merit further discussion. The following sections detail the relationship of how MHCs operate within the criminal justice system and the behavioral health system.

## Criminal Justice System

The criminal justice system intercepts include, among others, interactions with law enforcement, information exchange with the local jails, and court intervention. The sequential intercept model[3] suggests that early and frequent interventions at each intercept will avoid the revolving door contacts that persons with mental illnesses have with the criminal justice system. Training and other efforts to develop or enable proactive responses at the first point of contact, during incarceration, and upon release can have a positive impact on persons with mental illnesses.

The first point of contact for defendants in the criminal justice system is most often with law enforcement. In Arizona, some jurisdictions have equipped law enforcement teams with specialized training on how to appropriately respond to and assist individuals with mental health issues. Programs such as Crisis Intervention Team (CIT) training help officers learn techniques to enhance safety (of the individual in crisis, of responding officers, and of public citizens in the community) and to facilitate a more effective resolution to crisis incidents. Participating officers are trained in de-escalation strategies when engaging with persons who are mentally ill, resulting in fewer injuries, increased diversion rates into the behavioral health care system, and reduced rates of mentally ill in the jails.[4] Members of Arizona MHC teams note the value of these trainings and resulting positive community impact. Officers knowledgeable about mental health and the programs designed to serve this population (such as MHCs and psychiatric crisis units) protect the community and streamline the processes for linking the defendant to treatment.

> A MHC team member remarked: "Law enforcement…we have excellent CIT trained officers. They make a tremendous difference in our community. Not every officer understands or knows about it, but with training in crisis intervention, the tradeoff is remarkably different."

[3] Roisin Doyle et al., *First-Episode Psychosis and Disengagement from Treatment: A Systematic Review*, 65 PSYCHIATRIC SERVICES, no. 5, 603-11 (2014).
[4] Vincent Beasley, *Crisis Intervention Team*, MEMPHIS POLICE DEPARTMENT, http://memphispolice.org/crisis%20intervention.htm (last visited May 21, 2014).

Likewise, expansion of mental health training for law enforcement in Arizona may help to further reduce the incidence of mentally ill persons in jails. Nationally, jails house an alarming percentage of mentally ill (17% of the jail population is mentally ill).[5] Arizona, second to Nevada, has the next highest odds for mentally ill persons being jailed versus hospitalized (odds are 9.3 to 1).[6] Jails are often ill-equipped to effectively manage persons with mental health issues. Jail staff are often not trained on appropriate behavioral responses with the mental health population and also do not often have sufficient access to clinical assessment/diagnosis, treatment, and medication management resources. MHCs in Arizona report that psychological evaluations and Arizona Health Care Cost Containment System (AHCCCS) eligibility applications are typically not pursued while defendants are in custody. Many mentally ill persons enter the jail without prescription information and may require a more comprehensive clinical assessment to identify a response strategy. For mentally ill persons who enter the jail on a regimen of psychotropic medication(s), this regimen often cannot be sustained because of inadequate access to prescription medications in the jail. Often inmates experience a delay between entry to the jail and provision of medication. Interruptions in the continuity of a medication regimen is detrimental to establishing stability.

Upon release from incarceration, mentally ill persons may reenter the community without treatment or support services in place. As a result, such individuals may again encounter law enforcement or end up in the emergency room.[7] As a workaround solution, Arizona MHCs commonly use third party release plans to transport an individual directly from jail to an affiliated treatment provider. Additionally, some MHC team members admitted that jail was used as a safe holding place for a participant in crisis or in need of services while awaiting availability of a residential treatment bed. Using jail in this situation "is inconsistent with best practices, unduly costly, and unlikely to produce lasting benefits."[8] One solution to this problem is to ensure that communities have safe and sober living options for individuals with mental illness.

> One MHC team member asserted: "Jail is rarely, if ever used as a sanction in [our] MHC… jail is considered by the team to be a costly alternative."

Of the 13 MHCs in Arizona, five use jail time as a sanction for participants. Jail time is more typically used as a sanction in the superior court programs. The time participants are sent to jail ranges from no more than 2 days to as many as 3 weeks for not complying with conditions of probation or non-compliance with program requirements.

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[5] Henry J. Steadman et al., *Prevalence of serious mental illness among jail inmates*, 60 PSYCHIATRIC SERVICES, no. 6, 761–65 (2009).
[6] E. FULLER TORREY ET AL., MORE MENTALLY ILL PERSONS ARE IN JAIL AND PRISONS THAN HOSPITALS: A SURVEY OF THE STATES 8 (2010).
[7] Emergency rooms, like jails, play a role in filling gaps in the current mental health system by serving the seriously mentally ill immediately following a crisis situation. As a result, the mentally ill receive a poor level of reactive rather than proactive service, with a high cost to taxpayers.
[8] NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS, ADULT DRUG COURT BEST PRACTICE STANDARDS, VOLUME I 41 (2013).

## Behavioral Health System

To understand the culture and context within which MHCs operate and address defendants' treatment needs, one must also understand the behavioral health system administering the services. The Arizona Department of Health Services, Division of Behavioral Health Services (ADHS/DBHS) designates four regional behavioral health authorities (RBHAs) that are managed care corporations to administer publicly funded behavioral health services. The four RBHAs currently providing services to the MHCs in Arizona include: Cenpatico, Northern Arizona RBHA, Mercy Maricopa Integrated Care (which replaced Magellan in this capacity as of April 1, 2014), and Community Partnership of Southern Arizona.[9]

Each RBHA subcontracts with direct behavioral health treatment providers in the region. Most MHC participants receive behavioral health care services through these RBHA network providers. The state Medicaid insurance program, the Arizona Health Care Cost Containment System (AHCCCS), covers the cost of services provided by these agencies, allowing mentally ill persons access to treatment at no additional cost to themselves or to the MHC program. As a large proportion of defendants referred to MHC in Arizona are indigent and because MHCs are not funded to provide for participants' behavioral health care costs, determining AHCCCS eligibility becomes an important factor in identifying the range of treatment and case management services available to MHC participants.[10] An authorized ADHS/DBHS representative conducts an SMI determination, which is strictly an administrative (not clinical) review of records to establish SMI status.[11] Without personal financial resources or an SMI designation to secure AHCCCS coverage, MHC participants are unable to access the full range of services.

In the referral and admissions process, MHCs make a determination as to who is clinically eligible for the program. SMI status is one way to make this determination. Many Arizona MHCs require an active SMI designation for program admission, except in rare circumstances when the applicant demonstrates that s/he possesses the financial means or private insurance coverage to secure treatment, and/or utilizes a treatment provider who agrees to share status updates on the applicant with the MHC during the participation period.

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[9] The RBHA in geographic service area #5, the Community Partnership of Southern Arizona (CPSA), has started to provide direct care services. CPSA's direct-care arm is called Community Partnership Care Coordination (CPCC).

[10] Case managers are assigned to all participants who receive an SMI designation, are eligible for AHCCCS, and receive treatment through a RBHA-contracted treatment provider agency.

[11] To inform the SMI designation determination, the assessor reviews records regarding the applicant's diagnosis, assessment of functional impairment (inability to live independently, risk of serious harm to self or others, and/or dysfunction in role performance), and risk of deterioration (e.g., through contributing chronic factors or comorbid substance dependence issues). An example of a form used to make this type of determination can be found here: http://www.narbha.org/includes/media/docs/3.10.1-Form-DBHS-NARBHA-SMI-Determination.pdf.

The process by which individuals are assigned an SMI designation is not well understood by many of the MHCs' team members. As discovered through the interviews of the team and collaborating agencies, the SMI determination process appears to be closely guarded by the agencies conducting the reviews, resulting in conflicting and, at times, inaccurate knowledge by MHC team members of the process and/or criteria used in the review. This lack of transparency sometimes fueled perceptions among MHC team members that the designation process is unreliable, with authorized representatives sometimes failing to assign the SMI designation when MHC team members believed SMI status was appropriate.

> As one MHC team member suggests: "Mental Health Court should be open to everyone. But [they say] you have to have an SMI designation. Private psychiatrists will not want to submit information to the court on a regular basis, but all [RBHA providers] have agreed to do that as part of the arrangement. But the arrangement is not equitable for all [defendants] who need help… I think there are ways to incorporate the views of private MH providers into the MHC system and not overburden them. [If] a judge asks a doctor to provide information to support his care, [that doctor] will comply with that request."

For many courts, the agency assigning this designation serves as the gatekeeper of clinical eligibility for admission into the MHC; however, some MHC teams sought ways to serve the mentally ill defendants who were perceived to have fallen through these administrative cracks.

## Purpose and Target Population

In Arizona, MHCs emerged to address a wide array of interrelated criminal justice and mental health issues. The Arizona MHCs seek to reduce costs borne by the court, the criminal justice system, and the health system associated with mentally ill defendants. Punitive approaches in the traditional criminal justice system have not successfully deterred defendants with serious mental illnesses from reoffending nor have those approaches adequately addressed the underlying mental health issues, criminogenic risk factors, or other needs. Less common purposes for MHCs in Arizona were also observed. One MHC used the authority of the court to hold providers accountable for providing quality mental health services; another MHC was developed to uniquely address the inefficiencies and costs associated with Rule 11 competency hearings through a pre-screening program.[12] From a macro-economic perspective, the most compelling long-

[12] In a Rule 11 petition, the Forensics Services Division of the Superior Court receives criminal cases which have defendants who may need to be evaluated for competency. The court will order that two doctors will conduct a psychological evaluation of the defendant to determine whether the defendant is competent to be adjudicated. In the event that a defendant is considered as incompetent and not restorable within the statutory time limits, he/she may qualify for civil commitment and criminal charges may be dismissed.

term benefit of MHCs is the goal of improving their stability and quality of life. In all, these MHCs seek to address any or all of the following issues:

- Improved coordination, communication, and linkages with treatment services;
- Improved public safety through reduced recidivism and compliance with conditions of probation;
- More cost-effective utilization of resources through reductions in use of jail, hospitalization, and failure to appear rates;
- Improved mental health and stability for participants; and
- Improved processes by providing timely and effective responses to mental health needs.

As most of Arizona's MHC programs use the SMI designation as the primary clinical eligibility criterion, program entry in some cases may be almost entirely dependent on whether the defendant can secure an SMI designation. This eligibility criterion may help to ensure that all costs associated with treatment services are covered, but shifts control over admissions away from the MHC team to the agency making the SMI designation. As a case in point, some interviewees referred to the court as the "[RBHA's name] court." Using the SMI designation as the clinical eligibility criteria has an additional layer of complexity with participants presenting co-occurring substance dependence disorders. The SMI determination is delayed for MHC applicants who present with co-occurring disorders. Depending on drug type, there is a resolution period of 30 to 120 days before an SMI determination can be made, thereby delaying MHC clinical eligibility determinations.

Arizona MHCs have responded to the impact that SMI determinations can have on admission decisions through three basic approaches:

1. ***Expanded clinical eligibility criteria for MHCs.*** In response to the perception that some defendants who could benefit from MHC participation were being denied SMI status, some MHC teams have reconsidered their clinical eligibility requirements and now look for ways to include defendants who are ineligible for AHCCCS funding. Typically, this involves accepting participants to whom ADHS/DBHS assigns a *general mental health* (GMH) designation (defined by DBHS as a "classification of diagnoses… that are not so severe that people cannot function without intense services and medications," i.e., not SMI) and who thereby can access only a restricted menu of free behavioral health care services, or by accepting individuals with the means to self-pay (with private insurance or other financial resources). To implement these solutions, MHC teams face some challenges. In these programs, MHCs must develop "creative" treatment plans for non-SMI status participants using only free resources and/or for self-pay designees who use private providers outside of the RBHA network of collaborating agencies, in which case the MHC must determine how to secure regular status reports from the private clinician.

2. ***Allowed admission into the program while awaiting SMI designation or an appeal of a denied SMI designation***. MHC team members described several reasons for time delays in the SMI determination process, including a lack of historical reports and conflicting historical information, in addition to indications of co-occurring substance dependency. A complication for the court due to this potential delay is whether to admit, and later retain, a participant who is denied the SMI designation after a delay or appeal.
3. ***Developed a separate track within the MHC to accommodate individuals who do not receive the SMI designation*** (including those designated as GMH, or those with clinical diagnoses from private providers). The separate track allows the court to accept participants who are denied diversion due to legal eligibility criteria or for those without SMI designations. The downside to this track is that those who do not are not in the SMI track (e.g., receive diversion) may not have the opportunity to have their charges dismissed upon successful completion of the program.

Legal eligibility for MHC is dependent upon the stage of adjudication in which the participants can enter the program. For example, in pretrial diversion programs, the prosecutors must screen the extant charges before offering dismissal of those charges upon successful completion of the program. Some types of legal charges precluded defendants from program entry. Charges such as sex offenses, weapons charges, and violent offenses were commonly excluded offenses. Prior convictions and lack of victim consent were also reasons for exclusion.

## Team Members and Collaborating Agencies

Mental health courts provide judicially supervised, community-based treatment plans for participants, which are designed and implemented by a team of court staff and mental health professionals. The local and statewide culture in Arizona affords the MHCs both opportunities and challenges when working with this type of team-based approach. Collaborating agencies must demonstrate support for the program through active participation and dedicated resources.

Across the Arizona MHCs, processes vary not only between limited and general jurisdiction courts or between diversion and post-adjudication models, but also within similar jurisdiction types and program models. These differences dictate the role of particular team members, their involvement on the MHC team, and their degree of control over MHC eligibility decisions.

Based on observations, surveys, and interviews with team members, involvement of the prosecutor's office ranges from complete control over the eligibility decision in diversion models to a more limited role in post-adjudication models, in which the prosecutor may only attend court hearings when a potential violation of probation motion is filed on a probationer on a SPC. In some MHCs special terms are attached to a sentence which enables flash incarceration as a sanction, whereas in other MHCs the SMI Unit probation officers and/or prosecutors must file a violation of probation resulting in a termination in the program to sanction a probationer with jail time.

Similarly, the involvement of the probation department in MHC operations ranges from none (or a minor surveillance capacity), to an essential, if not primary, team role. In some MHC programs, the probation department determines the appropriateness of admission to the program or decides whether or not a probationer on the SPC should appear on the MHC docket. For example, in one post-adjudication model, the participant is not required to appear before the court for regular status hearings. In this model, the SMI Unit officer decides who should appear in court and how frequently. This accommodates an SMI Unit that serves a high volume of probationers (~600 active on the unit), where approximately 20 percent (~120) are active and appear in court on an as-needed basis. Probationers on a SPC in one county have MHC terms attached to their sentence which enable flash incarceration as a sanction, whereas, another SPC must file a formal violation of probation resulting in a termination to impose subsequent jail time. These differences dictate the role probation officers play on the MHC team.

The role of the RBHA with each MHC team also varies widely and could involve a number of different responsibilities. As interviews and observations revealed, in some MHCs, the RBHA provides a dedicated court liaison to serve a quality control function, ensuring that treatment providers and case managers' report to the court with accurate and timely information. This liaison may also provide training to the case managers on the protocols of the MHC, which was an ongoing task in some MHCs due to high turnover of the case manager position. In other MHC programs, the RBHA liaison has data access to the jail system, allowing them to identify potential MHC referral candidates (by identifying defendants who already receive or have received services through the RBHA network), identify when active MHC participants are taken into custody, and determine when MHC candidates and participants are released from custody. In addition, RBHA liaisons on the MHC team serve as a resource for identifying viable treatment programs and other service options. Maintaining current information on services available by the various treatment providers has proven difficult in some jurisdictions due to the constantly changing landscape. For MHCs that operate without involvement of the RBHA, but instead work directly with treatment providers, the MHC team is more likely to have a team member with a clinical background, operate with a coordinator role, and maintain its own data.

Regardless of the RBHA's involvement, all MHCs are potentially impacted by changes in the agency holding the current RBHA contract with ADHS/DBHS. When ADHS/DBHS contracts with a new agency to operate as the RBHA, this transition may adversely affect several aspects of the MHC, including the quality of treatment provider data to which the MHC team has access, the degree to which the RBHA and affiliated direct providers may wish to cooperate with the MHC, and the degree to which an appropriate institutional structure exists within the RBHA to support ongoing MHC operations. A noteworthy example is that one MHC was forced to cease operations for approximately 18 months due to a transition in the RBHA agency, which discontinued the contract with the MHC's behavioral health treatment provider. In another region, when a new agency recently assumed its role as the RBHA, the former RBHA agency retained all rights to its client database infrastructure. The new RBHA was forced to

piece together data from each of the local direct care providers to reconstruct the client database upon which regional MHC operations rely heavily.

Behavioral health treatment providers play a critical role in the MHC, and as expected, the MHCs employed a variety of models for their participation. The two basic models are to: 1) have a clinical team report to a dedicated liaison from each agency who participates in the MHC team discussions and appears at the status hearings to report on the agency's clients; or 2) have all case managers who have been assigned to represent MHC participants provide reports to the MHC team during MHC staffing meetings and/or court status hearings, but not operate as dedicated MHC team members.

**Table 1. Treatment Representatives Present at Court Hearings**

| *Court* | *Representative* | |
|---|---|---|
| | *RBHA* | *Treatment* |
| Maricopa County Superior Court | Yes | Case Managers |
| Pima County Consolidated Justice Court | Yes | Case Managers |
| Pima County Superior Court | No | Provider Liaison |
| Tempe Municipal Court | Yes | Case Managers |
| Tucson Municipal Court | Yes | Provider Liaison |
| Flagstaff Justice Court | No | Provider Liaison |
| Flagstaff Municipal Court | No | Provider Liaison |
| Glendale Municipal Court | Yes | Case Managers |
| Sierra Vista County Justice Court | No | Provider Liaison |
| Yavapai County Superior Court | No | None |
| Yuma County Superior Court | No | Case Managers |

Source: NCSC interviews with team members.
Note: The general team model is reflected in the table; exceptions occurred, especially for private providers.

Each model has value in the effort to maintain a functional balance between limiting the number of individuals present to inform MHC team decisions on adjustments to participants' treatment plans and allowing the MHC team to obtain accurate information about individual participants regarding treatment compliance and personal circumstances. This balance is especially challenging for higher volume MHCs; one MHC had over 20 case managers reporting to the court weekly. MHC teams that benefit from the insights of a clinically-trained MHC team member reported a better understanding of the participants' mental health needs. Additionally, this clinically trained MHC team member is not affiliated with a provider agency which advocacy issues exhibited by some agency representatives. Furthermore, this role enhances the treatment planning process, which is, at times, assumed by other team members (e.g., case managers, judges, attorneys, probation officers) in the absence of a clinically trained team member.

On the whole, the MHC team members are notably dedicated to the participants and to the broader mission of the mental health court program. In particular, MHCs with the resources to have dedicated team members from each office, department, or agency involved in the collaborative effort seemed better able to implement program rules and policies consistently across cases. In general, the team members demonstrate effective collaborative efforts to find innovative and effective solutions to improve the criminal justice and behavioral health systems in which these MHCs operate.

# Proposed Standards

**Utility of Standards**. Standards for the development and administration of MHCs provide the following potential benefits:

- Provide guidance to: existing MHCs seeking to enhance their performance; new programs seeking to design programs to achieve the best possible results; and MHCs undergoing a transition (e.g., changing judges or treatment providers) that desire to avoid any deterioration in performance.
- Provide a valid basis for: holding MHCs accountable; structure efforts to monitor their performance; and offer a framework for program evaluations.
- Permit MHCs to realize economies of scale that will enable them to confidently increase the number of participants they serve by providing a uniform set of empirically informed processes that are highly reliable and replicable.
- Inform training and technical assistance efforts for MHC staff and collaborators.
- Increase public confidence in MHCs by demonstrating that mental health courts have a sound basis for self-regulation.

If standards are developed by professionals and others intimately familiar with the operations of the MHCs and rest on the basis of sound empirical research, they can pre-empt efforts by other less well-informed bodies to provide such standards. It is also worth noting that mental health courts are "loosely-coupled organizations."[13] In such organizations, accountability and autonomy are often competing values and a source of tension. However, court leaders and collaborative agencies can take this as an opportunity to proactively define the terms by which accountability and other performance measurements preserve independence.

The real value in MHC standards comes from the interactions among all collaborators of the interconnected systems. The standards should promote communication among MHC components by clearly establishing common expectations and providing guidance for mutually beneficial outcomes.

**Process for Development.** The NCSC conducted an environmental scan of all 50 states to identify standards for drug courts, problem-solving courts generally, and those specific

[10] MARY CAMPBELL MCQUEEN, GOVERNANCE: THE FINAL FRONTIER 1 (2013), *available at* *http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centers-programs/programs/criminal-justice/ExecSessionStateCourts/ES-StateCourts-GovernanceFinalFrontier.pdf*

to MHCs to inform the proposed MHC standards for Arizona.[14] Nationally, drug courts have a large basis of empirically-based research to draw on to develop best practices and standards, whereas MHC research is limited.[15] At the time of the NCSC's scan, only three states had standards that specifically applied to MHCs (Georgia, Wisconsin, and New York) and a handful of other states had developed more general guidelines.[16] Since January of 2014, three additional states began developing statewide MHC standards. Kansas sought recommendations as to whether they should implement statewide standards or guidelines, which is currently pending approval. March of 2014 proved to be an active month, with a standards bill in session in New Hampshire and Idaho issuing a draft proposal of MHC standards. Although there are current efforts underway to develop statewide standards specific to MHCs, Arizona is among the leaders in the nation.

The NCSC prepared an initial draft of proposed mental health court standards for the Arizona Administrative Office of the Courts. This initial draft was informed by: 1) the three sets of standards in place in other states at the time this project commenced (fall of 2013), 2) the Essential Elements of a Mental Health Court, and 3) the National Drug Court Standards.[17] This initial draft was shared with the MHC Standards Working Group prior to its first meeting. The discussions and insights provided by this project's invaluable Working Group were the driving force behind a revised draft of the proposed standards. The Working Group, comprised of 26 individuals, met in January and February of 2014. The Group included representatives of the court (judicial officers, coordinators, and a clinician), probation officers, prosecutors and defense attorneys, and representatives from RBHA and DHBS.[18]

In April of 2014, the Chief Justice issued an administrative order (AO 2014-43) to establish a Mental Health Court Advisory Committee. This committee, chaired by Marcus Reinkensmeyer of the AOC, met four times between June and September of 2014

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[14] A total of 21 states have developed state-specific drug court standards (GA, CO, NM, TX, UT, WY, MN, VT, DE, NC, VA, AR, ID, IL, MD, MS, PA, AL, MO, LA, NJ). An additional 5 states follow the 10 Key Components as guidelines or standards (AZ, CT, CA, SD, WV). Three states have developed "Recommended Practices" (NY, FL, KY). Wisconsin, Nebraska, and Washington are in the in the process of developing statewide drug court standards.

[15] The National Association of Drug Court Professionals released the first set of national standards for drug courts in 2013 (NADCP, *supra* note 6) and it is expected that a second set of standards will be released in 2015. Prior to the release of national standards, many states relied upon the 10 key components for drug courts as a basis for developing statewide standards (NADCP, *supra* note 6, at 1).

[16] Oregon developed standards that apply broadly to all "specialty courts" including mental health courts. Utah developed a checklist for certification of problem-solving courts and effective January 1, 2014, Ohio established certification standards. Minnesota adopted the "Essential Elements for Mental Health Courts" as a broad-based guide. Texas has a statutorily created Council to recommend best practice guidelines to the Governor's Criminal Justice Division. Legislation in Texas requires all specialty courts to provide performance measure data upon request, regardless of funding source.

[17] *See* COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, IMPROVING RESPONSES TO PEOPLE WITH MENTAL ILLNESSES: THE ESSENTIAL ELEMENTS OF A MENTAL HEALTH COURT (2007). *See also* NADCP *supra* note 6.

[18] For a complete list of Working Group members, *see* page iii.

to review the proposed Working Group standards and make recommendations to the AOC on a final set of standards.[19]

**Proposed Standards.** The final set of proposed standards, presented in a separate document, are intended to provide guidance for the design of new and enhancement of existing MHCs in Arizona. As indicated in Table 2 below, Arizona has addressed many of the same issues in their final set of proposed standards as the other four states with MHC standards. The standards apply to general and limited jurisdiction courts (municipal, justice, and superior courts) and include programs that employ diversionary and non-diversionary models. The standards include procedures to establish and implement efficient and effective MHCs that are accountable to the public, judiciary, and as established in HB 2310, the legislature; and propose guidance on how such concepts are measured.

**Table 2**. *Comparison of the Content Areas Covered by State MHC Standards*

| | Content Areas | **Arizona** | Georgia | Idaho | New York | Wisconsin |
|---|---|---|---|---|---|---|
| **Addressed in the Arizona Standards** | Development, Planning, and Administration | **X** | X | | X | X |
| | Mental Health Court Team | **X** | X | X | X | X |
| | Eligibility, Screening, and Assessment | **X** | X | X | X | X |
| | Roles and Responsibilities of the Judge | **X** | | X | | X |
| | Sanctions and Incentives | **X** | X | X | X | X |
| | Treatment | **X** | X | X | X | X |
| | Confidentiality of Records | **X** | X | X | X | X |
| | Sustainability | **X** | X | X | X | X |
| | Training | **X** | | | | X |
| **Not Addressed in the Arizona Standards** | Use of Evidence-Based Practices | | | | | X |
| | Equal Treatment of Historically Disadvantaged Groups | | | | | X |
| | Due Process Concerns and Community Safety | | | | | X |
| | Community Outreach | | | | | X |
| | Rule Compliance/Oversight and Accountability | | | X | | |

Discussions during both the Working Group and Advisory Committee meetings routinely focused on how to balance the need for representing the wide array of current practices across Arizona's MHCs with the need for reflecting best practices in the field. Best practices are defined as aspirational goals that are aligned with evidence-based practices that courts could practically comply with in a five-year time frame, assuming the infrastructure and human resources capacity were in place. A major source of disagreement on whether to endorse some of the proposed standards was conflicting opinions regarding constrained resources.

[19] Members of the project team from the National Center for State Courts were not official members of the MHC Advisory Council. The NCSC was invited by teleconference as a guest to the Advisory Council meetings.

One of the key proposed standards addresses sustainability, which requires data collection and performance measurements that directly measure effectiveness, efficiency, and accountability. However, the courts do not have a case management system designed to accommodate the inter-agency collaboration required of a MHC nor do the courts have adequate staff to gather, monitor, and manage with these measures. One MHC was able to implement the full set of 14 national performance measures, but has concerns about a sustaining this effort due to the loss of a temporary, volunteer position to manage the dataset.

As several MHC team members remarked about the current data tracking and reporting capabilities and the impact for the implementation of the standards:

- *"The major concern is that a statewide mandate will be imposed to collect data and incorporate additional elements to the program that we don't currently do [without additional funding]… The lack of resources is a big problem."*
- *"[Our court's current case management system] is about 15 years old. We've been waiting a long time, about 7 years, for a replacement case management system. [The existing one] doesn't have the tools, and it's not worth it to write reports against [it] when a new case management system keeps being promised and it could change."*

To support the implementation of the best practices, will require the establishment of a robust data infrastructure, staff to gather, enter, and monitor the data, development of data sharing protocols, and support from multiple collaborating agencies. Currently these requirements are not in place.

# Findings and Conclusions

An underlying theme throughout this report is the recognition that statewide standards must be inclusive of the vast differences in MHC models operating across the state and be mindful of the constraints by the larger criminal justice and mental health systems within which they operate. Members of both the MHC teams and the Working Group expressed concerns that a goal of developing statewide standards was to "standardize" MHCs into one model. Clearly, this is not possible nor advisable. Approval of these proposed standards should not imply or direct standardization, while enhancing accountability.

It is also important to reflect on why MHCs are established. MHCs in Arizona serve to increase public safety and reduce recidivism, help individuals in crisis achieve stability through participation in effective mental health and substance abuse treatment, improve the quality of life for people with mental illnesses charged with crimes, and more effectively employ limited criminal justice and mental health resources.

Based upon its observations, interviews, surveys, and document reviews, the NCSC offers a series of conclusions regarding the operational strengths and challenges of MHCs in Arizona.

**Arizona's MHCs demonstrate numerous strengths:**

The teams were:

- *Dedicated*, working with limited resources, and at times, drawing on the dedication of volunteers to serve as core team members;
- *Innovative*, implementing creative and effective workarounds in response to barriers and complex institutional challenges; and
- *Collaborative*, working together for the betterment of the defendants and drawing on collective resources to find solutions.
    - *"I feel that our team communicates very effectively. Everyone on the team is genuinely interested in working with the seriously mentally ill. All of us jumped at the opportunity to be involved with the program."*

"If I had unlimited resources, I would love for professionals to be involved with the MHC program who possess expertise in the areas of housing and disability benefits. A number of our participants lack stable housing. An even larger number of our participants have been denied disability benefits. In my view, both stable housing and disability benefits can play a significant role in participants' ability to maintain long term stability. The addition of professionals in these areas would be of great assistance to our participants and lead to better outcomes."

The treatment agencies and service providers working with the MHCs:

- *Capitalized on mental health treatment expertise* to inform treatment plan development and effective responses to participant progress or decline,
- *Incorporated peer support specialists* to further cultivate a network of prosocial support for clients,
- *Offered a wide array of programs* in large metropolitan areas from a wide array of providers, and
- *Incorporated housing specialists* in some courts to provide individualized housing solutions for the defendants, which was mentioned as a gap in available services in virtually every MHC.

**The operation of the MHCs in Arizona also reflects the following challenges:**

Most MHCs collected minimal data.

- Data are necessary to conduct program evaluations, make programmatic improvements, and document MHC practices for sustainability.
- Without the benefit of automated reporting capabilities, the MHCs that collected data resorted to manually created spreadsheets.
- Inefficiencies resulted from a lack of an integrated data system. Each agency represented on the team tracked its own data in its own system. This process resulted in duplicate efforts, cost inefficiencies in tracking the same information

across agencies, and added potential risk in reduced data quality due to human error.

According to the results of NCSC's survey of the MHCs, approximately two-thirds of the courts were able to report the total number of participants served by their courts. Most were operating near capacity.

**Table 3. Capacity and Number Served in 2013**

| *Court* | *Capacity* | *Served* |
|---|---|---|
| Maricopa County Superior Court | 120 | 120 |
| Pima County Consolidated Justice Court | -- | -- |
| Pima County Superior Court | 50 | 60 |
| Tempe Municipal Court | 100 | 136 |
| Tucson Municipal Court | -- | -- |
| Flagstaff Justice Court | 20 | 25 |
| Flagstaff Municipal Court | -- | -- |
| Glendale Municipal Court | 80 | 122 |
| Phoenix Municipal Court | -- | -- |
| Sierra Vista County Justice Court | -- | 20 |
| Yavapai County Superior Court | 40 | 10 |
| Yuma County Superior Court | 50 | 16 |

Source: NCSC Survey administered in April 2014.
Note: "--" indicates that the court did not respond to the survey or was unable to provide the data.

<u>Most MHCs did not assess whether the program addressed the intended purpose.</u>

- Primarily MHCs indicated the goals were to reduce recidivism and connect (or re-connect) criminal justice-involved defendants with mental illnesses with appropriate mental health services. Without assessing if the court addressed this primary purpose, MHCs struggle with which policies and procedures are best suited for fulfilling their mission. As an example, if the purpose is to reduce recidivism, the MHCs should employ current best practices for reducing recidivism by using risk/need/responsivity (RNR) assessments and matching those assessment results to treatment plans. MHCs must collect and monitor recidivism data to know whether the MHC is, in fact, reducing recidivism.

Only three courts track post-program recidivism. One court indicated that probation can identify new felonies statewide through its electronic case management system (APETS), but was unable to track new limited jurisdiction offenses. All programs individually monitor participants for new offenses while they are in the program, but only three MHCs track this information in a database.

**Table 4. Whether the MHC Tracks Recidivism**

| *Court* | *Recidivism* | |
|---|---|---|
| | *In-program* | *Post-program* |
| Maricopa County Superior Court | No | Yes |
| Pima County Consolidated Justice Court | No | No |
| Pima County Superior Court | Yes | No |
| Tempe Municipal Court | Yes | Yes |
| Tucson Municipal Court | No | No |
| Flagstaff Justice Court | No | --[a] |
| Flagstaff Municipal Court | No | No |
| Glendale Municipal Court | No | No |
| Phoenix Municipal Court | No | No |
| Sierra Vista County Justice Court | No | No |
| Yavapai County Superior Court | No | --[a] |
| Yuma County Superior Court | Yes | Yes |

Sources: Responses to NCSC survey, NCSC interviews, and records shared with NCSC.
Note: In-program recidivism is monitored by the courts as a component of program compliance or terms of probation. This table indicates "Yes" under in-program recidivism only if the court explicitly tracks this information in a database.
"--[a]" Indicates the program was implemented in 2012 or more recently and recidivism data is not yet available; court indicated it has plans to begin tracking recidivism.

- Some MHCs indicated the purpose of the program was to improve the defendant's mental health and stability. MHCs would need to track outcome data (mental health indicators) or programmatic data to evaluate the effectiveness. One example is to track total time in the program to identify ideal timeframes to receive a maximum benefit for stabilizing mental health symptoms. The ideal time, from MHC team members' perspectives, was a longer duration than some programs were designed to accommodate or as compared to an alternative sentence without the program. Two MHCs tracked participant diagnosis information and examine those data in conjunction with time in the program and success rates to inform program performance.

<u>Some MHCs do not have clearly defined target populations.</u>

- As the court often does not set the clinical or legal eligibility criteria used to make admission decisions, there were several procedural mechanisms developed by the court as a workaround to accommodate differing perspectives on who should be served by the MHCs.
- There was a significant lack of understanding by the MHC teams about how SMI designations are made and what information informed AHCCCS eligibility. These designations determine what services are available to the participants and need to be understood to ensure efficient and effective treatment and to ensure adequate coverage of the defined target population.

- Co-occurring mental health and substance abuse disorders reportedly occurred at a high rate among MHC participants.[20] The MHCs, through limited drug testing requirements and limited use of validated assessment tools to identify a co-occurring population, addressed co-occurring diagnoses as an exception, not an expectation.

Some MHCs did not operate with full support from all representatives.

- A collaborative approach to problem-solving requires representatives who are dedicated to the team, understand their role, and understand the purpose of the court. Some team members, in addition to identifying ambiguity about their own role, did not clearly understand the role of others on the team. A memorandum of understanding or other shared document that describes all team member roles was available in only a small majority of the MHCs. Two examples of MHCs that share clear definitions of team member roles are listed below.
    - Pima County Superior Court MHC clearly describes roles of the team members through its website.[21]
    - Yuma County Superior Court MHC provides a brochure to participants and team members that clearly describe each member's role. This is an excerpt describing the role of the treatment agency representative:

      *"Treatment Agencies: Provide comprehensive mental health and/or substance abuse evaluations and intakes in a timely manner, provides rehabilitative therapy sessions, drug screening, case management and monitoring for MHC participants. Each treatment agency provides ongoing verbal and/or written treatment compliance/progress reports on participants to assist the team in any decisions. Attends all staffing and compliance hearings and makes recommendations for rewards, sanctions, graduation, and termination decisions for each of their MHC participant. Assists with housing, transportation, volunteer work and vocational training."*

- Greater variation across courts seemed, in part, due to differences in knowledge and experience regarding the purpose of the court program and the components of the MHC process (e.g., lack of understanding about each office or agency's role in the MHC process; poor or undeveloped working chemistry with other team members), as well as personality or other individual differences associated with the interpretation of those policies and with discretionary aspects of MHC program operations (e.g., differences in style between individual case managers of MHC participants that may result in inconsistent treatment recommendations across cases; differences in priorities across individual prosecutors may result in inconsistencies in how cases are referred and/or evaluated). These issues were

[20] Interviewees reported rates of co-occurring substance abuse and mental health issues as high as 80-90% of participants.
[21] See, for example: http://www.sc.pima.gov/?tabid=94.

raised by team members from several different MHC programs across the state in a number of ways, as illustrated below:

- *"When you have a dedicated prosecutor, [the MHC] runs so much better. You can provide a better legal service for clients when the prosecutor is on board and communicative and organized."*
- *"I would like to see more stability on the prosecutor's side – they change every 6 months. …It causes a lot of delays in court because the prosecutor isn't familiar with the issues and doesn't know what is going on in the case. The MHC is used as a training ground for prosecutors."*
- *"It took a while but they have a very good team now. The jail is involved to work together and make things easy for MHC cases. Everybody knows each other and works well together."*

Some MHCs were fortunate to have support from all team members, but more commonly, there was a lack of support from one of the core team members. When there was a lack of support, team dynamics suffered as a result of incomplete buy-in from all team members and this tension threatened the continuity of operations. Continuity among dedicated members was critical for effective team collaboration.

<u>Training was limited across all team members.</u>

- Most MHC judges received mental health training; however, team members were less likely to have participated in training on mental health issues. Most frequently, judges attended the Arizona Problem-Solving Court Conference and received training on mental illness diagnoses. Several judges also received presentations about MHCs in other jurisdictions in the state from visiting MHC team members. When asked, MHC team members requested a wide range of training topics to fill their needs, if resources were available. Most often, MHC team members requested training on medications (psychopharmacology), on current trends (e.g., DSM-V, trauma-informed treatment), to better understand specific classes of disorders (e.g., Axis 1) and mental illness more generally, and on communication strategies for and effective responses to individuals with mental illness (e.g., motivational interviewing, therapeutic judging). Some MHCs also requested training on performance measures, housing options, and government benefits processes.

One MHC team member stated: "Providing access to justice requires our courts to continually strive to maintain and improve upon existing processes and systems which ensure effective and efficient case management and use of information and resources. Judges and court staff need the appropriate resources and training to ensure all cases are heard in a timely manner and processed efficiently. Also, our justice system partners and the public should be able to access courts and court information in the most efficient ways possible. While implementing planned technology improvements, we must also find ways to improve existing practices and policies to further ensure that public resources are used effectively, efficiently, and accountably."

# Recommendations

To address these findings, the NCSC recommends the following actions.

1. **MHCs should prioritize continuity and sustainability through standards on data collection and implementation of a data infrastructure.**

Clearly, implementation of the proposed standards requires additional resources to acquire an integrated case management system designed for interagency data sharing commonly required by problem-solving courts. Such a system should be maintained by the court. A suggested action plan to enable data tracking and reporting includes the following.

- Establish a state-wide multidisciplinary task force to inventory sources of available program data, data standards, and possible means of electronic data exchange.
- Establish a plan for development of systems and staff support for ongoing program data sharing and reporting.
- Identify funding requirements for such a system(s) and prospective funding sources.

Problem-solving courts nationwide have been successful in maintaining effective electronic data exchange efforts. Additionally, integrated criminal justice projects with a collaborative consortium governance and multi-source funding have valuable experience to lend to the design and implementation task force. Goal 3 of the Arizona Supreme Court, Administrative Office of the Courts' 2014-2019 Strategic Plan provides explicit support for improvements in court processes through case management and information sharing technologies.[22]

2. **MHCs should revisit the court's purpose.**

MHCs should gather data elements to directly assess and evaluate compliance to its stated purpose. Evaluation will inform MHC mission statements and guide the court to identify data elements necessary to capture measureable effects to determine if the court is serving its intended population and accomplishing its intended goals. Evaluation results will also inform court leaders to make policy decisions regarding the terms of MHC participation to better achieve stated MHC goals. For example, one MHC coordinator conducted an internal evaluation to discover that a longer period of sustained compliance with treatment was necessary to routinize the treatment regimen and better enable MHC participants to maintain stability beyond program completion. These findings informed the decision by the MHC team to extend the program from a one-year commitment for participants to 18 months.

In addition, many courts stated the purpose of the MHC was to improve mental health stability and quality of life for defendants. Others suggested the court's purpose was to

[22] Advancing Justice Together: Courts and Communities, http://www.azcourts.gov/portals/0/AdvancingJusticeTogetherSA.pdf.

act as a more cost-effective utilization of resources through reductions in use of jail, hospitalization, and failure to appear rates. These MHCs should consider early intervention models per the system intercept model, when possible. Early diversion is an effective approach for addressing the mental health needs of defendants and serves as a cost-effective solution. [23]

3. **Due to resource constraints, MHCs should consider who is best served with a team-based approach as compared to a more traditional approach without regular judicial supervision.**

Courts should consider empirically based reasons for developing specialized tracks within MHCs, such as to accommodate different treatment service management structures (e.g., has a case manager or not, receives the maximum array of free treatment services covered by AHCCCS or not), for defendants with co-occurring mental health and substance abuse disorders, and for offenders with high/low criminogenic risk of recidivism. For example, MHCs that accept non-SMI defendants without AHCCCS coverage and who cannot afford the full array of treatment services available in the community should establish relationships with other community agencies and providers to secure or facilitate access to otherwise limited community housing and other programs for these participants who would otherwise "fall through the administrative cracks." Alternatively, defendants with co-occurring mental health and substance abuse disorders may not be adequately served by traditional, one-dimensional mental health or substance abuse programming and should receive specialized treatment programming designed to address co-occurring disorders simultaneously.

Importantly, whereas some defendants with mental illnesses may be best served using a combination of intensive supervision and intensive treatment conditions, others may be adequately served with minimal supervision or oversight by the court simply by connecting them to the appropriate community-based mental health services. Over-supervising low-risk individuals can have a detrimental effect of increasing recidivism by, for example, interfering with positive pro-social activities such as employment or education.[24] To achieve goals of reducing recidivism, MHCs should use offender RNR assessments to inform decisions about appropriate treatment interventions and services designed to target the offender's criminogenic risk factors. Note that mental illness does not cause criminal behavior; offenders with mental illness are no more likely to recidivate than mentally healthy offenders. Instead, mental illness, like physical illness, operates as a responsivity factor; stability must be achieved before criminogenic risk factors can be addressed.[25] RNR assessment tools can provide information to judges and probation

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[23] Doyle et al *supra* note 1.

[24] *See* Christopher T. Lowenkamp & Edward J. Latessa, *Understanding the risk principle: How and why correctional interventions can harm low-risk offenders,* TOPICS IN COMMUNITY CORRECTIONS: ASSESSMENT ISSUES FOR MANAGERS, 3-8 (2004). *See also* discussion in Christopher T. Lowenkamp, Edward J. Latessa, & Alexander M. Holsinger, *The risk principle in action: What have we learned from 13,676 offenders and 97 correctional programs?,* 52 CRIME & DELINQUENCY, no. 1, 77-93 (2006).

[25] *See* J. L. Skeem et al., *Offenders with Mental Illness have Criminogenic Needs, too: Toward Recidivism Reduction,* L. & HUM. BEHAV. (forthcoming Dec. 2013). *See also* J. Bonta, M. Law & K. Hanson, *The Predictions of Criminal and Violent Recidivism among Mentally Disordered Offenders: A Meta-Analysis,* 123 PSYCHOLOGICAL BULLETIN, no. 2, 123-42 (1998).

officers about the level of supervision necessary to manage an offender in the community and the level and type of services needed. However, without data available to determine which offenders are best served in the various Arizona MHC models, the MHCs are not currently able to make responsive modifications to their procedures.

4. **MHCs should formalize commitment from key stakeholder agencies or offices and secure dedicated team members with clearly defined roles.**

Court leadership should secure a formal, written commitment from stakeholder agencies or offices whose ongoing cooperation is required to support MHC operations. A memorandum of understanding (MOU) would specify the roles, responsibilities, and relationship to other team members. Securing the long-term support and commitment of these collaborating entities in this way is essential to ensure the continuity and sustainability of the MHC program and prevent the possible discontinuation of a program in the face of, for example, turnover in leadership or staff from the prosecutor's office or a RBHA agency transition.

There is a clear benefit to collaborating with team members who are dedicated to work with the MHC; such participation further contributes to the stability and sustainability of a MHC program. All team members should have policies and procedures that clearly define roles. Such documents should be specified in writing and available to the entire team. Specifically, the roles of case managers, treatment provider representatives, and RBHA liaisons should be clarified. The RBHA role should be used as a resource for identifying appropriate services in the community. The MHCs should prioritize establishment of a coordinator to manage data collection, monitor performance, and coordinate training opportunities. The MHCs should have a team member who has clinical training to serve as a neutral advocate for treatment services and to guide criminal justice responses that are most effective for the seriously mentally ill population.

5. **MHC teams should seek appropriate training.**

Training should focus on two key areas. First, the MHC team members would greatly benefit from a training on AHCCCS eligibility processes and the impact the Affordable Care Act will have on connecting defendants who are and are not covered under AHCCCS to appropriate services. Second, the teams would benefit greatly from training on mental health diagnoses, psychopharmacology, and effective responses to individuals with serious mental illnesses.

Overall, dedicated MHC team members should stay current with the recent developments in the field, understanding mental health in the criminal justice system. Team members, including judges, should visit clinical treatment and social service facilities and seek training on communicating and interacting with defendants in the program. Judges should attend current training events on judicial ethics, evidence-based mental health treatment, and co-occurring substance abuse treatment.

Training opportunities includes the National Association of Drug Court Professionals annual conference, with a specialized track on mental health courts; national Justice

Center trainings on mental health courts offered through Council of State Governments;[26] statewide initiatives such the Mental Health Conference offered through the Education Services Division in conjunction with the Judicial College of Arizona; or through a local university such as Arizona State University's Mental Health America of Arizona Annual SEEDS Conference, whose 2014 conference was on the Intersection of Behavioral Health and Criminal Justice.[27]

Upon approval of a final set of statewide standards for mental health courts in Arizona, it will be necessary to also include training for the courts on implementation of and compliance with the standards. Training will also be necessary for courts that do not yet operate within the scope of the approved statewide standards.

## Summary

Arizona MHCs represent a vast array of models at all stages of adjudication. The MHCs must work within the constraints of the local and state criminal justice and behavioral health systems to effectively process and serve defendants with mental illnesses. Undoubtedly, all MHCs would benefit from data to assess efficiency and adequately evaluate effectiveness. The data will ensure continuity of operations for MHCs operating within the state. This report should be used as a blueprint to capitalize on the synergy of the current evaluation efforts and standards development efforts for implementing evidence-based standards and performance measures so that MHCs can operate efficiently, effectively serve the defendants and the public, and hold defendants accountable to protect the community.

[26] See for example, http://csgjusticecenter.org/courts/mhc-curriculum/ on Developing a Mental Health Court.

[27] 2014 Conference: http://cabhp.asu.edu/events/seeds-2014-conference-the-intersection-of-behavioral-health-and-criminal-justice.

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# Appendix:
# Arizona Mental Health Court Profiles

## *Site Visits*

*This Appendix is divided into two sections. Listed in this first section, the NCSC conducted site visits to the MHCs listed below. To inform these profiles, the NCSC observed team staff meetings and status review hearings, interviewed team members, participants, and stakeholders, toured court, probation, and treatment facilities, and reviewed program policies, procedures, and data on participants.*

*The profiles reflect program descriptions of these five MHCs:*

- *Maricopa Superior Court: Specialized Probation Caseload for Seriously Mentally Ill*
- *Pima County Consolidated Justice Court: Mental Health Court*
- *Pima County Superior Court: Mental Health Court*
- *Tempe Municipal: Mental Health Court*
- *Tucson City Court Mental Health Division: Mental Health Court*

## Maricopa County Superior Court

## Maricopa Superior Court: Seriously Mentally Ill (SMI) Specialized Probation Caseload[1]

**History**

Maricopa Superior Court's operations with the SMI Specialized Probation Caseload began in 2004.[2] This caseload operates within a larger context of the Maricopa Consolidated Mental Health Court. A clear benefit of this "Consolidated" Mental Health Court is that the dockets operating within this court are interrelated, covering a range of mental health issues (e.g., guardianship, competency). The mental health court (MHC) operates a docket to provide judicial support and oversight for probationers on specialized caseloads who have serious mental illnesses. During the NCSC's visit, Commissioner Barbara Spencer and Commissioner Patricia Starr presided over the MHC.

**Program Design**

*Purpose.* The purpose of the SMI unit of the specialized probation caseload is to improve probationers' opportunities for success on probation through close supervision, timely case management, education and training, advocacy, and effective collaboration with community agencies. The MHC operates as a post-sentence model under specialized probation caseloads designed for individuals with mental illness. The most notable feature of the program is that probation officers can schedule court appearances on an "as needed basis" for the offenders they supervise. Not all SMI probationers will appear before a judge in MHC. Court appearances are scheduled for SMI probationers on either end of the compliance spectrum—those doing well and those doing poorly. Probation views this model as a useful tool for SMI probation officers to solicit input from a multi-disciplinary team on potential solutions. The court status hearings serve as a sanction to reinforce and/or encourage compliance or as an incentive to receive judicial recognition. Court hearings also enable the court's authority to be used as leverage to gain treatment provider compliance to meet participants' needs. The court is generally responsive to probation requests and will typically docket a matter within two to three days. Probationers receive mental health terms attached to their sentence to enable probation officers to request "flash incarceration" (or interim deferred jail time up to 120 days) without the need to file a petition to revoke probation.

*Target population.* The target population is Maricopa County adult felony probationers who have qualified serious mental illnesses, including Axis I diagnoses or evidence of functional impairment.

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[1] The National Center for State Courts would like to acknowledge the following members of the Maricopa Superior Court for their time and involvement with this project: Jessica Ethington (SMI Probation Supervisor), Frankie Jones (Prosecuting Attorney), Kim McCurtain (SMI Probation Officer), Rodney Mitchell (Public Defender), Douglas Murray (SMI Probation Officer), Catherine Soileau (Comprehensive Mental Health Coordinator), Commissioner Barbara Spencer, Commissioner Patricia Starr, Cathryn Whalen, (Public Defender), Fred Wilhalme (SMI Probation Officer), and Tammy Wray (Public Defender).

[2] For additional information *see*: http://www.maricopa.gov/opa/mhc.aspx. *See also* http://www.superiorcourt.maricopa.gov/SuperiorCourt/ProbateAndMentalHealth/Index.asp.

**Eligibility**

*Legal eligibility.* All probation eligible charges are screened for the SMI specialized caseload, including transferred youth, sex offenders, and all populations of offenders that have been verified through the RBHA as an SMI. SMI unit probation officers determine who makes a MHC appearance and when.

*Clinical eligibility.* To be eligible for the SMI specialized caseload, probationers must be designated as SMI by the local RBHA. SMI unit probation officers will consider accepting probationers with traumatic brain injury, development disability, and/or dementia diagnoses.

*Screening and assessment tools.* Probation officers assess the general recidivism risk and criminogenic needs of all participants using the OST (Offender Screening Tool) and reassess on the FROST (Field Reassessment Offender Screening Tool). This information is used to inform case planning. All defendants also undergo a presentence investigation, of which the OST assessment is a part. The presentence report is used in part to inform the judge's decision for assigning mental health terms to the sentence.

**Program Description**

Efficiency

*Referrals.* Referrals arrive along two primary routes. Most frequently, if RBHA has previously evaluated the defendant and offered a designation as SMI prior to sentencing, then the pre-sentencing officer recommends a mental health addendum on the pre-sentencing report. The judge has the discretion to add the mental health court addendum, but it is generally discouraged unless the probationer is verified with an SMI designation. The second path is that probation officers outside the SMI unit can call for a judge to add an addendum retroactively to place participants on the SMI unit after sentencing to probation. The team indicated that ideally sentencing judges should have more information about the SMI designation during sentencing so that the mental health terms are added to the sentence early in the process.

*Staffing and docket.* On average, the court calendars 30 participants each week; the majority of those on the SMI caseload are not set on the calendar. Court is primarily used for situations in which the participant decompensates or faces compliance issues. Court is used as a way to trouble-shoot with a multi-disciplinary team to solve any treatment concerns. Probation officers expressed the benefit of not waiting until a probationer is petitioned to revoke to receive judicial support. As of the time of NCSC's visit, the staffing meetings lasted approximately an hour and a half, followed by a 45 minute break to enable public defenders to discuss updates with their clients. The court status hearing lasted approximately 45 minutes. There were approximately 12 participants on the calendar for the NCSC's observed docket. Typically, there are 12-20 scheduled participants appearing for each docket. The current model creatively sustains the resources necessary to supervise and process the large volume of participants. Thus, any change to the "as needed" calendaring model would require significantly more resources to accommodate additional staffing and status hearings as well as a significant increase in probation officers overseeing specialized caseloads to handle an already large caseload.

SMI probation officers use various tactics to streamline the court processes and spend less time in court. For example, one probation officer schedules all court appearances on the same day every two weeks to streamline the time she spends in the courtroom.

Accountability

*Program structure.* The SMI probation officers require probationers to maintain minimum contacts and comply with probation requirements. However, participants face various individualized terms of probation; many probation officers report that this population often requires more contacts than the minimum requirements. The average caseload of specialized SMI unit is 610 probationers with caseloads capped at 40 per officer. The average time in the MHC program is one and a half to three years.

The team employs a range of incentives including gift cards, certificates, fewer appearances, and public recognition. On the other end of the spectrum, the court employs sanctions including more frequent appearances in court, verbal admonishments, threat of jail time, and flash incarceration. The team universally recognizes that jail time disrupts a participant's stability and results in a lack of continuity in prescription medication. Thus, the court uses jail time sparingly and for short terms (typically less than 7 days). However, jail is used as a way to place a participant in a safe, sober environment or while awaiting treatment availability in the community.

Effectiveness

*Team members.* The team operates in a problem-solving capacity to overcome barriers to participant success. The team consists of two commissioners, a court coordinator, SMI probation officers, regularly assigned public defenders, a peer mentor representative, a RBHA representative, and a host of case managers. A prosecutor was typically not present unless there was a filing for a petition to revoke probation. This absence was clearly understood by the team to be an issue of funding, not an indication of a lack of cooperation or support for the program.

The presiding judge determines rotation, which occurs approximately every three years. During our visit in March of 2014, two judges (Commissioner Starr and Commissioner Spencer)[3] oversaw the mental health court docket that reviews the SMI specialized probation cases. The MHC team meets quarterly to make programmatic decisions about the program and discuss potential improvements.

Training requirements for SMI probation officers is extraordinary and commendable. SMI officers receive training in the first year on the job that addresses the following topics: co-occurring disorders, psychological disorders, crisis overview, and psychopharmacology. SMI officers can also opt to take recommended training on topics such as: housing, suicide, RBHA orientation, and AHCCCS Universal Application.

[3] The assignment to the MHC was Commissioner Spencer's second assignment on the MHC; the first was in 2007. Commissioner Starr took over for one of the founding judges (Judge Michael Hintze) when he retired; recently Commissioner Spencer has been appointed as Superior Court Judge and will no longer preside over the MHC, as of June 30, 2014.

*Services provided.* The MHC team suggested that Maricopa County has a wealth of services as compared to other regions of Arizona. Yet, the team also identified that housing and substance abuse services were inadequate to serve the population. In particular, identifying housing for individuals with co-occurring, substance abuse, and/or functional impairments was particularly difficult. The co-occurring population was estimated at over 90 percent of those on the SMI specialized caseload. To adequately serve this population, the program requires both validated assessment tools for detecting co-occurring disorders at an early stage in treatment development and a need to connect the participants with existing co-occurring treatment in the county. Additionally, the team reports that drug testing processes could be improved, such as identifying a better response for a missed drug test than considering it positive, particularly for a low-functioning population. Functional impairment is reportedly high among this population, which at times, requires a designated payee or guardian ad litem to administer their funds and navigate the benefits system.

*Data and evaluation.* The probation department gathers most of the data on the specialized caseload and reported a 73 percent success rate for FY 2013. This figure includes probationers with early terminations, those who expired out of the program, those who complete probation with earned time credit, and those who exit probation on successful completion. In FY 2013, 351 probationers exited probation.

Admirably, the SMI units in the probation department have recently expanded the data elements it tracks to better understand the effectiveness of sanctions/incentives for MHC participants and is poised to make programming changes in response to the data results. The court collects limited data on participants; currently the court collects data manually in Excel.

**Program Exit**

There is no formal graduation for the SMI specialized probationers. Probation officers can request an early probation termination; optionally, the probation officer can place the case on record and the team will congratulate the participant in open court. After graduation, some participants engage in alumni support groups and are encouraged to seek peer support training opportunities. Aftercare and access to services post-program is available for those who are AHCCCS-eligible.

# Pima County Copnsolidated Justice Court

## Pima County Consolidated Justice Court: Mental Health Court[4]

**History**

The Pima County Consolidated Justice Court (PCCJC) began operating an informal mental health court in 2000 under Judge Carmen Dolny as an effort to respond in a new way to the volume of mentally ill offenders circulating through the criminal justice system. Several tragedies in the Tucson area – crimes borne of mental illness – heightened awareness of the link between mental health and criminal justice in the community consciousness. The PCCJC community viewed early identification and efforts to connect mentally ill offenders with treatment services as a partial solution to reduce recidivism driven by mental illness and provide these individuals with a chance for a better life. In 2009, Judge Susan Bacal became the current presiding judge of this docket and transformed the initiative into a formal PCCJC MHC program, modeled after the longstanding MHC program at the local Tucson City Court.

**Program Design**

*Purpose.* The PCCJC MHC does not currently have a formal mission statement or statement of program goals, although several team members indicated that this could be helpful moving forward. Interviews with team members indicated that the MHC operates primarily as a mechanism for (re)connecting mentally ill defendants with behavioral health services through the RBHA. It also operates to reduce failure-to-appear rates with this population: The judge and other MHC team members provide a supportive environment for mentally ill offenders to see their legal matters resolved, and will consolidate court appearance dates into a single appearance date when a defendant has several outstanding cases.

*Target population.* The PCCJC MHC program targets mentally ill defendants at two points. The pre-plea diversion track, overseen by the county attorney's office, targets first-time offenders. The post-conviction (i.e., "non-diversion" or "general MHC") track targets mentally ill defendants deemed ineligible for diversion by the county attorney's office, admitting these defendants as MHC participants following a guilty plea.

**Eligibility**

*Legal eligibility.* The PCCJC MHC program accepts all referrals of defendants with behavioral health needs to one of the two MHC program tracks. The post-conviction track does not have rigid legal eligibility criteria. Participation in the diversion track must be approved by the county attorney. Defendants with prior convictions and/or who face certain types of charges (such as for criminal traffic offenses or offenses involving weapons) are typically ineligible for diversion. Several MHC team members expressed a

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[4] The National Center for State Courts would like to acknowledge the following member of the Pima County Consolidated Justice Court for their time and involvement with this project: Janet Altschuler (Private Attorney), Hon. Susan Bacal, Megan Bright (COPE Court Services Specialist), Diana Carino (CPCC Criminal Justice Liaison), Elizabeth Cirillo (Public Defender), Gabrielle Danaher (CODAC Criminal Justice Care Manager) Yvonne Hendrix (Courtroom Clerk), Lisa A. Kumiega (Deputy County Attorney), Kate K.V. Lawson (CPCC Criminal Justice Manager), Patrick Alan Moran (Private Attorney), Victor da Rosa (La Frontera Criminal Justice Case Manager),Terry Staten (Sheriff's Department Detective Sergeant), and Joe Valenti (Public Defender).

desire to see diversion expanded to defendants who have prior convictions, as the possibility of case dismissal is understood to be a powerful motivator for MHC participants to comply with treatment.

*Clinical eligibility.* The defendant must consent to the terms of the PCCJC MHC program, which includes the receipt of behavioral health treatment services as prescribed by a treatment provider. Team members indicated that an SMI designation, along with the defendant's financial status and proof of legal residency, are used to inform a determination of defendant eligibility for the state Medicaid insurance program (AHCCCS), which covers behavioral health care costs associated with MHC participation. The PCCJC MHC program does not require an SMI designation for admission; however, interviewees expressed a concern that the MHC program is unable to serve defendants with clear mental health needs who are not SMI- or AHCCCS-eligible and who do not otherwise have the means to self-pay for treatment.

*Screening and assessment tools used.* All clinical assessments used to establish AHCCCS insurance eligibility and/or inform treatment planning are conducted by behavioral health providers in the RBHA network. No other standardized screening or assessment tools inform the eligibility determination.

**Program Description**

Efficiency

*Referrals.* Candidates for referral to the PCCJC MHC may be identified at any point in the criminal justice process. Local law enforcement undergo specialized training on how to respond to mental health-related incidents in the community; the Pima County Sheriff's Department has a dedicated Mental Health Investigative Support Team (MHST), which works closely with the RBHA criminal justice team to proactively identify mentally ill offenders and connect them with appropriate services. Treatment provider liaisons also review information on new arrests from the jail. At arraignment, any offender identified as mentally ill by a local treatment provider agency under the RBHA is automatically referred to the MHC. In addition, defense attorneys, judges, and others who note mental health-related concerns with a defendant may ask to have the defendant's case referred for possible admission to MHC.

Although some defendants would not be provided with court-appointed defense counsel in traditional court given the nature of their charges, the PCCJC MHC appoints defense counsel for every referred case.[5] To maintain continuity in the MHC program, the MHC judge will select counsel from a short list of pre-approved defense attorneys under contract with the court who have demonstrated expertise or affinity to working with mentally ill defendants.

*Staffing and docket.* The PCCJC MHC hears cases on a dedicated docket, convened twice a week (on Wednesday and Thursday afternoons).[6] The calendar includes a mix of

[5] Interviewees indicated that PCCJC is not supported by a public defender's office.

[6] NCSC researchers observed the Thursday afternoon docket on January 30th, 2014, which ran approximately 1 hour and heard cases for 16 defendants (some of whom appeared for multiple cases). One

arraignments, status hearings, and trials for defendants in and out of custody. Defendants in custody are typically heard first, followed by out-of-custody defendants in the order in which they arrive to court and sign in with the courtroom clerk. Participants may leave court after their case has been heard. Witnesses and victims may attend court proceedings and are asked to notify the judge or county attorney upon arrival. Several court-appointed defense attorneys voiced appreciation for the effort to coordinate their cases when possible (i.e., to schedule the attorney's clients for status review hearings on the same day).

The MHC operates without routine staffing meetings; however, team members exchange information at the start of each docket and in between cases. To inform proceedings, the RBHA liaison and the criminal justice liaisons from each participating behavioral health provider agency operating under the auspices of the RBHA have access to computerized database information about MHC participants. Information shared includes participant compliance with treatment during the prescribed monitoring period (e.g., attendance at appointments, behavior toward treatment team) and knowledge of circumstances surrounding any client misbehavior (e.g., in conjunction with re-arrests identified through a data sharing collaboration between RBHA and the jail). Criminal justice liaisons from provider agencies typically do not operate in the case manager role for MHC clients, but access status information and notes provided by the client's individual case manager to represent the provider agency in communications with the court. Interviewees from the court expressed satisfaction with the quality and timeliness of information shared by the criminal justice liaisons.

Accountability

*Program structure.* To successfully complete the diversion track of the MHC program, participants must fulfill a 9 to 12-month term of compliance with a treatment plan, as defined by the participant's treatment provider. They must maintain a clean record during this period (i.e., no new arrests). Participants are also required to attend judicial status hearings for progress reviews every three months, complete five hours of community service, and complete any other terms of diversion customized for the participant in the diversion agreement. Although the county attorney's office charges fees of participants who go through traditional (i.e., non-MHC) diversion, participants in the diversion track of the MHC program are not required to pay fees.

Similar terms are required of participants in the post-conviction track of the MHC program. Post-conviction MHC participants must fulfill a 6 to 12-month term of compliance with a treatment plan, as defined by the participant's treatment provider, and maintain a clean record during that time. These participants are also required to attend periodic judicial status hearings for progress reviews; the frequency of these hearings is contingent on the participant's demonstrated compliance with program terms, with less compliant individuals scheduled to appear more frequently before the judge over the monitoring period. Participants must also comply with any individual terms specific to his or her plea agreement, such as a fine and/or a period of supervised probation.

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interviewee indicated that docket volume on any given day may range from only one to as many as 30-40 cases.

Participants are given several opportunities to demonstrate compliance and receive verbal praise when successful, but some interviewees indicated a desire to see the MHC implement a wider array of sanctions and incentives in response to participant behaviors. The county attorney has full discretion to terminate from the MHC program a participant who incurs a new arrest. If a diversion-track participant is permitted to continue in the MHC program, new charges may be combined with the original charges in the diversion agreement. Participants who do not comply with their diversion or plea agreement may be taken into custody as a last resort, which typically precedes formal termination from the MHC program.

Since April of 2009, nearly 500 cases have been entered into the MHC program. Currently, about 150-200 cases are actively enrolled.

Effectiveness

*Team members.* Team members present for the MHC docket include the judge, courtroom clerk, prosecutor from the county attorney's office, court-appointed defense counsel (those representing MHC participants scheduled to appear that day), a RBHA liaison, and criminal justice liaisons from the following behavioral health provider agencies under the RBHA: COPE Community Services, Inc.; CODAC; and La Frontera Center, Inc. Team members do not receive specialized training for the PCCJC MHC program but several expressed a desire for opportunities such as funding/resources permit.

Team members demonstrated strong support for the MHC program but also expressed some concerns. All team members participate in MHC on a part-time basis, and several communicated the time-management challenges associated with additional non-MHC responsibilities. Most indicated a desire for more dedicated staff time (e.g., in the form of two full-time dedicated defense attorney positions, one full-time dedicated courtroom clerk position or two part-time clerk positions, more of the judge's time on an expanded MHC calendar). Team members also wished to see more visible support from the county attorney's office through leadership participation in semiannual MHC team potluck meetings and an investment in continuity by assigning a dedicated county attorney to the MHC for a sustained period of time. Most team members expressed frustration that the MHC appeared to be a "training ground" for new prosecutors, who typically rotate through the position every three months.[7]

*Services provided.* Participants typically receive services from the RBHA network of behavioral health treatment providers, such as COPE, CODAC, La Frontera, or the direct care arm of CPSA (called Community Partnership Care Coordination or CPCC). However, participants may receive services from private providers or other provider agencies without a dedicated PCCJC MHC criminal justice liaison. Services commonly include mental health, trauma, and substance abuse treatment via individual counseling, group treatment sessions (including gender-specific treatment groups), medication

[7] NCSC researchers requested but were unable to secure an interview with the MHC prosecutor.

management, and recovery support services/peer mentoring. Some providers offer financial assistance to help clients secure benefits and assistance in locating housing.

A few interviewees expressed some doubt in the efficacy of group treatment options for offenders with mental health needs, and one indicated that a more structured approach designed specifically for the criminal justice population (separate from those who are not justice-system involved) may benefit MHC participants.

*Data and evaluation*. The PCCJC MHC has not been previously evaluated. The PCCJC uses the AGAVE case management system, which tracks the number of cases and participants entered into MHC, basic demographic information about MHC participants (e.g., age, race, gender, basic information about the types of charges faced by MHC participants, and how each MHC case is resolved (adjudication type and, if applicable, reason for termination). It does not currently track post-program outcome data on participants.

**Program Exit**

Participants who successfully complete the MHC diversion track have their charges dismissed; supervision is terminated. Interviewees estimated that approximately 90 percent of participants successfully complete the program. For participants who are terminated from MHC diversion for noncompliance, prosecution is reinstated. Participants who successfully complete the MHC post-conviction track may have suspended jail time expunged from their record; however, program involvement offers other benefits to these participants, who may feel more comfortable about appearing in a specialized court with the support of a knowledgeable court-appointed attorney and treatment provider representatives than in a traditional court with potentially no or less-qualified representation. Graduations occur once every three months; participants receive a certificate of completion. No formal court aftercare program is offered, but AHCCCS-insured participants may continue to receive treatment services through their preferred provider.

# Pima County Superior Court

## Pima County Superior Court: Mental Health Court[8]

**History**

In July 2004, Judge Nanette Warner of the Arizona Superior Court in Pima County assembled a committee of local criminal justice stakeholders to direct the development and implementation of a specialized court program for mentally ill offenders. Judge Warner noted the high rate at which petitions to revoke probation were being filed against community-supervised offenders with serious mental illnesses (SMI) and called for a program that could better meet the needs of these individuals to help them successfully complete probation. Since inception, three judges have presided over the Pima County Superior Court's Mental Health Court (MHC). The current MHC judge is Judge Deborah Bernini.

**Program Design**

*Purpose.* The goals of the MHC program are to: improve communication and collaboration between the court, community supervision agencies, law enforcement, and behavioral health providers in partnership with program participants; increase the efficiency of criminal case processing; improve the likelihood of success of treatment interventions, agency placement, and community supervision for program participants; increase compliance with conditions of release and probation for program participants; and reinforce positive, pro-social choices for program participants. [9]

*Target population.* The MHC program serves adult community-supervised felony offenders who have been designated as SMI by the RBHA.[10] The MHC is not a diversion program. Participants enter the program as part of a specialized probation caseload for SMI-designated defendants.

**Eligibility**

*Legal eligibility.* A defendant must be convicted of probation-eligible felony charges. Defendants charged with serious crimes (murder, sexual assault, child molestation, some domestic violence crimes) are typically ineligible for MHC.

*Clinical eligibility.* The defendant must have an active SMI designation and must receive or be willing to receive behavioral health treatment services through the RBHA network. For defendants who have not yet been evaluated for the SMI designation, an authorized

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[8] The National Center for State Courts would like to acknowledge the following members of the Pima County Superior Court for their time and involvement with this project: Peggy Averett (Administrative Assistant), K. Kent Batty (Court Administrator), Anne-Marie Braswell (Community Relations Coordinator), Nancy Coomer (Public Defender), John Delgadillo (CODAC), Amanda Guerrero (Jail Medical Provider), Sally Hueston (HOPE Peer Support), Sam Nagy (CPCC Criminal Justice Peer Mentor), Ronald G. Overholt (Deputy Court Administrator), Kelly Pesano (Senior Probation Officer), Terri A. Rahner (Criminal Justice Clinical Coordinator), Richard Walitshek (Probation Officer, SMI Caseload), and Steven R. Wenzel (Veterans Justice Outreach Coordinator).

[9] The mission of the MHC program, along with other information including the application for admission, may be found on the Superior Court website at: http://www.sc.pima.gov/?tabid=94.

[10] The RBHA for the Superior Court of Pima County in geographic service area #5 is the Community Partnership of Southern Arizona (CPSA).

RBHA professional will conduct an SMI evaluation.[11] The SMI determination is informed by the individual's psychiatric diagnosis (which must be established before the SMI evaluation can take place) and a global assessment of functioning (GAF) score at or below 50. Those designated as SMI are eligible for coverage through AHCCCS, which pays for a greater array of services in the RBHA network.[12]

The MHC program does not typically accept SMI-designated defendants with a co-occurring substance abuse disorder. These defendants are instructed to address any substance abuse issues before they will be considered for admission to MHC.

*Screening and assessment tools used.* All clinical assessments are conducted externally from the court by an authorized RBHA representative. In addition, the adult probation department conducts several standard assessments of the defendant for inclusion in the presentence report and to inform probation case planning. Written by a presentence investigation officer, the presentence report includes results from the Offender Screening Tool (OST) and a supplementary substance abuse assessment called the Adult Substance Use Survey (ASUS). To inform updates of the probationer's supervision and treatment plan, the supervising probation officer conducts a field reassessment version of the OST (called the FROST) with the offender. The FROST is designed for administration at six-month intervals for as long as the offender remains on probation.

**Program Description**

Efficiency

*Referrals.* The MHC accepts referrals from Superior Court judges, attorneys, specialized SMI probation officers, the Southern Arizona Veterans Affairs (VA) Health Care System, and the clinical coordinator. Referrals may occur: (a) post-plea, if the defendant appears to have a mental illness and is likely to be sentenced to probation; (b) presentence, as part of preparations to dispose of a probation-presumptive case against a defendant who appears to have a mental illness; (c) post-sentence with SMI-designated probationers on a specialized probation caseload; (d) pre-release, for those in custody who may have a mental illness and who will be serving a probation term. Referred candidates in the community who have been previously enrolled in the RBHA network often have an active SMI designation and may immediately access these treatment services while a MHC admission decision is pending. Those referred by the probation department from the SMI probation caseload often already receive treatment services in the community; all such referrals are accepted into the MHC, even if the defendant has a co-occurring substance abuse disorder that would, through other referral sources, disqualify him or her from consideration. Referral candidates not already connected with the RBHA network and who require an SMI determination often experience a significant time delay between referral and enrollment in treatment services.

[11] In Tucson, the CPSA criminal justice team typically submits SMI evaluation requests, along with preliminary information about the defendant, to the Southern Arizona Mental Health Corporation (SAMHC), who will dispatch a representative to conduct the evaluation with the defendant.

[12] Those with the less severe general mental health designation (GMH) are not eligible for AHCCCS enrollment.

Admission decisions are made on a case-by-case basis. Upon acceptance into the MHC program, the defendant's case is transferred to the presiding MHC judge to set the conditions of probation, to ensure that appropriate mental health terms are defined.

*Staffing and docket.* Organizational practices support an efficient court calendar. All MHC team members attend a 30-minute staffing every Monday immediately prior to the MHC docket. The supervising probation officer and case manager from the treatment provider agency complete a standardized progress report (called a Behavioral Health Tracking Form) on all participants whose cases appear on the MHC calendar that week. This report is shared with the MHC team via email prior to staffing to inform court decisions about the case. This process allows for the review of 10-12 cases in a speedy 30-minute docket. Wait times are minimal and participants are permitted to leave court as soon as their case has been heard.

Accountability

*Program structure.* The MHC program is designed for completion within 18 months and features a general MHC track as well as a specialized track for military veterans. All participants are required to attend routine judicial status hearings for a progress review with the MHC judge. The entire MHC team is present, including the participant's probation officer and liaison from the behavioral health provider from which the participant receives services. Intervals between hearings vary: Defendants who demonstrate compliance with the conditions set by the MHC are required to attend court less frequently, whereas those who demonstrate noncompliance are required to appear before the judge more often. In addition to verbal encouragement and praise for demonstrated compliance, certificates of accomplishment are awarded to participants at each status hearing and as they progress through the program. Probation officers are authorized to administer any sanction (e.g., write a letter, complete community service time) in response to noncompliant participant behavior. The MHC judge may also order a participant into custody at the status hearing as a sanction. In these cases, the probationer typically spends three weeks in jail until a petition to revoke probation is heard and decided on by the court. If jail time was issued as a sanction only, the participant is then reinstated to MHC.

The MHC team strives to maintain a manageable caseload not exceeding 50 active participants at any one time. At the time the court was surveyed, the MHC program had 34 active participants.

Effectiveness

*Team members.* A team of dedicated criminal justice and behavioral health professionals support and monitor all participants for the duration of their involvement in the MHC program. Team members include: a judge; a criminal justice mental health clinical coordinator; attorneys from the County Attorney's Office, Public Defender's Office, and Legal Defender's Office; specialized probation officers who supervise SMI caseloads; a jail-based medical provider; a liaison and peer recovery support specialist from the RBHA; liaisons from local behavioral health agencies in the RBHA network charged with providing mental health treatment and additional peer recovery support services to

MHC participants; a liaison from the VA; and an administrative assistant.[13] As of February 2014, provider agencies represented by liaisons on the MHC team include: COPE Community Services, Inc.; CODAC Behavioral Health Services; La Frontera Center, Inc.; and HOPE, Inc. Team members also have additional responsibilities outside of the MHC program. Based on interviews and direct observation, team members appear to share a collaborative mindset and have an effective communication system.

*Services provided.* All services are provided through the RBHA network of behavioral health providers. Common services include group treatment, individual counseling, peer support groups, and medication management. Housing, financial, and transportation services may also be available if the participant is enrolled in AHCCCS. MHC team members and affiliates generally considered the range of services offered through the RBHA network to be comprehensive, but expressed a desire to see improvements in participant access to intensive residential treatment beds and stable housing. Others expressed concerns about the use of a group treatment session requirement in some case plans, as group settings may not be appropriate for some SMI-designated participants.

*Data and evaluation*. The clinical coordinator conducted a five-year review of the 252 cases heard by the MHC from July 2004 to October 2009. The effort to collect and clean the necessary data to inform this evaluation reportedly took almost a year. Of the 252 cases analyzed, 191 involved clients with co-occurring mental illness and substance abuse diagnoses. The percentage of participants with co-occurring disorders who successfully graduated from the program was 33 percent, while the overall graduation rate was around 40 percent. The clinical coordinator also found that participants benefited from longer periods of MHC involvement.[14] The MHC team established several of the current program parameters in response to this information (by restricting the admission of defendants with co-occurring disorders, by lowering program capacity from 90 to 50 active participants, and by retaining participants in the MHC program for a target time frame of 18 months instead of 12 months). Since these changes, graduation rates have reportedly risen by more than 10 percent.

**Program Exit**

With a probation sentence, MHC participants often have suspended jail time. Upon graduation from the MHC program, remaining jail time is dismissed. Those who unsuccessfully exit the program (i.e., terminations) return to jail or prison. In 2013, the MHC program produced 13 graduates.

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[13] In Pima County, offenders who have an SMI designation are placed on a dedicated SMI probation caseload. Probation officers assigned to an SMI probation caseload receive specialized training, such as crisis intervention, in addition to standard probation training requirements. Although other MHC team members have completed informal and elective training opportunities, no standard MHC training curriculum has been developed. New presiding MHC judges are trained primarily via a mentoring approach.

[14] The five-year review also showed differences in MHC participant graduation rates between the three primary behavioral health providers. Team members attributed this to the financial resources of clients served in particular geographic areas.

Former participants may continue accessing available treatment and peer support services in the community through the RBHA network free of charge as long as they maintain AHCCCS coverage. Interviewees indicated that an MHC alumni peer support group is convened by the RBHA liaison, and HOPE and other peer support providers serve in an aftercare capacity by providing alumni with pro-social opportunities.

# Tempe Municipal Court

## Tempe Municipal: Mental Health Court[15]

**History**

The first participant entered the Tempe Mental Health Court (MHC) program in June of 2003. A development committee identified the objectives of the program, which were to provide early identification of mentally ill offenders and provide them with a diversion option that identifies appropriate treatment and support services. Defendants' lack of knowledge about benefits and a lack of access to treatment was part of the impetus for the project. Judge MaryAnn Majestic currently presides over the MHC.

**Program Design**

*Purpose.* The MHC is a specialized docket designed to address the unique needs of seriously mentally ill offenders and provide services that reduce the possibility of recidivism and reduce jail days.[16] People who gain access to effective mental health services can rebuild their lives and become productive members of the community.

*Target population.* The MHC program operates as a voluntary, pre-plea diversion program for individuals with serious mental health issues who are typically charged with misdemeanor offenses.

**Eligibility**

*Legal eligibility.* All charges are eligible for diversion into the MHC with the exception of DUI. If the offense involved a victim, victim consent is required.

*Clinical eligibility.* The clinical eligibility is an SMI designation. However, the prosecutor offers a diversion option for those who do not receive an SMI designation from RBHA (i.e., those who are designated as GMH or undergoing an appeal of a denied SMI designation). All participants must be either case managed through a RBHA provider or receive care from a private provider who provides regular reporting on progress to the MHC team.

*Screening and assessment tools used.* All clinical assessments are conducted by behavioral health providers in the RBHA network.[17] No other screening or assessment tools are used by the court to inform a determination of eligibility.

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[15] The National Center for State Courts would like to acknowledge the following member of the Tempe Municipal Court for their time and involvement with this project: Stanley Alexander (Magellan Health Services Court Advocacy Liaison), Erin Cain (Choices Network Case Manager), Annaluisa Castro (HOPE Lives), Stacey Clay (Magellan Court Liaison), Andrew Davidson (Prosecutor), Christopher Gonzalez (Hope Lives Chief Executive Officer), Scott McAlister (Court Appointed Attorney), Hon. MaryAnne Majestic, Raymond Mathis (HOPE Lives), Gerri Mattern (Mental Health Advocate/Defense Council), and Kimberly Sotelo (Executive Assistant).

[16] Tempe Mun. Ct. P. 252.001, (for Mental Health Courts, dated 8/3/2011).

[17] At the time of the NCSC site visit, Magellan held the RBHA contract, as of April 1st 2014, Mercy Care took over RBHA contract.

**Program Description**

Efficiency

*Referrals.* Referrals may come from jail staff, judges, attorneys, the RBHA liaison, or family members. Local law enforcement is also trained in CIT and offers another source of referrals. This training enables law enforcement to better respond to calls and effectively de-escalate crisis situations involving citizens with mental illnesses. Following arrest, those in custody will typically be admitted into the MHC within a week or two; out of custody, typically within a month.

*Staffing and docket.* Two 30-minute dockets take place on Tuesday mornings.[18] Status reports are distributed to the team members prior to the docket. Each docket is preceded by a 30-minute staff meeting during which the core MHC team reviews and discusses reports on the calendared cases, including consideration for any new participants. In each docket, Judge Majestic reviews approximately 8-10 cases; participants are permitted to exit court after their case has been heard. The judge orchestrates a very efficient process for team members and participants across both staff meetings and status review hearings.

Accountability

*Program structure.* The MHC is a pre-plea, deferred prosecution program. Participants are expected to adhere to the requirements set by the court: maintain contact with a case manager, adhere to their treatment plan, take medication as directed, and avoid re-arrest. At every status review hearing, participants receive an individualized contract with specific short-term goals identified by the team. Participants, depending on determined needs, appear on a schedule that ranges from weekly to every couple of months. The duration of the program is typically 11-12 months. Upon successful completion of the program, the pending charges are dismissed.

Effectiveness

*Team members.* The team consists of a judge, prosecutor, voluntary defense counsel, RBHA liaison, and individual case managers from treatment provider agencies. The team exhibits a rare but extremely valuable culture—complete buy-in from all team members. Dedicated team members demonstrate longevity and support to the program through unpaid, volunteer participation. Specifically, although court-appointed defense attorneys are paid a flat rate by the court to represent up to 400 cases per year and receive a bonus of $132/case thereafter, the MHC cases, which are more time intensive to represent, do not qualify towards this case total. High turnover among case managers contributes to the high degree of variation in level of engagement, quality of information reported to the team, and knowledge about the criminal justice system. At the time of NCSC's visit in February of 2014, a local housing representative had recently joined the team to address housing needs of participants.

*Services provided.* Treatment providers contracted through RBHA or through private providers offer a wide array of services, including individual therapy, group counseling, and ancillary services such as life skills. The team identified housing as a critical, but

[18] An additional docket was added to accommodate an increasing caseload. The dockets are divided between the two assigned public defenders.

unmet, need for participants, often complicated by AHCCCS eligibility and coverage restrictions. As a result, the team invited a local housing representative to join the team staffing. The MHC serves a large volume of participants with co-occurring substance abuse issues. However, treatment agencies do not reliably provide drug testing services. Additionally, medication continuity while in custody was reportedly unreliable.

*Data and evaluation*. The MHC documents its data collection process to ensure sustainability. The court manually tracks statistics on its participants.[19] In 2013, the MHC served a total of 136 participants representing 213 cases. Projections for 2014 indicate an increase in the number of participants; the number of total served as of February 2014 was 81 representing 121 cases. The number of active participants as of February 2014 is 73.

**Program Exit**

Upon successful completion of the program, the participant receives a certificate at graduation and the charges are dismissed. If the participant fails to complete the program, the case is set for a pretrial conference and set back on the regular court docket. The court does not oversee a formal aftercare program, but graduation requirements prepare participants for transition into the community. All participants qualifying for AHCCCS may opt to continue services after exiting the program. Since the program's inception, the court has had 195 graduates out of 484, a rate of 40% overall.

[19] Data elements tracked include: new participants, active participants, suspended prosecution, current warrants, graduations, transfers to the regular track, length of case, cases per participant, motion to dismiss without graduation, and incidents of reoffending.

# Tucson Municipal Court

## Tucson City Court Mental Health Division: Mental Health Court[20]

**History**

The Tucson City Court Mental Health Division manages the oldest continuously operational mental health court (MHC) in Arizona. Representatives from the prosecutor's office, the public defender's office, and the RBHA engaged in preliminary discussions about the possibility of creating a mental health court program after local pretrial services and jail representatives identified inefficient and costly practices in the system's response to individuals with mental illness.[21] Specifically, they recognized that multiple Rule 11 motions for an evaluation of competency were being filed for the same person at the same time in different courts. The MHC emerged from these discussions in January of 2000 as a two-pronged response for reducing criminal justice costs associated with mentally ill offenders. First, it streamlined existing processes by establishing a centralized court docket with a specialized team to manage cases with mentally ill defendants. Second, the MHC took additional steps to connect mentally ill offenders with the treatment and resources needed to help them become better functioning members of the community, to improve their quality of life, and, ultimately, to increase their periods of mental stability between crisis episodes. Judge Michael Lex conducted the MHC for approximately 10 years and was succeeded by Judge Susan Shetter, who currently presides.

**Program Design**

*Purpose.* The mission of the Tucson City Court MHC is to "enhance public safety, to guarantee equal justice for criminal defendants with mental illnesses and to effectively incorporate the continuity of care available in our community into judicial decisions."[22]

*Target population.* The MHC primarily targets defendants who have been designated as SMI, with a traumatic brain injury (TBI), or with a developmental disability (DD) by the RBHA and who face City Court misdemeanor charges. The MHC also accepts defendants with a mental health diagnosis who do not have a formal ADHS designation but who have personal means to self-pay for treatment services.[23]

**Eligibility**

*Legal eligibility.* Defendants may be admitted to the program on a pre-plea, deferred prosecution basis (MHC diversion track); those found ineligible for MHC diversion may be accepted to the general MHC track following a plea to charges. Defendants charged

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[20] The National Center for State Courts would like to acknowledge the following members of the Tucson City Court for their time and involvement with this project: Allen Chapman (Probation Officer), Brenda Cook (Prosecutor), Nancy M. Coomer (Public Defender), Andrea Craig (COPE Court Services Specialist), Dawn Q. Darkes (Supervising Attorney), Baird Greene (Prosecutor), Sherilynn Griffiths (Public Defender), Christopher Hale (Court Administrator), Christine L. Makielski (Public Defender), Marie Patino (La Frontera Center Recovery Facilitator), Caitlin Glass Tevis (Public Defender), Mary C. Trejo (Supervising Public Defender), Mary-Carol Wagner (Public Defender), and Arthur Zaragoza (Public Defender).

[21] As of this report, the RBHA in this geographic region is the Community Partnership of Southern Arizona (CPSA).

[22] The mission of the Tucson City Court MHC is explained on their website.

[23] Self-paying participants account for only ~2% of admissions, according to team members.

with prostitution, DUI, sex offenses, or assault with injuries and repeat offenders with extensive criminal histories are typically ineligible for MHC diversion. Defendants who previously participated in MHC diversion are typically not readmitted.

*Clinical eligibility.* For both MHC diversion and general MHC tracks, the defendant must have an active SMI designation and must currently receive or be willing to receive services through the RBHA network, *or* must self-pay for services from a private provider who is willing to report regularly to the RBHA regarding their client's compliance with treatment. For defendants who have not yet been evaluated for the SMI designation, an authorized RBHA professional will conduct an evaluation.[24] The SMI determination is informed by the individual's psychiatric diagnosis (which must be established before the SMI evaluation can take place) and a global assessment of functioning (GAF) score at or below 50. Those designated as SMI are eligible for coverage through AHCCCS, which pays for a greater array of services in the RBHA network.[25]

*Screening and assessment tools used.* All clinical assessments are conducted externally from the court by an authorized RBHA representative. No other standardized screening or assessment tools inform the eligibility determination.

**Program Description**

Efficiency

*Referrals.* Law enforcement personnel with specialized behavioral health training and treatment provider liaisons on the MHC team often identify defendants for assignment to the MHC docket based on the defendant's behavior at arrest or, if jailed, based on a prior history of enrollment with a treatment provider agency. In addition, a case may be reassigned to the MHC docket for an eligibility determination from another City Court docket. Referrals typically occur pre-plea for admission to the MHC diversion track.

Once referred, the MHC team conducts an eligibility review. A dedicated prosecutor makes the final decision regarding legal eligibility for MHC diversion. Interviews and observations on-site in early February 2014 revealed a lack of agreement or mutual understanding between team members regarding legal eligibility criteria, which has generated team perceptions of a lack of predictability in the admissions process and reflects a lack of clarity about the intended target population of the MHC program.

Referred defendants who have been previously enrolled in the RBHA network often have an active SMI designation; these individuals may immediately access treatment services while awaiting an admission decision. Alternatively, defendants who do not already have an active SMI designation and who do not have the means to self-pay for program participation require an SMI evaluation by a RBHA representative. Although strict state requirements dictate the timeframe during which a requested SMI evaluation must be

[24] In Tucson, the CPSA criminal justice team typically submits SMI evaluation requests, along with preliminary information about the defendant, to the Southern Arizona Mental Health Corporation (SAMHC), who will dispatch a representative to conduct the evaluation with the defendant.

[25] Those with the less severe general mental health designation (GMH) are not eligible for AHCCCS enrollment.

completed, defendants may experience a significant time delay between referral and enrollment in treatment services. MHC attorneys typically request a 30-day continuance to allow for the SMI evaluation process to take place. Additional delays may occur, for example, if the request for an SMI evaluation was not formally submitted, reflecting a lack of clarity regarding who may be appropriately responsible for ensuring that an SMI evaluation request is submitted to the RBHA.[26] In addition, interviewees indicated that RBHA representatives do not conduct SMI evaluations with defendants who have an active substance abuse problem; the substance abuse issue must be addressed before an SMI determination can be made. This incurs additional delays in establishing clinical eligibility.

Acceptance to MHC is formalized by a written contract between the court and participant, who is typically assigned defense counsel. The contract describes the terms of participation, to which a participant must agree as a condition of admission.[27] If the participant is found ineligible for MHC diversion or chooses not to participate in the program, the case may be transferred to a standard docket for traditional case processing. The MHC transfers participants who require a competency evaluation to the Superior Court for evaluation; the case will return to the MHC if the participant is found competent or upon restoration, if found incompetent but restorable.

*Staffing and docket.* A dedicated MHC docket convenes on Tuesday mornings, Wednesday mornings and afternoons, and Thursday mornings. Participants in custody are typically scheduled first, followed by out-of-custody defendants who are scheduled in 15-minute blocks. Once their case is heard, participants may leave court. Video review hearings with in-custody participants are held on Tuesday and Thursday afternoons.[28] Some interviewees indicated that the demand for MHC was high, and expressed a desire to expand the MHC calendar.

The MHC operates without routine staffing meetings. Team members exchange information in between cases to inform proceedings. The RBHA and treatment provider liaisons access computerized client databases to obtain information about participant compliance with treatment during the prescribed monitoring period and about known circumstances surrounding any participant misbehavior.[29] Interviewees supported the creation of a dedicated staffing period before the MHC docket, which would allow for advance team discussion and decision-making. Team members acknowledged that routine staffings could reduce participant wait times in court and speculated that gained efficiencies would be most helpful with lower-functioning participants.

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[26] Some team members indicated that the defendant is typically responsible for formally requesting an SMI determination; however, other team members expressed the concern that this may not be a reasonable expectation of referred defendants. The MHC team is permitted to assist the defendant in submitting the request for an SMI evaluation.

[27] The MHC credits defendants for compliance with treatment following arrest but prior to program admission.

[28] NCSC researchers observed the Wednesday morning docket on February 5th, 2014, which began at 8:30 am and ran approximately 3.5 hours. Ninety-seven cases were scheduled, although many defendants appeared for multiple cases, which were consolidated on the docket.

[29] Liaisons typically did not operate as the participant's case manager, but accessed the case manager's notes on the participant to share with the MHC team.

Accountability

*Program structure.* The MHC serves about 200 participants at any given time in one of two MHC tracks: MHC diversion (pre-plea on a deferred prosecution basis) and general MHC (post-conviction for those ineligible for MHC diversion). The program is currently designed to be completed in six months, although team members indicated that a longer period of involvement, such as 18 months, may help reduce post-program relapse. All participants are required to comply with a treatment plan, as defined collaboratively by the MHC team, and attend routine judicial status hearings.[30] Intervals between hearings vary: Participants who demonstrate compliance with the conditions set by the MHC are required to attend court less frequently, and may be rewarded with verbal praise, certificates, or gift cards. Noncompliant participants are required to appear in court more often and may receive verbal admonishments or warnings regarding possible termination from the program.

Effectiveness

*Team members.* A team of dedicated criminal justice and behavioral health professionals assist and monitor all MHC participants for the duration of their involvement in the MHC program. Team members include: a judge; an attorney from the city prosecutor's office; court-appointed attorneys from the public defender's office and private practice; a liaison from the RBHA; liaisons from treatment provider agencies; and a court clerk. [31] As of February 2014, the MHC team included liaisons from the following treatment provider agencies: COPE Community Services, Inc.; CODAC Behavioral Health Services; La Frontera Center, Inc.; and HOPE, Inc. Team members also have additional responsibilities outside of the MHC.

Based on interviews and observation, most team members work well together and share a collaborative mindset. However, there was clear tension between the MHC and the prosecutor's office regarding issues such as the purpose of the program, resource allocation needs, and MHC diversion eligibility criteria. Moreover, during the February 2014 site visit, considerable financial cut-backs were pending for all criminal justice team member agencies in prioritizing financial resources, including support for the MHC. These decisions could potentially alter team composition and MHC resources in the near future.

*Services provided.* Participants may obtain treatment from private providers but typically use a RBHA network provider. The services in the RBHA network are generally comprehensive and include mental health, trauma, and substance abuse treatment via individual counseling, group treatment sessions (including gender-specific treatment groups), medication management, and recovery support services/peer mentoring. Some providers offer financial assistance to help clients secure benefits and assistance in locating housing. Team members expressed a desire for greater availability of housing, inpatient treatment beds, and transportation for participants. Although MHC diversion

[30] As of the February 2014 site visit, general MHC also required a period of supervision by city probation; however, the probation monitor position has since been terminated.

[31] The dedicated city probation monitor supervised a heavy caseload of about 200 active probationers, 60% of which participated in the general MHC program.

terms include mandatory group treatment sessions, interviewees also voiced concerns about the appropriateness of group treatment settings for all participants.

*Data and evaluation*. The MHC program has not been previously evaluated and does not currently track most of the data elements necessary for evaluation. With the promise of a new case management system on the horizon, it may not be cost effective to finance a local effort to adapt and generate reports from the current system. To address this issue, interviewees expressed a clear preference for the creation of a state data collection and reporting system.

**Program Exit**

For participants who are removed from the program for noncompliance, prosecution is reinstated. Participants who successfully complete MHC diversion have charges dismissed. No legal benefits are awarded to general MHC graduates, although they may benefit from MHC team support through the legal process and to secure treatment services, housing, and disability benefits. Former participants may continue accessing available treatment and peer support services in the community through the RBHA network if they maintain AHCCCS enrollment. Interviewees indicated that an MHC alumni peer support group is convened by the RBHA, and HOPE and other peer support providers serve in an aftercare capacity by providing alumni with pro-social opportunities. The MHC typically graduates about 15-20 participants per month.[32]

[32] Graduations are typically convened on the third Friday of each month.

# *Phone Interviews*

*The NCSC conducted phone interviews with the following MHCs. The NCSC contacted several key team members in each of the following courts to inform the following profiles:*

- *Flagstaff Justice Court: The Coconino County Mental Health Court Program*
- *Flagstaff Municipal Court: Mental Health Court Program*
- *Glendale Municipal Court: Mental Health Court,*
- *Phoenix Municipal Court (Pre-screen Competency Program & Mental Health Diversion Program)*
- *Sierra Vista Justice Court: Cochise County Provisional Rehabilitation Accountability (PRA) Program*
- *Yavapai County Superior Court MHC: Specialized Probation Caseload for Seriously Mentally Ill, and*
- *Yuma County Superior Court: Mental Health Court*

# Flagstaff Justice

## Flagstaff Justice Court: The Coconino County Mental Health Court Program[33]

**History**

In 2012, Judge Howard Grodman approached the county attorney's office, public defender's office, and The Guidance Center, a local treatment provider agency, to ascertain the degree of interest in a new mental health court program. With the support of these agencies, as well as Coconino County Superior Court, adult probation department, police department, Northern Arizona Regional Behavioral Health Authority (NARBHA), and the Coconino County Criminal Justice Coordinating Council, the Coconino County Mental Health Court (MHC) Program was established in May 2012. Flagstaff Justice Court adopted Flagstaff Municipal Court's Mental Health Court program model with a few amendments: The Justice Court program adopted an expanded admissions policy to include not only misdemeanors but also felony-level cases and to accept defendants not only pre-plea on a deferred prosecution basis but also post-conviction. The Coconino County MHC Program accepts defendants transferred to Flagstaff Justice Court from Coconino County Superior Court to be judicially supervised in the MHC program as a mandatory term of their adjudicated felony probation sentence.

**Program Design**

*Purpose.* The official description of the Coconino County MHC Program identifies the following program goals: (a) increase treatment engagement (to reduce criminal involvement and [improve] quality of life); (b) improve public safety (by decreasing criminal involvement); (c) increase the effective use of resources (by shifting response from criminal justice to mental health treatment for defendants with mental illness); and (d) stabilize the mental health of participants (by improving mental health).[34,35]

*Target population.* The MHC program accepts adult SMI-designated defendants with misdemeanor charges, felony charges, or cases pending in the Superior Court's Probation Revocation Court.

**Eligibility**

*Legal eligibility.* All cases transferred from Coconino County Superior Court are accepted into the MHC Program. However, Justice Court diversion referrals must be approved by the dedicated representative of the county attorney's office. Defendants with misdemeanor or felony charges are eligible. Criminal history does not preclude program eligibility, but the county attorney may exercise his discretion to reject a candidate (e.g., on the basis of public safety considerations) if a serious or violent criminal history is

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[33]The National Center for State Courts would like to acknowledge the following member of the Flagstaff Justice Court for their time and involvement with this project: Hon. Howard Grodman, Russell Marsitto (Adult Probation), and Fanny Steinlage (Deputy Public Defender).

[34] The official MHC Program description referenced in this report is the May 30, 2013 revision of the document originally created in April 2013.

[35] Supplementary documentation summarized the goal of the MHC program as "…to identify individuals whose involvement in the criminal justice system is largely related to their serious mental illness and to offer therapeutically appropriate supervision to achieve and maintain stability and prevent recidivism."

noted. The county attorney will consult with any victims in a case (if applicable) before approving a referral. Former MHC Program participants are not specifically precluded.

*Clinical eligibility.* For diversion, the county attorney must believe that a main driver of the defendant's criminal behavior is mental illness and that a defendant can benefit from participation in the MHC Program. Defendants must have an active SMI designation *or* meet ADHS criteria for an SMI designation and be willing to undergo an evaluation. The public defender's office has limited funding to pay for SMI evaluations, which are conducted externally by an authorized RHBA behavioral health professional. Defendants designated as SMI who also have co-occurring substance abuse disorders are eligible for the program; those with developmental disabilities are ineligible. The defendant must receive Title 19 funding to cover the costs of treatment services while in the MHC Program.

In addition to the above legal and clinical requirements, candidates must reside in Flagstaff or have transportation to attend all required appointments and hearings in Flagstaff. Homeless defendants are not excluded, but must establish a reliable method for communication with the court; case managers will assist accepted MHC participants as needed to locate housing and other appropriate resources.

*Screening and assessment tools used.* The SMI evaluation informs the determination of clinical eligibility. Legal eligibility is ascertained via two distinct processes depending on the origin of the case. A defendant's legal eligibility is determined by the county attorney on a case-by-case basis. For Superior Court probation transfers, however, presentence reports developed by the adult probation department help inform judicial sentencing decisions regarding mandatory MHC Program participation. In addition to general information about the defendant and the offense, presentence reports provide standardized assessment information from the Offender Screening Tool (OST) and the Adult Substance Use Survey (ASUS), which probation administers to defendants with suspected substance abuse problems.

**Program Description**

Efficiency

*Referrals.* Anyone may refer a Justice Court case for MHC diversion at any stage of a criminal proceeding. A public defender is typically appointed for SMI-designated defendants. Once identified, the county attorney, public defender, and treatment provider liaison discuss the referred candidate to determine eligibility and acceptance into the MHC Program. Participation is considered voluntary: If the defendant opts in, the public defender will obtain a signed Waiver of Confidentiality from the defendant to authorize treatment providers to provide records and discuss treatment issues with the court during active program participation and through a two-year post-program follow-up period. In addition, the court will set the matter for a status hearing on the MHC docket to approve the agreed-upon terms and formally admit the defendant to the program. A defendant who declines the acceptance offer will be removed from the MHC docket and placed on a standard court docket for case processing.

For cases transferred from Superior Court, however, participation is a mandatory term of the defendant's felony probation sentence. When the sentencing judge orders a defendant to MHC Program terms, the case file is duplicated and transferred to Flagstaff Justice Court to appear on the MHC docket for formal admission. This process typically takes several weeks.

Admission to the MHC Program depends on availability. The MHC Program can serve up to 20 participants at a time and currently has 20 active participants.[36] Approximately half of this caseload is comprised of deferred prosecution cases from the Justice Court; the other half is comprised of case transfers from Superior Court. Interviewees discussed solutions to meet the increasing demand for slots in the program, including expansion to implement a dedicated Superior Court MHC program.

*Staffing and docket.* The MHC team convenes an 8:15 staffing meeting prior to the 9:15 MHC docket on Wednesday mornings, held every other week. Currently, most MHC participants are clients of The Guidance Center, whose MHC liaison provides a one-page status report to inform discussion on each participant scheduled to appear that day. Case managers of other treatment provider agencies who do not attend staffing may provide status updates to the public defender via voice mail. The probation officer and public defender provide updates and associated recommendations for felony probation participants.

Accountability

*Program structure.* To successfully complete the MHC Program, Justice Court diversion participants must fulfill the agreed upon program terms. Similarly, Superior Court probation participants must complete the terms of their adjudicated sentence. MHC Program terms typically require demonstrated compliance with a treatment plan. On average, participation lasts for 6-12 months but may extend for a longer period of time based on the individual participant's need and as agreed upon by the MHC team. Participants are also required to attend routine judicial status hearings for progress reviews during this time. In addition to the above requirements, all Superior Court probation participants must comply with the terms of probation.

As a sanction for positive drug tests, failure to appear in court, or other noncompliant behavior, 24-48 hour jail stays may be ordered for MHC Program participants. A decision to order jail time as a sanction is made only after the MHC team discusses the behavior at staffing to weigh the costs and benefits; a significant cost is that participants are unable to receive their prescribed psychotropic medications while in custody. Other sanctions may include verbal admonishments, community service hours, writing assignments, and house arrest. Sanctions are typically scheduled first on the MHC calendar as an example to other program participants. Incentives are commonly used and may include verbal encouragement or praise, special recognition, being heard first on the calendar (all participants may leave after their case is heard), and a reduction in frequency of required court appearances. Graduates receive a certificate of completion and special rewards (e.g., gift cards or movie passes from donated funds).

[36]The caseload of active participants was reported in a March 27, 2014 interview.

Effectiveness

*Team members.* A dedicated judge staffs the MHC Program along with dedicated representatives from the county attorney's office, public defender's office, and adult probation department and a dedicated liaison from The Guidance Center treatment provider agency.[37] Case managers from other treatment provider agencies with clients on the MHC docket may also attend. A representative from a newly established peer support agency has also started to attend the biweekly staffing meetings. Team members appeared to be highly collaborative and supportive of participants. Interviewees indicated that the services of a guardian ad litem could benefit some MHC Program participants; the judge is currently exploring grant funding opportunities to secure these appointments.

*Services provided.* All participants have an active SMI designation and are eligible for Title 19 funding, which pays for a greater array of services in the NARBHA network. Services are primarily provided through The Guidance Center, but participants may elect to obtain treatment from a private provider. Services available to MHC participants include but are not limited to individual counseling, vocational counseling, dialectical behavior therapy, co-occurring mental health and substance abuse and other group treatment sessions, medication management, and peer support.

Denial of disability benefits by external state agencies and limited local housing options can pose challenges for participants in the MHC Program. Local area shelters close during summertime months; homeless participants must resort to a camping lifestyle at local parks, which regulate the hours at which individuals may come and go from campsites for safety reasons. This can sometimes interfere with participant attendance at group treatment sessions, peer support sessions, or other meetings.

*Data and evaluation*. The MHC has not undergone a formal evaluation. However, the official program description indicates that the court collects data to compute court-specific performance measures for inclusion in MHC program annual reports.[38]

**Program Exit**

Exit outcomes depend on the individualized terms of MHC Program participation. For deferred prosecution cases, successful completion typically results in case dismissal; prosecution is typically reinstated if the participant is removed from the program for noncompliance. For Superior Court transfers, participants who successfully complete the MHC Program terms may still be required to complete a defined period of supervised probation. The MHC judge may not formally revoke probation for these participants; rather, any revocation hearings are convened in Probation Revocation Court before a dedicated Superior Court judge. If the participant is revoked from probation and sent to prison, he or she is typically terminated from the MHC Program as well.

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[37] The dedicated public defender staffs the Coconino County MHC Program on a volunteer basis; this position is not funded.

[38] The document defines measurements of increased treatment engagement, public safety, and effective use of resources. It also calls for the MHC program to report on process measures but does not define the full scope of information to be included in the annual report.

As of this report, six participants have graduated and six have been unsuccessfully terminated from the MHC Program since inception. Interviewees reported no recidivism to date among program graduates. Currently, the MHC Program does not offer a formal court aftercare program for graduates, but AHCCCS-insured participants may continue to receive treatment services through their preferred provider. The judge expressed interest in developing a discharge planning component as a future MHC Program improvement.

# Flagstaff Municipal Court

## Flagstaff Municipal Court: Mental Health Court[39]

**History**

Flagstaff Municipal Court's Mental Health Court (MHC) program began in November of 2006. Following the Tucson Municipal and Tempe Mental Health Court models, the initiative to establish the Flagstaff Municipal MHC resulted from a desire to improve the process for managing the high volume of and to produce better criminal justice outcomes for mentally ill defendants. The official MHC program description indicates that "the initial procedures, protocols and terms of participation were developed over a 12-month period of time through the cooperation of the Flagstaff City Court, Prosecutor, Public Defender, The Guidance Center, NARBHA, Flagstaff Police Department, and Coconino County's Criminal Justice Coordinating Council (CJCC) – Mental Health Substance Abuse Subcommittee."[40]

**Program Design**

*Purpose.* The stated goals of the program are to increase treatment engagement, improve public safety, and increase the effective use of resources.

*Target population.* The MHC program targets defendants facing misdemeanor charges at the Flagstaff Municipal Court who currently have or are eligible for an SMI designation by the RBHA.

**Eligibility**

*Legal eligibility.* Cases that involve mandatory fines, such as DUI and marijuana possession, are ineligible for MHC diversion. Cases involving a misdemeanor-level violent offense are typically not eligible, but may be accepted at the prosecutor's discretion and informed by a consultation with any victim(s). Former MHC program participants are not specifically precluded from readmission.

*Clinical eligibility.* For MHC diversion, defendants must have an active SMI designation *or* meet ADHS criteria for an SMI designation and be willing to undergo an evaluation. The defendant must receive Title 19 funding to cover the costs of treatment services while in the MHC program. Defendants designated as SMI who have co-occurring substance abuse disorders are eligible; those designated as having a developmental disability by the RBHA, are found incompetent to stand trial, or who otherwise are unable to enter the program of their own volition are excluded.

*Screening and assessment tools used.* The SMI evaluation, along with supplementary clinical assessments like the GAF, is conducted by an authorized RBHA representative and used to inform the MHC eligibility determination. The court does not administer any additional screening or assessment instruments to inform MHC admission decisions.

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[39]The National Center for State Courts would like to acknowledge the following member of the Flagstaff Municipal Court for his time and involvement with this project: Hon Thomas Chotena.

[40] The mission of the CJCC is "to address issues and needs arising within the criminal justice system in Coconino County." The CJCC is comprised of professionals from the court, law enforcement, treatment agencies, city government and county government, as well as public citizens.

**Program Description**

Efficiency

*Referrals.* Defendants may be referred to MHC at a number of points in the criminal justice process. Law enforcement, judges, attorneys, or others who have a reason to believe the defendant may be mentally ill may refer the defendant to MHC at any time prior to plea.

For every defendant referred to MHC, a public defender is appointed. The public defender will consult with the defendant to file a formal Request to Enter with the MHC and obtain a signed Waiver of Confidentiality, in which the defendant authorizes the court to gather data on the his or her compliance with treatment services and contacts with the criminal justice system through a two-year post-program follow up period if accepted into the MHC program. If the defendant wishes to pursue MHC diversion, the court will set the matter on the MHC docket for a pretrial conference to render an admission determination. If the defendant does not wish to pursue MHC diversion, the public defender will request that the matter be removed from the MHC docket and transferred to a standard docket for traditional case processing.

Typically, defendants seeking admission to the MHC already have an active SMI designation. The admissions process for those who require an SMI evaluation to establish eligibility may take a few additional weeks or longer, depending on the nature of the charges and whether or not the defendant has been released from custody.[41]

As a condition of acceptance, homeless participants are required to establish a reliable method for communication with the court. Case managers will assist accepted MHC participants as needed to locate housing and other appropriate resources.

*Staffing and docket.* The MHC docket is held every other week on Thursday afternoons. Approximately 11-20 cases are heard in each two-hour session. In addition, the MHC team convenes for a staffing immediately before the MHC docket, which typically runs one to one and a half hours. The MHC team will review cases in preparation for the docket and discuss any program issues that may arise. Case managers share status updates on participant progress with the team to determine the most appropriate court response in each case. The team may also receive reports from the local Flagstaff hospital on the status of clients who are MHC participants. The public defender may require time to meet with his or her client following the staffing but before the case is heard on the MHC docket.

Accountability

*Program structure.* The MHC program accepts cases on a deferred prosecution basis and is designed to be completed by participants in six months, but involvement may last up to one year. Once accepted, participants must attend judicial status hearings twice a month for the first two months and once a month thereafter until program completion or termination; the court may amend this schedule as needed on a case-by-case basis.

[41] SMI evaluations are not presently conducted for defendants in custody.

Participants must also comply with a treatment plan developed by their preferred treatment provider.

Participants in good standing may receive incentives such as verbal encouragement or praise, certificates, less frequent court appearances, or treats such as gift cards. Graduation ceremonies are held at the beginning of the calendar to receive public recognition/praise and to serve as a positive example to other program participants. Non-compliant participants may be sanctioned, for example, with verbal admonishments, writing assignments, community service hours, or extended time in the program (usually an additional one to four months; no more than an additional four to six months in total may be added to program terms). In addition, participants who fail to appear for a scheduled status review hearing more than once may have a warrant issued. Jail is rarely used without a warrant and is never used as a sanction for non-compliance with treatment. Jail sanctions are typically short stays of about two days.

Participants who pick up new charges while in the MHC may be sanctioned with jail time, or they may be terminated from the program. For those who are retained in the program, new charges may be consolidated with their existing MHC agreement. The modified agreement typically extends the period of program participation required for successful completion and dismissal of all charges.

As of September 2013, the MHC served 44 active participants.

Effectiveness

*Team members.* The mental health court team consists of a dedicated judge, prosecutor, public defender, and case worker representatives from The Guidance Center and Southwest Behavioral Health Services. The team appears to have a healthy communication process and a collaborative mindset. An interest in more specialized training to facilitate greater shared understanding of mental health concepts, treatment approaches, and treatment goals was noted.

*Services provided.* Provided services include but are not limited to individual counseling, group treatment sessions, medication management, and emergency psychiatric services; CBT (cognitive behavioral therapy) and integrated substance abuse and mental health treatment options are available. The local community recently communicated to the RBHA a concern about the inadequacy of services given available state funding; since then, the RBHA has introduced several service improvements, such as a mobile crisis provider outfit and peer support group services.[42] However, housing was identified as a major need for MHC participants that existing services do not adequately address. Participants forced to adopt camping lifestyles face significant challenges that interfere with their ability to meet basic attendance requirements of MHC program participation. Inpatient/residential treatment was identified as another service need area.

[42]The interviewee explained that NARBHA must service a large, primarily rural geographic region, which may pose unique challenges in the provision of appropriate services.

*Data and evaluation*. The official program description indicates that the court collects data to compute court-specific performance measures for annual reporting purposes.[43] The MHC has reportedly undergone a process evaluation and an outcome evaluation.

**Program Exit**

Upon successful completion of MHC program terms, participants' charges are dismissed. For participants who unsuccessfully exit the program, prosecution is reinstated.

[43] The document defines measurements of increased treatment engagement, public safety, and effective use of resources. It also calls for the MHC program to report on process measures but does not define the full scope of information to be included in the annual report.

# Glendale Municipal Court

## Glendale Municipal Court: Mental Health Court[44]

**History**

The Glendale City MHC was implemented by Judge Finn on January 2, 2013. Until that point, the court was unable to adequately address the needs of defendants with mental illnesses, causing a significant financial strain on the system. The court was founded to cut costs by streamlining the process for defendants with mental health issues and connecting them to services. Reductions in failure to appear costs ($150/defendant) and reductions in jail costs (reducing time in jail and by integrating third-party release from jail directly to services) have significantly reduced the court's budget. A planning committee conducted a need assessment for the program prior to implementation. The court matched four years of RBHA clients with the court's list of defendants and found significant crossover, justifying the need for this program.

**Program Design**

*Purpose.* The pre-plea diversion program benefits from the court's supervision and leverage to connect people who are in need of mental health services with community resources. "The purpose of this program is to provide judicial supervision to ensure defendants diagnosed with major mental illnesses maintain case management services, take medication as prescribed, and attend requirement treatment programs."[45] The court connects people with necessary services to maintain psychiatric stability, provides support to navigate the medical and behavioral health system, and reduces the costs (e.g., failure to appear, jail days) borne by the court.

*Target population.* The program's target population includes all defendants charged with misdemeanors who are diagnosed with serious mental illnesses.

**Eligibility**

*Legal eligibility.* The prosecutor reviews the charges and prior criminal history to determine eligibility. All defendants charged with misdemeanors or violations are eligible for the program.

*Clinical eligibility.* Defendants are eligible for the mental health court if their mental health treatment is case managed. Original eligibility required an SMI designation, but as the court identified that this overlooked some defendants, it opted to expand the criteria. The critical eligibility criterion is whether the treatment provider will provide regular up-to-date status reports to the court team.

**Program Description**

<u>Efficiency</u>

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[44]The National Center for State Courts would like to acknowledge the following members of the Glendale Municipal Court for their time and involvement with this project: Stanley Alexander (Magellan Court Advocacy Liaison), Jennifer Dalton (Public Defender), and Hon. Elizabeth Finn.

[45] GLENDALE CITY COURT ANNUAL REPORT (2013), *available at* http://www.glendaleaz.com/court/documents/CourtAnnualReport.pdf.

*Referrals.* The Glendale MHC is a pre-plea diversion program for defendants with mental illnesses. Referrals come from multiple sources including case managers, judges, attorneys, jail staff, and RBHA court liaisons. During arraignment, the prosecutor may notice possible mental illness through details included in police reports. The MHC also has access to the RBHA database and can determine if someone is case managed. The team will also cross-reference the Superior Court data system to identify additional charges and Rule 11 outcomes prior to making contact with the defendant. Defendants may voluntarily agree to enter the program, at which time, the case is set on the calendar.

*Staffing and docket.*
Typically, on a docket with 30-35 defendants, there are ~20 case managers present for court status hearings that last one hour. The team meets to discuss the cases scheduled for the docket for approximately an hour and a half prior to court. Court proceedings last one and a half to two hours. Recently, the Glendale MHC staffing process was featured in a local news segment. The court holds staffing and status review hearings every other week on Wednesdays. On the Friday before court, the court clerk compiles court information that is subsequently reviewed by the judge. Staffing discussions are led by the judge.

Accountability
*Program structure.* Participants progress through three phases as a function of their needs. The first phase requires attendance in court every two weeks. This is reduced to every four weeks in the second phase and every six weeks in the third phase. At court, participants receive a copy of a contract that specifies conditions for compliance, including contacts with case manager, treatment sessions, and if applicable, drug testing and probation contacts. The contract also denotes the date and time of the next appearance.

When participants struggle with the program requirements, the team will redirect the participant to focus compliance on one or two critical requirements. When participants are consistently non-compliant, the court may impose sanctions like essay writing, community service, and increased treatment or supervision contacts. Jail is rarely, if ever used as a sanction, as the program operates pre-plea; jail is also considered by the team to be a costly alternative.

The court has approximately 90 currently active participants, with a capacity for 80. The total number served in 2013 was 122 participants.

Effectiveness
*Team members.* The mental health court team includes the judge, a public defender, a prosecutor, a RBHA-liaison, a representative of a peer support agency, and case managers representing the treatment provider agencies. The dedicated team operates cohesively. Case managers experience high turnover, and combined with the volume of representatives, the team relies on the RBHA representative to ensure receipt of complete and timely communication about the participants. The judge makes the final decision in court, but the entire team participates in making recommendations.

*Services provided.* The team reports that participant services are fairly comprehensive, but identify several gaps including housing (especially for women, children, and families) and services for non-Title 19 participants. Non-title 19 participants do not receive a full array of counseling or inpatient services. Overall, co-occurring treatment for participants who face both substance abuse and mental illness disorders is lacking. Although group counseling is more widely available, team members report that participants with mental illnesses often respond better to individual counseling, though individual counseling is not as readily available. One team member reflected on the location of treatment facilities; it is important to provide access in the neighborhood in which the participant resides, but that neighborhood is often an area prone to homelessness, drug usage, and is not conducive to recovery or establishing stability. Finally, the team reported a need to distinguish program and treatment requirements for participants who may have similar clinical diagnoses, but very different levels of functioning.

*Data and evaluation.* The Glendale MHC is to be commended as it is among the few programs in Arizona that gathers participant feedback upon exit. The court surveys participants about the fairness of the program and the participants' level of satisfaction and uses those data to improve future outcomes.

**Program Exit**

Participants successfully complete the program when they remain compliant for a minimum of six months. Twenty-four participants graduated last year and another two as of March 2014. The program does not have a maximum duration but the longest time in program reported thus far has been approximately 14 months. Average time in the program is six to nine months. Successful completion of the program results in a prosecutorial dismissal of the charges against the participant. Participants who fail to successfully complete the program are returned to court to enter a plea agreement or to set the case for trial on the original charges. The court is currently investigating the creation of an alumni association to connect current participants with graduates.

## Phoenix Municipal Court[46]

The Phoenix Municipal Court operates two related, but distinct programs that address mental health needs of defendants. The first is a program to reduce the use of unnecessary Rule 11 proceedings and to streamline the processing of necessary Rule 11 proceedings through a specialized docket to pre-screen for competency. The second is a diversion program through the prosecutor's office that results in a dismissal of charges if the defendant complies with the program's treatment requirements. Neither program operates under the traditional mental health court model, but both are described here as programs designed for defendants with mental illnesses.

### Pre-screen Competency Program

**History**

A planning committee consisting of the associate presiding judge, court administrator, criminal division administrators, public defender's office, and city prosecutor's office founded this specialized mental health docket in May 2012. The court was experiencing recurring problems with large numbers of people requesting unnecessary competency evaluations or failing to attend their screening appointment which, coupled with changes in billing, resulted in a financial strain for the court. This docket was implemented to address these issues in particular.

**Program Design**

*Purpose.* The goal of this program is to centralize and streamline the screening process to determine whether defendants should undergo full Rule 11 proceedings or remain within the jurisdiction of the court. This docket focuses on the criminal competency evaluation process. The public defender's office created a position for a coordinator with mental health expertise to work with the defendants and court appointed attorneys to reduce the number of unnecessary competency evaluations. The program further streamlined the evaluation process by having the doctors performing the pre-screen evaluations come to the courthouse, thereby reducing the number of defendants who fail to attend their appointments. The competency cases are also now consolidated on a single judge's docket.

*Target population.* The program aims to serve individuals who have mental health needs and need assistance in navigating the criminal justice system.

**Eligibility**

*Legal eligibility.* Eligible participants have been charged with any misdemeanor or violation (no charges are categorically excluded).

*Clinical eligibility.* All participants have a question of competency; some are already clients of RBHA, others are new to the behavioral health system or operate under a private treatment provider.

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[46]The National Center for State Courts would like to acknowledge the following members of the Phoenix Municipal Court for their time and involvement with this project: Martha Perez Loubert (Prosecutor) and Don Taylor (Executive Court Administrator)

**Program Description**

Efficiency

*Referrals.* As previously stated, the primary purpose of the program is to efficiently process cases without the delay of an unnecessary Rule 11 hearing or defendants failing to appear for their prescreening appointments. Cases are usually identified by the public defender's office but may also be referred by the defendant's case worker (RBHA or private provider), law enforcement or jail staff. The public defender has designated a staff member who has been especially helpful in filtering out potential cases that are unlikely to have competence issues. The cases are then reviewed to determine whether there has been a previous competence evaluation. If the client has mental health issues but no previous psychological evaluation, the client is usually evaluated by a provider, when possible, on-site. This docket is designed to handle 10 participants at a time, but there are 10 dockets held per month, totaling approximately 100 defendants a month.

*Staffing and docket.* The docket is held every Friday at 8am and 10am and, twice a month, at 1:30pm as well. A RBHA representative is sometimes in attendance. The court does not hold a staffing. The process involves Judge Robert Doyle who relies heavily upon a public defender with mental health experience as an early filter. This position is especially important to the docket and interviewees noted that if the public defender's office had extra funding, it would be used to support this position.

Accountability

*Program structure.* The program capitalizes on the defendant's presence in the courthouse and conducts the interview and case review onsite. This reduces the failure to appear rates experienced prior to the program's implementation.

Effectiveness

*Team members.* There is no formal team, but collaborating members include a court administrator, the public defender, the judge, a treatment provider representative, an evaluator, and the prosecuting attorney.

*Services provided.* The court does not impose requirements, monitor compliance with, or evaluate treatment services provided to participants.

*Data and evaluation.* The program has not been evaluated, but initial reviews suggest the program succeeds at the mission, reducing Rule 11 hearing requests, reducing FTAs and subsequent bench warrants for defendants, and ultimately, saving the court money. The court has considered a second phase of the program, which would implement a model that aligns with other MHCs. Once a person is deemed competent, but with mental health issues, the court, through this second phase, could process the case using a team-based, problem-solving approach. However, this phase would require additional funding which is currently unavailable.

**Program Exit**
Participants assessed as needing a full competency determination will be sent to the Superior Court for a Rule 11 hearing. Participants who are assessed as competent remain on the docket with one judge until the resolution of the case.

## Mental Health Diversion Program

**History**
The mental health diversion program has been operating since 1996. Last year, the court dedicated one courtroom and one judge, Robert Judge Doyle, to exclusively process the cases for this diversion program. As a whole, Phoenix Municipal Court operates nine diversion programs, including the mental health program.

**Program Design**
*Purpose.* The MH Diversion Program provides defendants with an opportunity to resolve the criminal charge against them and have the charge(s) dismissed. The program will link defendants to professional mental health support. The court signs a motion to continue arraignment for 120 days to allow the defendant to complete the program. The judge does not hold intermittent status review hearings during those 120 days.

*Target population.* The MH Diversion Program is a pre-plea model designed to help individuals who have mental health needs and come into contact with the criminal justice system.

**Eligibility**
*Clinical eligibility.* At a pre-trial disposition conference the prosecutor may determine, through conversation or a review of police reports, that the defendant has some mental health issues and request the case be set to the mental health court. The local RBHA[47] reviews the case to determine whether they will accept the defendant in their program. The eligibility determination is related to financial and health status with AHCCCS.

*Legal eligibility.* Legal eligibility is determined after the RBHA review. All charges, except DUI and traffic violations, are accepted. Defendants who have already had charges dismissed as a result of a previous diversion agreement are not eligible for admission into the program.

**Program Description**
Efficiency
*Referrals.* Referrals most often originate from a prosecutor at a pre-trial disposition conference. Then, once RBHA determines eligibility, the participant is assigned to a case manager through a contracted treatment provider. The defendant signs a motion to continue and the case is set for an SMI hearing 120 days out.

*Staffing and docket.* Although the team does not meet regularly for status review hearings or staffing, the defendant meets with a public defender and a social worker through the same office. The docket for mental health court is held weekly on Fridays before Judge

[47] RBHA contract was with Magellan, but as of April 1, 2014, is now Mercy Maricopa Mental Health.

Doyle, the dedicated mental health court judge. At the SMI hearing, the court hears a recommended report from the case manager at the end of the 120 days. If the defendant is compliant with all diversion requirements, the charges are dismissed.

Accountability

*Program structure.* Participants are required to comply with all clinical team requirements, meet with a nurse or psychiatrist once a month, attend two groups a week, and take all prescriptions as prescribed. Participants must submit to drug testing, per clinical requests, and attend substance abuse treatment, as needed. All participants must meet with a case manager from the treatment provider at least once a week. Additionally, participants must pay any outstanding restitution. These requirements are expected for a minimum, four-month period.

If the participant is progressing well, but has not completed all of the program requirements, some defendants require more time to complete the program and may be given an extension up to an additional 120 days. The team indicated that 120 days is not enough time, across all cases, for successful resolution. There has been a desire to follow a more traditional mental health court team model, by bringing together a problem-solving team who could meet regularly and conduct a staffing on the active participants.

Effectiveness

*Team members.* Team members include a prosecuting attorney, a public defender, the judge, and a case manager from the treatment agency.

*Services provided.* Services are, at times, not available for the referred defendants (e.g., those who do not qualify for AHCCCS), leading to an exclusionary determination by the provider. Medication costs and housing options are among the most needed services. Jail houses many mentally ill defendants who cannot afford to bond out and the services provided in the jail are reportedly inadequate.

*Data and evaluation.* The diversion program has not been formally evaluated and does not track referrals denied for admittance by RBHA. However, the number of participants who have met the eligibility requirements included 84 people from fiscal year 2012-2013. The projected volume for the current fiscal year is 72.

**Program Exit**

If a participant successfully engages in the treatment requirements set by the case manager during the four-month period, the defendant appears in court for an SMI hearing to have his or her charges dismissed. As previously stated, some participants are granted an extension of an additional 120 days to complete the requirements if he or she demonstrates progress. Defendants who are not in compliance are reset on the calendar for an arraignment hearing and enter a plea or for adjudication by the court.

# Sierra Vista County Justice Court

## Sierra Vista Justice Court: Cochise County Provisional Rehabilitation Accountability (PRA) Program[48]

**History**

In 2005, Judge Timothy Dickerson was approached by representatives of Southeastern Arizona Behavioral Health Services (SEABHS) with a proposal to create a mental health court program in Sierra Vista, the population center of Cochise County.[49] SEABHS, a behavioral health treatment provider agency, had a contractual agreement at the time to operate under the auspices of RBHA. The Sierra Vista Justice Court conducted the Provisional Rehabilitation Accountability (PRA) Program from 2005 until 2009, when the Arizona Department of Health Services awarded a new RBHA contract to Cenpatico of Arizona. This transition disrupted the operation of the PRA Program for approximately 18 months. Operations resumed in 2011 after representatives from Arizona Counseling & Treatment Services (ACTS), a behavioral health treatment provider agency subcontracting with Cenpatico, approached the former PRA Program judge and prosecutor with interest in operating the treatment component of the program to support reinstatement.

**Program Design**

*Purpose.* ACTS created a written description of the PRA Program, which identifies the following program goals: "(a) Help insure [sic] public safety by addressing underlying behavioral disorders of criminal defendants; (b) Reduce participant days incarcerated (resulting in less jail overcrowding); (c) Reduce participant recidivism; (d) Reduce participant psychiatric hospitalizations (and concomitant county costs); (e) Increase continued treatment compliance through therapeutically-supported criminal justice experience; (f) Stabilize participants as community residents."

*Target population.* The PRA Program is an extended pretrial diversion program of the county attorney's office, serving adult misdemeanor defendants with signs of mental illness.

**Eligibility**

*Legal eligibility.* An adult defendant must face misdemeanor charges and be willing to sign a contractual agreement with the court to participate in the PRA Program. Any victim(s) in the case must also consent to the defendant's participation in the program.

*Clinical eligibility.* Currently, the PRA Program accepts primarily those defendants who already have an active SMI designation. From 2005-2009, an SMI designation was required to establish eligibility. Since reinstatement of the PRA Program, however, the

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[48] The National Center for State Courts would like to acknowledge the following members of the Sierra Vista Justice Court for their time and involvement with this project: Thomas Bennett (Deputy Cochise County Attorney) and Hon. Timothy Dickerson.

[49] SEABHS representatives originally proposed the idea of establishing a specialized mental health court in Bisbee, the county seat, which did not have the population size sufficient to support the ongoing operation of a specialty court.

prosecutor has exercised greater discretion to admit non-SMI candidates. The prosecutor currently accepts defendants who show signs of mental illness but who do not have an active SMI designation, and who are also enrolled in an intensive outpatient treatment program for a co-occurring substance abuse problem. The prosecutor may also exercise discretion to preclude individuals from the program who have a history of noncompliance with behavioral health treatment providers.

*Screening and assessment tools used.* Currently, the county attorney's office determines candidate eligibility on a case-by-case basis. The treatment provider may conduct relevant assessments upon intake to inform case planning; however, this information is not submitted to the court.

**Program Description**

Efficiency

*Referrals.* Candidates for the PRA Program are primarily identified by the prosecutor. Cases may also be referred to the prosecutor by defense counsel, behavioral health case managers, the local homeless shelter, law enforcement, or other criminal justice professionals for consideration. However, because misdemeanor-level charges heard at the Sierra Vista Justice Court do not always result in the appointment of defense counsel and because the PRA Program does not receive additional funding to secure special appointments for potential participants, defendants typically appear without legal representation.

The prosecutor will discuss in a pretrial conference with the defendant, the defendant's family, and any victims whether to take the case to trial or seek admission to the PRA Program. This discussion includes a description of the purpose and participation requirements of the PRA program. Any victims in the case must consent to the referral and the candidate must voluntarily seek admission to the program. If the candidate is eligible for diversion, the prosecutor then schedules a hearing with the PRA Program judge for formal admission. At this hearing, the judge again reviews the general program expectations with the defendant, who must sign a contract in court to confirm his or her agreement with the terms of participation in order to begin the program.

*Staffing and docket.* The PRA Program operates without a formal staffing meeting or dedicated court calendar. Cases are scheduled before the judge as needed on the traditional Wednesday calendar; when possible, PRA Program cases may be clustered together on the calendar, but are typically heard between traditional cases. The prosecutor works closely with the ACTS recovery coach/case manager liaison to secure status updates on client compliance with the prescribed treatment plan. A representative from Veterans Affairs (VA) often attends hearings for VA clients in the PRA Program and shares status updates directly with the prosecutor. Participants who receive treatment services from other external providers who do not submit regular reports to the PRA Program prosecutor, however, must bring to court some form of written documentation of their treatment compliance to inform the proceedings.

Accountability

*Program structure.* To successfully complete the program, participants must fulfill a six-month term of compliance with a treatment plan, as defined by the participant's treatment provider. Participants are required to attend two or three judicial status hearings for a progress review during a typical six-month period. Participants who do not comply with their treatment plan, or who return to court on a warrant after failing to appear for their review hearing, may be given additional opportunities to demonstrate compliance before the decision is made to remove them from the program. Participants may be reinstated to the program on the same charges at a later date if they can demonstrate sustained compliance with treatment. Participants who pick up new charges are typically not reinstated. The Sierra Vista Justice Court has a capacity for serving five or six PRA Program participants at a time and, as of February 4, 2014, has five active participants. In the past three years, the program has served approximately 70 participants. Interviewees expressed a desire to serve more participants on a dedicated docket, but without dedicated funding are limited by the available resources.

Effectiveness

*Team members.* A dedicated judge, prosecutor, and ACTS liaison operate the PRA Program. Others (such as private defense counsel, the VA liaison, or case manager from another treatment provider) may also attend court hearings and/or communicate participant status updates with the prosecutor, but are not dedicated team members. Participant status updates can be difficult to obtain from case managers with external treatment provider agencies.

*Services provided.* Most participants have an active SMI designation and are eligible for insurance coverage through AHCCCS, which pays for a greater array of services in the RBHA network. For the PRA Program, services are primarily provided through ACTS and include individual counseling, group treatment sessions, and medication management. Those ineligible for AHCCCS do not benefit from free treatment services but may choose to self-pay for services from ACTS or a private provider. This financial burden, however, often prohibits uninsured participants from securing adequate treatment. The team indicated concern regarding the limited array of treatment services available locally, and the need for other services such as inpatient treatment.

*Data and evaluation*. The PRA Program has not been previously evaluated and does not currently track program or participant data. The court does not receive additional funding to support staff time for data collection or reporting activities or the development or purchase of tools necessary to enable them. Interviewees expressed the concern that a statewide mandate to collect data and report on performance measures will be imposed without the provision of additional resources to enable the court to comply.

**Program Exit**

Participants who successfully complete the PRA Program have their charges dismissed. For participants who are removed from the program for noncompliance, prosecution is reinstated. In the past three years, approximately 35 participants have successfully completed the program. No formal court aftercare program is offered, but AHCCCS-

insured participants may continue to receive treatment services through their preferred provider.

# Yavapai County Superior Court

## Yavapai County Superior Mental Health Court: Specialized Probation Caseload for Seriously Mentally Ill[50]

**History**

The Yavapai County Superior Court's SMI Unit of the Specialized Probation Caseload program accepted its first probationer in October of 2013, so the program is in its infancy. Approximately four years ago, stakeholders including law enforcement and members of probation discussed the need for a program for probationers with serious mental illnesses. The program is based on Maricopa's SMI Specialized Probation Caseload (SPC).

**Program Design**

*Purpose.* The goals of the SPC are to address the needs of supervised probationers who are seriously mentally ill and help them succeed with the requirements of probation.

*Target population.* The population served by this program includes probationers who are mentally ill and who are currently receiving psychotropic medication services. The program is a post-sentence probation program with the option of court hearings as determined by the probation officer and treatment provider.

**Eligibility**

*Legal eligibility.* The SPC for SMI probationers is open to those on probation for a felony. Most face a standard three-year probation term.

*Clinical eligibility.* Probationers must receive an SMI designation by the RBHA and be accepted by the Mental Health Probation Caseload Officer. The team also considers whether the probationer has current/recent psychotropic medication and a history of psychiatric hospitalization. The policy indicates probationers with low functioning scores or brain damage will be considered for admission, though none has been accepted to date.

*Screening and assessment tools used.* All probationers are screened by probation using the statewide general recidivism risk and criminogenic needs assessment tool, the OST, and reassessed with the field reassessment tool, the FROST. Participants are also screened for functional impairment using the Global Assessment Functioning scale (GAF scores less than 60 are accepted).

**Program Description**

Efficiency

*Referrals.* Referrals can originate with the standard probation officers (e.g., probationer is in crisis, struggling with medication or homelessness) who can recommend transfer to the SMI caseload. Some probationers may be placed on the specialized caseload through a judge recommendation prior to sentencing due to a recent psychotic episode and after

[50]The National Center for State Courts would like to acknowledge the following members of the Yavapai County Superior Court for their time and involvement with this project: Debra Kendall (Probation, SMI Caseload) and Kathy Rhodes (Probation).

having court-ordered psychiatric evaluation while in custody. A pre-sentencing officer may also identify a candidate.

*Staffing and docket.* Those who are calendared on the MHC docket are typically those in crisis, facing non-compliance issues, substance abuse, or possible probation violation. New participants appear on the docket until medication and treatment is stabilized. Some participants are also brought to court for the judge to acknowledge their positive progress. The calendar is held every two weeks with approximately two to five defendants, though the calendar has been as high as 10; the docket lasts approximately 30-60 minutes.

Accountability

*Program structure.* The court calendar is used specifically as leverage to gain compliance with probationers to meet conditions of probation. The team uses jail time frequently as a response to non-compliance behaviors by participants on a case-by-case basis. Typically jail terms are one to two weeks in length; rarely, jail is used for longer terms (up to 30 days) as a workaround solution to hold participants in a sober environment or to await an opening for a residential bed.

Effectiveness

*Team members.* The team is primarily comprised of probation officers and the judge. Resource issues have prevented the county attorney and the public defender from participating as a dedicated member of the team. As of the date of this report, a peer mentor and the RBHA representative have discussed joining the team, including options for joining telephonically, but have not formally committed membership to the team. The team has also discussed the desire for a law enforcement (county and/or city) representative to be part of the team.

Probation has regular contact with the court through a staffing lasting 30-60 minutes held every two weeks. The judge and probation officer occasionally receive input from treatment providers and a National Association for the Mentally Ill (NAMI) peer support mentor. Regular information provided from the RBHA, the county attorney, or the public defender is limited and a lack of resources was consistently noted as a source of this shortcoming along with a lack of sufficient buy-in by some of the stakeholders.

*Services provided.* Treatment is provided by a RBHA direct services provider. In addition to mental health counseling services, participants may receive employment readiness training and life skills assistance. However, team members indicated that services for a nurse to fill medications and provide education on how to take medications would be helpful to improve stability for the participants. The team would like to see better access to medication and assistance in securing AHCCCS, when eligible, while in custody. Currently, no screening is conducted in the jail and participants are often released without services. Gaps in services are extensive and include low-income housing, sober living housing and day-programs, transportation, and random drug testing services. Transportation is especially difficult due to the geography of the county, with a mountain range literally dividing the county. Establishing housing is difficult as probationers often have a history of eviction and need assistance to re-establish credibility on housing

applications. Access to a wide array of services, particularly in the rural areas of the county, is limited.

*Data and evaluation*. Participant recidivism, defined as a revocation within Yavapai County, is currently tracked by probation. Probation can identify new felonies statewide through its electronic case management system (APETS), but is unable to track new limited jurisdiction offenses. Currently, probation identifies SMI through special attributes contained within APETS; probation manually tracks diagnosis, medications, sanctions in court, and number of events. Probation plans to track additional data, such as the number of times participants appear in court, transfers on/off the specialized caseload, new misdemeanor charges, and petitions to revoke for technical or new law violations.

**Program Exit**

Participants complete the program after six stable months of compliance. Participants must also secure stable housing and demonstrate an ongoing aftercare plan. The legal benefits of graduation are a transfer to the standard probation caseload to complete probation terms.

# Yuma County Superior Court

## Yuma County Superior Court: Mental Health Court[51]

**History**

Yuma County MHC was created by a collaboration of attorneys, probation officers, mental health advisors, treatment providers, and leaders in the detention facility and the court. The court was created, upon the suggestion of Mary White, Assistant County Attorney and with the support of Presiding Judge John Nelson, to address a need to provide treatment options for felony offenders who are diagnosed as seriously mentally ill, rather than sentencing them to regular probation. The stakeholders met in August of 2012 and made the commitment to establish a Mental Health Court (MHC); the first court calendar was held on April 15, 2013.[52] Judge Lisa Bleich currently presides over the MHC. After a visit to the Pima County Superior Court's MHC, Yuma determined that a coordinator position was necessary for the success of the program. A senior probation officer was loaned to the program to serve this role. The MHC offers eligible participants the chance to enter both an alternative treatment and sentencing program for defendants with serious and persistent mental illness that are facing criminal charges and/or are having challenges managing their mental illnesses with traditional probation and treatment.

**Program Design**

*Purpose.* The goals of the MHC are to: 1) reduce risk to the community through reoffending and violations of probation for individuals with mental health needs, 2) improve the linkage of such probationers to needed services, 3) reduce cost to the criminal justice system as an effective alternative to jail, and 4) hold providers accountable to provide quality and effective mental health services. The MHC reports a current capacity of 50 to serve supervised probationers with mental illnesses.

*Target population.* Defendants who have a serious and persistent mental illness and the criminal behavior in the offense should be related to or caused by the individual's mental illness. As the number of active participants approaches the capacity of 50, the team expressed a need to revisit eligibility requirements to align with the target population and prioritize individuals whom the program can best serve.

**Eligibility**

*Legal eligibility.* Initially, the MHC did not accept probationers with weapon or violent charges, but in recognition of the lack of alternatives for such defendants, the team expanded the criteria and now only excludes those with sex offenses. The MHC only accepts those on supervised probation for a felony.

*Clinical eligibility.* Probationers are eligible if they have an Axis I or II clinical diagnosis. Originally, participants were required to receive an SMI designation by RBHA, but the

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[51]The National Center for State Courts would like to acknowledge the following members of the Yuma County Superior Court for their time and involvement with this project: Hon. Lisa Bleich, Cathy Dryer (Probation), and Lori Lashway (Clinical Social Worker).

[52]LISA W. BLEICH, YUMA COUNTY MENTAL HEALTH COURT, drafted for the National Association for Court Managers and nominated for the National Justice Achievement Award.

team has expanded the program for those designated as General Mental Health (GMH) with medication services.

*Screening and assessment tools used.* A treatment provider conducts a review for a co-occurring substance abuse diagnosis to identify if the probationer presents with a primary substance abuse diagnosis and who may be more suited for Drug Court. All probationers are screened by probation using the statewide general recidivism risk and criminogenic needs assessment tool, the OST and reassessed with the FROST.

**Program Description**

Efficiency

*Referrals.* Referrals are pre- and post-sentence and originate with a range of sources including, defense attorneys, judges, court commissioners, probation or law enforcement officers, jail representatives, and treatment providers. An application form along with mental health records, a pre-sentence investigation report (PSI) that provides a criminal history, a report on incarceration, current symptoms, and any GMH or SMI designation is presented to the coordinator for review. The team makes admittance decisions as needed in difficult cases, such as considering exceptions to the eligibility criteria (e.g., those involving violent history or those without jail time attached, due to time served, which eliminates the use of jail as a sanctioning option). There is a delay in receiving SMI designations, especially for co-occurring disorders which require 90-120 days of sobriety. However, the program accepts probationers without the SMI designation or while their review is in process, which allows the MHC team to expedite admission into the program and accelerates the linkage to treatment.

*Staffing and docket.* The team reviews approximately 20 cases weekly on Mondays for approximately one hour prior to the status hearing. The docket immediately follows and lasts approximately one hour. The coordinator and judge facilitate the staffing meetings and review reports provided by the probation officer, jail representative, and the treatment provider.

Accountability

*Program structure.* Participants enter the program after sentencing or disposition. Participants appear based on “levels” that range from weekly appearances (initially during stability phase) to every six weeks (while on maintenance phase). On average, probationers move through the phases of the program within an 18-month period. Phases are designed to advance probationers based on status in treatment, compliance with probation terms, status of employment/furthering education, sobriety time, and current status of financial obligations. Yuma County MHC has a well-documented handbook that describes the program and its expectations for all participants. The MHC provides probationers with a written list of advisory sanctions and incentives, including a wide range of options for progressive responses (e.g., written assignments, community service, global positioning program, reduction in court appearances, judicial recognition, bus passes). The MHC also conducts random drug screening according to supervised probation protocol. Jail sanctions are used sparingly with this population and jail terms typically range from three to five days.

Effectiveness

*Team members.* The team consists of the judge, a clinical advisor,[53] a probation officer, MHC coordinator, public defender, prosecutor, case manager from treatment provider, SMI housing representative, and a representative from a peer support agency. The court communicates effectively and uses progress reports from probation and treatment to review updates in the probationers' status. Initially, a liaison from each treatment agency attended the staff meetings. However, the liaisons had limited information about the participants, so the court implemented a change; the court requires the case manager for each participant to attend the staff meetings and provide accurate and up to date information. This change in policy has improved team members' direct knowledge about the case and improved communications. Currently, the MHC is working with five agencies.

*Services provided.* The MHC works with treatment providers contracting with the RBHA. In addition to more traditional mental health services, an SMI housing representative is part of the team along with a team member who can identify and provide peer support. The MHC also connects probationers to life skills, financial counseling, and benefits assistance. The team expressed concerns over the quality of clinical assessments, treatment planning, and services offered, which stems from funding concerns. Some services are provided by under-trained clinicians while others are reportedly not available due to a lack of funding. Service gaps in the community include the lack of a psychiatrist in Yuma County, inpatient/residential programs, and transitional housing options. Additional service needs include access to a psychiatrist who could prescribe medications and funding to conduct full psychiatric evaluations.

*Data and Evaluation*. Yuma County's MHC tracks extensive data on its participants. The MHC employs the NCSC's full set of 14 national performance measures designed specifically for MHCs. This includes tracking in-program and post-program recidivism and conducting exit surveys. The court also reports an average time from referral to admission of 25 days, which will reduce jail days. Additionally, there is an advisory board that meets on an ongoing basis to make programmatic changes in response to performance data reviews.

In the spring of 2014, the MHC team members met with the Yuma County Justice Court and the Yuma Municipal Court to explore funding options to implement a pre-adjudication diversion program for misdemeanor offenders with mental illnesses.

**Program Exit**

The program is nearly a year old, without any graduates. Repeated non-compliance has, to date, resulted in four terminations (these result in a petition to revoke probation). The MHC defines graduation requirements as completion of all treatment plan tasks, fulfillment of probation and court conditions, and full payment of financial obligations. Probationers are also required to demonstrate a minimum of four months of compliant and pro-social behavior and 30 days without a sanction. As a requirement of the fifth and

[53]The current clinical advisor is a temporary and unpaid position. While the team values this position, it will likely be discontinued due to a lack of resources and funding.

final level in the program, probationers develop a written aftercare and wellness document that details daily tasks to stay well, identifies triggers/events and coping strategies, identifies community resources, and creates an action plan for independent living. Legal benefits of participating in the MHC result in termination of probation.

# Arizona Mental Health Court Standards

## Proposal from the Arizona Supreme Court's

## Mental Health Court Advisory Committee

in collaboration with the

National Center for State Courts

ADVANCING JUSTICE TOGETHER | 2014-2019

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## Introduction to these Standards

A mental health court

- Is a therapeutic problem-solving court for participants with mental illnesses
- Provides frequent judicial oversight
- Uses a team-based approach regarding treatment and supervision
- Is evidence-based in its application of treatment, supervision, incentives, and sanctions

A. Generally. A "mental health court" is a specialized docket of criminal cases for participants with mental illnesses. These standards are intended to further the efficiency, effectiveness, and accountability of Arizona's mental health courts. Accordingly, these standards should guide the design of new mental health courts in Arizona and the enhancement of existing programs. They apply to both general and limited jurisdiction courts. They also encompass specialized probation caseloads to improve outcomes for participants with serious mental illnesses who have been sentenced.

The models used by Arizona's existing mental health courts, and the availability of local behavioral health resources, vary throughout the state. One of the most notable differences in the Arizona models concerns the point in time when participants begin their participation in a mental health court. Most limited jurisdiction mental health courts use misdemeanor diversion programs, and these courts dismiss the participants' charges upon successful completion of diversion; these are "pre-adjudication" models. Other courts, particularly the superior court, use post-sentencing "post-adjudication" models, where participants' terms of felony probation include participation in a mental health court. Mental health courts in Arizona therefore operate with some autonomy, and each one has a distinct operating philosophy and local characteristics.

In recognition of unique circumstances in each jurisdiction, and the corresponding need for diversity among Arizona's mental health courts, these standard allow courts to develop and operate programs that best serve their target populations. However, the eight enumerated standards identify fundamental components of any mental health court. These standards use the word "must" to indicate something is mandatory. The word "may" allows the use of discretion. The word "should" indicates something is recommended and encouraged.

B. Description of a Mental Health Court. A mental health court uses a **problem solving approach** for criminal cases involving eligible participants with mental illnesses, in lieu of more traditional criminal court procedures. Judges and

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behavioral health professionals operate as a **team with specialized knowledge** about mental illnesses to provide these participants with ongoing judicial supervision and coordinated behavioral health treatment. Mental health court teams design and implement **community-based case plans** for these participants.

Arizona courts rely on executive agencies, such as the Department of Health Services and Regional Behavioral Health Authorities, and other public and private entities, to provide treatment and services. An effective mental health court collaborates with service providers and uses the court's authority to connect participants with mental illnesses with these providers for targeted therapeutic interventions.

An effective mental health court also requires collaboration with law enforcement agencies, including detention officers and the jail's medical personnel. Law enforcement collaboration may assist in identifying and referring offenders who might be eligible for a mental health court.

C. Reasons to Establish a Mental Health Court. The reasons to establish a mental health court include:

- **Increasing public safety;**
- **Improving outcomes** for participants with mental illnesses and **reducing their rate of recidivism;**
- **Diverting participants** with mental illnesses from incarceration;
- **Making the most effective use of limited resources** in the criminal justice and behavioral health systems;
- **Establishing participants' access to treatment** for mental health and substance abuse problems, and monitoring participants' engagement in those treatment programs; and
- **Improving the quality of life** for people with mental illnesses who are charged with crimes.

D. Reasons to Have Standards for a Mental Health Court. Standards for the development and administration of a mental health court help

- **Establish a means for monitoring performance** and conducting evaluations, which promote the accountability of mental health courts and their participants;

- **Guide** those seeking to establish a successful mental health court, enhance the effectiveness of existing mental health courts, and navigate transitions a mental health court will inevitably encounter (e.g., changing judges or treatment providers);

- **Manage economies of scale,** enabling these courts to confidently increase the number of participants they serve by providing a uniform set of empirically-based processes that are reliable and reproducible;

- **Provide training and technical assistance** for mental health court staff and collaborators; and

- **Increase public confidence** in mental health courts by demonstrating a sound basis for self-regulation.

The most effective mental health courts embrace standards based on **sound empirical research** and **evidence-based practices.** Evidence-based decision-making considers the best current evidence, the results of thorough scientific research, and experienced professional judgment. Those standards promote communication among mental health court stakeholders by clearly establishing common expectations and providing guidance for mutually beneficial outcomes.

These standards include several references to standards prepared by the National Association of Drug Court Professionals. Standards used in a drug court may be fully or partially applicable to mental health courts, but please note that the transferability of particular drug court standards to other types of problem-solving courts has not yet been validated.

E. Development, Planning, and Ongoing Administration ("planning group"). A mental health court is best designed by a multi-disciplinary "planning group." A planning group includes the judge or judges who intend to establish a mental health court. A planning group also should include these representatives, several of whom are essential:

- prosecuting attorneys;
- public defenders or members of the private defense bar;
- probation officers and other court personnel, such as clerks and administrators;
- local law enforcement officers;
- jail administrators and jail medical representatives;
- a RHBA representative;
- medical providers;

- individuals and organizations in the community who have expertise in the field of mental health or substance abuse, and who facilitate links to treatment and community resources, and whose participation in the mental health court is essential to its success.

Some members of a planning group may also be members of the mental health court team, which is described in Standard 1.

Establishing a mental health court is a significant endeavor, and sustaining a mental health court requires a long-term commitment from a variety of individuals and organizations. The planning group should identify the need for a mental health court; should ascertain that the court's caseload justifies the establishment of a mental health court; and should confirm that there are adequate and readily-accessible community resources for behavioral health treatment and social services. Planning groups should also consider whether the local court and potential team members have the time to commit for team meetings, for an increased number of court status hearings, and for requisite training; whether the program would require additional staff, such as a court program coordinator; and whether there are financial or funding issues. The planning group should agree on the specific purposes of its mental health court, and should articulate the court's clear, specific, and realizable goals. The court's purpose and goals should be in writing, and should serve as a foundation for measuring its subsequent effectiveness.

The planning group should confirm and document role expectations by written agreements. A template for a written agreement, also known as a memorandum of understanding ("MOU"), is attached as Appendix 1. The MOU commits each party to the manner that the party will participate in the mental health court. The MOU also specifies the roles, responsibilities, and training requirements of each party, and describes each party's relationship to the other parties. There should be MOUs for members of the team, and for associated public and private health care agencies and social service organizations. The MOU emphasizes the collaborative nature of a mental health court.

To assure consistency and assist with inevitable turnover in team membership, the planning group should compile and maintain policies and procedures identifying program operations. These policies and procedures should include the court's eligibility criteria, referral and screening procedures, treatment resources, policy regarding incentives and sanctions, information-sharing protocols, data collection, and other program components. The existence of written court policies helps ensure consistency and lessens the impact when key team members depart. MOUs, if sufficiently detailed, may serve as a policy.

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The planning group has an important role in the mental health court even after the court has become established. The planning team should periodically (a) review mental health court data and performance measures (b) consider participant and team member observations and feedback, and (c) make appropriate revisions to mental health court policies, procedures, operations, and MOU's, to help maintain the program's relevance and efficiency.

### F. Glossary of Acronyms

The following acronyms may be used in these standards, or in references contained in the list of resources.

| | |
|---|---|
| ADHS: | Arizona Department of Health Services |
| AHCCCS: | Arizona Health Care Cost Containment System |
| AOC: | Administrative Office of the Courts |
| DBHS: | Division of Behavioral Health Services |
| CPSA: | Community Partnership of Southern Arizona |
| GMH: | General mental health |
| HIPAA: | Health Insurance Portability and Accountability Act |
| MHC: | Mental health court |
| MOU: | Memorandum of Understanding |
| NAMI: | National Alliance on Mental Illness |
| NARBHA: | Northern Arizona Regional Behavioral Health Authority |
| NCSC: | National Center for State Courts |
| RBHA: | Regional Behavioral Health Authority |
| SAMHSA: | Substance Abuse and Mental Health Services Administration |
| SMI: | Seriously mentally ill |
| SPC: | Specialized probation caseload |

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## Summary of the Mental Health Court Standards

**Standard 1: The Mental Health Court Team** must work collaboratively. Every member has a specific role that contributes to its effectiveness. Responsibilities of team members should be outlined in a memorandum of understanding. The team and its members must receive education and training to increase their effectiveness.

**Standard 2: Referral, Eligibility and Assessment:** Team members must consider and assess pre-defined legal, clinical, competency, and risk criteria when determining a participant's eligibility for a mental health court. Some participants enter a mental health court program prior to case adjudication; others enter a program after pronouncement of judgment and sentencing. The participant's participation in a pre-adjudication program or post-adjudication probation should take into consideration the advice of defense counsel and the requirements of participation.

**Standard 3: Program Structure:** A participant progresses through phases of orientation, stabilization, reintegration, and maintenance. A participant successfully completes the program after meeting all of the mental health court requirements. Planning for a participant's transition out of the mental health court program is a key element of a participant's success.

**Standard 4: Court Proceedings:** Consistent contact and the quality of interactions between a judge and a participant are among the most influential factors in a participant's success in the program. The mental health court team meets before each court session, which is followed by a review hearing in the courtroom with the participant present. A participant has an opportunity to state his or her perspective at a review hearing.

**Standard 5: Treatment:** The mental health court team prepares a written case plan for each participant, and the case plan is incorporated in a court order. The case plan is based on evidence-based assessments of the participant and the participant's individual needs and issues. The case plan provides for quality and effective services from appropriately licensed clinicians and experienced professionals. The case plan details the participant's responsibilities and provides advance notice of circumstances that might result in participant's termination from the program, and it is the basis for monitoring participant's progress.

**Standard 6:** The team develops policies and procedures for **Case Plan Adjustments, Incentives and Sanctions**. The judge should be consistent in applying incentives and sanctions, while also taking into account an individual participant's circumstances. Incentives are more likely to produce better outcomes than sanctions. Jail sanctions should be certain, immediate, short in length, and

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used sparingly. Adjustment to treatment plans should precede sanctions or termination from the mental health court.

**Standard 7: Confidentiality of Records** requires that mental health court records be protected by legal consent requirements, and be disclosed only on a need-to-know basis to aid in case planning. The mental health court team develops a legal release of information form compatible with HIPAA and with the confidentiality requirements of alcohol and drug abuse patient records under federal law (42 CFR Part 2), and potential court participants can review the form with defense counsel. Record retention and destruction must follow standards promulgated by the Arizona Supreme Court and other governing authority.

**Standard 8: Sustainability of Mental Health Courts** is promoted by creating public awareness, formal and informal networking, feedback from all stakeholders, periodic reviews, monitoring court performance on common measures, and implementing changes to improve operations and outcomes. The mental health team should collect specified data to monitor the accountability, efficiency, and effectiveness of a mental health court.

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# Standard 1: The Mental Health Court Team

**1A. Team Function**

The mental health court must function as a team.

These standards acknowledge that structures of mental health courts, as well as the availability of resources, vary statewide. Accordingly, these standards recognize that the composition of a team may differ from one location to another, or that a team may expand or contract based on the needs of an individual case.

**1B. Team Selection**

The mental health court team works collaboratively to help participants in the mental health court program achieve goals and successfully complete the program. The team brings together staff from agencies who have a direct role in a participant's entrance into the program and progression through the case plan.

Team members in general, and court officers in particular, should be willing to adapt to a nontraditional setting that is collaborative and problem-solving rather than adversarial or punitive. Effective teams include court personnel with expertise or interest in mental health issues, and behavioral health providers with criminal justice experience. Valuable attributes for team members include a sense of mutual respect, a shared affinity for working collaboratively, and an interest in helping participants with serious mental illnesses.

The planning group may determine who the members of the mental health court team will be. In the absence of direction from the planning group, the court's presiding judge or the judge's designee will determine who will be members of the mental health court team.

A court team should include the following:

- A judicial officer;
- A member of the court staff;
- A prosecutor;
- A defense attorney;
- One or more mental health or substance abuse treatment providers, or a designated liaison or case manager;
- A RBHA representative or liaison.

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When available and if appropriate, and for greater effectiveness, a court team also may include the following:

- A court supervision agent such as a probation officer or surveillance officer;
- A peer mentor or coach;
- Other individuals identified by the court with appropriate expertise or knowledge.

**1C. Team Roles** Team members participate in the court proceedings described in Standard 4. The following paragraphs describe the role of each member, although these descriptions do not preempt other professional responsibilities.

(1) Judicial officer: The judicial officer is a critical, central figure in a mental health court. A mental health court functions best with a judicial officer who has a dedicated assignment to the program for at least two years. As in other problem-solving courts, the judge plays a much larger role than a judge in a conventional criminal court. This expanded role may encompass program implementation, performance monitoring, outcome reporting, and ongoing involvement in supervision of participants, case-planning, and intervention. The judge must preside over review hearings, personally interact with every program participant, provide incentives, and explain consequences. Although the judge has final decision-making authority on motions and other legal issues in a case, the judge must consider the input of the prosecutor, other team members, the participant and the participant's counsel, the participant's family members, and the victim, if any. When imposing treatment-related conditions, a judge must rely on input from trained treatment professionals.

(2) Court staff: Staff is responsible for overall court administration of the program. The court's problem-solving approach includes calendaring mental health court cases together, such as for review hearings and ceremonies, and doing so is a duty of court staff. Court staff's role also includes coordinating communications between team members and the court, promoting efficiency of court operations, and supporting the program's sustainability.

(3) Prosecutor: A prosecutor represents the interests of the State and victims while collaborating with other team members to resolve problems and facilitate successful outcomes. The specific duties of the prosecutor may vary among jurisdictions and may vary between pre-adjudication and post-adjudication cases. Prosecutors frequently screen cases and

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evaluate a participant's eligibility for participation from a legal standpoint. The prosecutor has the authority to decline cases in diversion programs pursuant to A.R.S §§ 11-361 et. seq. and 13-3422. The prosecutor in a pre-adjudication case determines when and if it is appropriate to file a motion to dismiss charges against a participant.

(4) Defense counsel: A participant in a mental health court should be afforded legal representation during review hearings. Defense counsel assures that a participant makes informed decisions about the program, and that the participant understands legal documents such as waivers or consents a participant might be required to sign. In addition to fulfilling the traditional obligations of defense counsel, a defense attorney on a mental health court team explains program requirements and benefits to the participant, the legal ramifications of participation, and possible consequences of noncompliance.

**(5)** RBHA representative: The RBHA representative may confirm that the participant has an SMI or GMH designation, and may solicit from and provide to other team members a participant's clinical and social histories. The representative meets informally with other members of the team to build their support for, and familiarity with, the participant. The RBHA representative assures the participant is linked to behavioral health treatment and other recommended support services, addresses gaps in services, responds to grievances, and assures treatment providers submit timely and complete progress reports to the mental health court.

(6) Treatment providers: These individuals provide clinical and social services to a participant. Although clinical services are usually out-patient, some disorders or co-occurring disorders may require in-patient or residential care. Clinical service providers do assessments, furnish treatment, and prescribe medication. Clinical treatment may be for behavioral health, substance abuse, or general health, and may be provided in individual or group settings. Treatment also encompasses social services regarding such things as education, vocation, employment, transportation, or housing. Service providers submit regular progress and compliance reports to other team members; clinician reports include clinical recommendations.

(7) Probation and Surveillance Officers: Probation officers (which for purposes of this paragraph includes surveillance officers) provide supervision of participants in the community. They ensure that participants live in safe, supportive environments; attend treatment

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sessions and adhere to treatment plans; establish healthy relationships; abstain from using illegal drugs; abide by victim contact regulations, and pay restitution when applicable; and follow the law. They report to the team a participant's progress, as well as violations of conditions, and make recommendations for sanctions and incentives. Additionally, they maintain communication with a participant's family members, employer, case manager, and others to solve problems and to track the participant's progress.

(8) Peer mentor: A peer mentor provides peer support to a participant and assists a participant in navigating public behavioral health and medical services systems. The peer mentor provides support to the participant during hearings, meetings and treatment as requested by the participant and the team. A peer mentor promotes wellness by sharing personal experiences with a participant and other staff members. A peer mentor may provide a participant with transportation to court hearings and appointments for treatment.

The MOU described in Section E of the Introduction to these standards should include additional details concerning each of these roles. The MOU also should include continuing education and training required for each role.

**1D. Team Collaboration**

All team members must work collaboratively to monitor and support a participant's adherence to the case plan and other court conditions. The RBHA and service providers have primary responsibility for managing the delivery of clinical treatment and social services. These representatives must regularly communicate with other members of the mental health court team, and they should establish streamlined communication protocols to ensure that accurate and timely information about each participant's progress in treatment is conveyed to the entire team.

Team members must understand the responsibilities and boundaries of other team members. Team members also must respect the ethical requirements of other members.

**1E. Team Education and Training**

Team members should attend continuing education programs and other training opportunities concerning legal aspects of a mental health court, and clinical aspects of mental illnesses and substance abuse. They should stay current with recent developments in these fields. The mental health court judge should

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encourage team members to participate in state, regional, or national associations concerning mental health courts, and to attend training sessions and conferences sponsored by these and other relevant associations. Some training should be targeted to each defined role of a member of the mental health court team.

A mental health court judge should attend current training events on legal issues in mental health courts, judicial ethics, evidence-based mental health treatment, behavior modification, training on how to interact with individuals with behavioral health needs, and community supervision. When serving a co-occurring population, a judge should also attend evidence-based substance abuse training. Attendance at annual training conferences and workshops enhances contemporary knowledge about advances in the mental health court field.

Team members, including judges, may visit or meet with service providers in the community to better understand the settings in which participants receive clinical treatment and social services. Court staff should also receive appropriate training on communicating and interacting with participants in the program.

Attorneys would also benefit from training described in this section even if they are not assigned to a mental health court, if the attorneys interact with participants with serious mental illnesses on other dockets.

## Standard 2: Referral, Eligibility, and Assessment

**2A. Generally**

Criteria regarding a participant's eligibility for a mental health court should be well defined and specified in writing. Notwithstanding the criteria specified in Standard 2(E), the criteria may be waived upon special consideration by the judge. However, no person has a right to be admitted to a mental health court program.

**2B. Program Participation**

In problem-solving courts, program participation is generally knowing and voluntary. However, legal and practical considerations differ between pre-adjudication and post-adjudication case models for mental health courts:

> Upon entering a pre-adjudication program, a participant must be advised of the terms of participation, as specified in Standard 2(F).
>
> Post-adjudication, participation in a mental health specialized probation caseload and a mental health court program may not be voluntary per se, insofar as the court may order participation as a term of probation.

However, post-adjudication, a participant must willingly agree to accept probation over other sentencing alternatives. See, for example, Demarce v Willrich, 203 Ariz. 502, 56 P.3d 76, (Div. 1, 2002; review denied, 2003).

Mental health courts must identify issues concerning a participant's competency, and must resolve those issues before participant's admission to the program. If a participant has a guardian, the mental health court team should also provide the guardian with appropriate information.

Although the availability of defense counsel varies from one jurisdiction to another, courts should strive to make counsel available for advising a participant about the requirements of a mental health court program.

**2C. Referral Sources**

A participant may be referred to a mental health court from a wide variety of sources, including judges, law enforcement and detention officers, defense attorneys, prosecutors, clinical and social service providers, probation officers, public and community agencies, and family members and guardians. Eligibility criteria must be communicated to potential referral sources to maximize the effectiveness of the referral network.

**2D. Time of Referral**

Referral sources should strive to identify potential participants at the earliest possible time in the criminal justice process. However, mental health courts should accept referrals throughout the criminal justice process, including post-adjudication periods for a participant on probation, if other criteria are satisfied.

**2E. Eligibility, Exclusion, and Assessment Criteria**

A participant's admission to a mental health court is conditioned on meeting eligibility criteria. A mental health court team does not apply subjective criteria or personal impressions to determine a participant's suitability for the program. Eligibility criteria should take into consideration the targeted population for the program. These criteria should be non-discriminatory in intent and impact. The mental health team must consider clinical diagnoses, legal eligibility criteria, and a review of local services that are available to serve the targeted population. Legal and clinical eligibility criteria need not be the same in every jurisdiction.

The team establishes eligibility criteria for a pre-adjudication diversion program, but the criteria are subject to the requirements of Arizona law (see Standard 1(C)(3). Most eligibility criteria specify offenses or circumstances that disqualify a

participant from the program, and crimes involving victims may require the victim's consent.

In determining clinical eligibility, a significant, but not the only, factor is whether a participant has been designated seriously mentally ill ("SMI.") A person who has been designated SMI generally is eligible for a variety of treatment resources and has a RBHA case manager. A participant who has not been previously evaluated for mental health needs may be referred for an SMI evaluation before acceptance into a mental health court. The mental health court team should also consider whether the program would be appropriate for a participant without an SMI determination. For example, the team may consider whether a participant with a general mental health ("GMH") designation, or one who has a developmental disability, is an appropriate candidate.

Generally, participants who do not have significant and treatable mental illnesses are not eligible for the program.

Notwithstanding the presence or absence of an SMI designation, behavioral health agencies and treatment providers who interact with or who are members of the mental health court team must use evidence-based screening and assessment tools to identify appropriate candidates for the mental health court program. Those who administer screening and assessment tools must be trained and proficient in the administration of these tools and in the interpretation of the results. As part of entry into the program, participants with mental illnesses should be screened for substance use.

The mental health court team should consider risk to the community in determining a participant's eligibility for mental health court. It must use evidence-based practices to measure risk.

A participant is not disqualified from mental health court because of the use of legally prescribed psychotropic or addiction medication. If a participant has the requisite mental health designation, the participant also is not disqualified from participation in the mental health court because of co-occurring substance abuse or medical conditions, unless either (a) appropriate treatment is available through an alternate problem-solving court or program in the community; or (b) appropriate treatment resources are not available through the mental health court.

**2F. Terms of Participation**

Mental health courts must establish general program parameters outlining such subjects as the program duration, conditions, and the impact of program completion or unsuccessful termination. Within these parameters, the terms of

participation should be individualized for each participant and should be put in writing prior to entering the program. Mental health courts must communicate to participants the benefits of participation, the terms of participation, and the legal consequences of not adhering to the court's case plan and conditions. These standards encourage courts to provide a participant with written terms of participation before or at the participant's first appearance before a mental health court judge.

## Standard 3: Program Structure

**3A. Generally.** A mental health court program involves several phases. Early phases of a program are characterized by a participant's frequent appearances in the courtroom. The commitment of resources and the frequency of court appearances will decrease in most cases as a participant makes progress in the program. The length of a participant's mental health court program in a post-adjudication case must not exceed the maximum period of probation of the offense(s) for which a participant was convicted. A participant in a pre-adjudication mental health court case may continue in the program for as long as the judge and team members determine to be appropriate, if the participant knowingly and voluntarily waives the speedy trial requirements of Rule 8 of the Arizona Rules of Criminal Procedure.

**3B. Program phases.** The phases of a program are labelled for reference purposes and to describe how a participant progresses through the program. In reality, however, there may be no distinct demarcation between when a phase concludes and another begins; a participant may be simultaneously participating in more than one phase.

(1) Orientation. The first phase focuses on orienting a participant to the program, and introducing a participant to members of the team. During this phase, the team provides the participant with a clear understanding of the program, supplemented by written materials if appropriate and available, and explains to the participant required individual responsibilities and goals. (Appendix 3 contains a sample information sheet for a participant in a limited jurisdiction court.) The team emphasizes the requirements of remaining law-abiding and, if appropriate, submitting to random substance testing. The team familiarizes the participant with the location of service providers and addresses transportation issues. The participant begins therapeutic relationships with service providers and demonstrates his or her initial commitment to the program.

(2) Stabilization. During this second phase the participant has the most intensive contact with the team. The participant attends court frequently for review hearings. The team encourages the participant to

comply with the case plan (see Standard 5(A) regarding the case plan); to attend scheduled appointments with team members, service providers, case managers, and others; to take prescribed medication, if needed; and to abide by other program requirements. If appropriate, the participant may be subject to frequent and random drug and alcohol testing. If the participant does not have stable housing, the participant is working with the mental health court team to secure it. The participant demonstrates progress toward treatment goals and stability, as exhibited by the participant's unique circumstances and as provided by the participant's case plan. The participant remains law abiding and commits no new criminal offenses.

(3) Community reintegration. After the participant has remained stable for a designated period of time, the participant's other needs, such as educational and vocational, are addressed, and the team links the participant with community and ancillary services and supports. The participant continues to attend court status hearings, and the team continues to monitor the participant's compliance with program requirements. The participant continues to receive mental health and substance abuse treatment, and if appropriate, submits to random substance testing. The participant demonstrates increased insight into his or her situation, including the desirability of remaining law-abiding, and development of necessary life skills (e.g., decision-making, problem solving, financial and time management, anger management, and recovery.)

(4) Maintenance. The participant has complied with the requirements of the behavioral health treatment and has continued with any prescribed regimen of medication. The participant has secured stable housing; is pursuing employment, education, or volunteer opportunities; and is developing a functional support system. The participant demonstrates more effective development of life skills, and the ability to connect with community recovery and support systems. The team monitors the participant for possible regression, and provides appropriate and supportive responses and referrals.

**3C. Successful Completion and Transition**

The mental health court team should prepare every participant for transition out of the program. A participant should be able to demonstrate personal and clinical improvement since entry into the program, comparatively better stabilization, and an ability to function in a community setting. The participant should demonstrate an ability to identify necessary and specific community resources (for example, contacts for help with medication or with mental health symptoms.) The mental

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health team should consider introducing a participant to appropriate "alumni" or other support groups.

A participant successfully completes a program when the participant has progressed through all phases of the program, has complied with the court's conditions, and remains arrest-free. The judge may conduct an individual or group ceremony or a specially designated proceeding for those participants, which may be attended by the participant's family members and others. At this proceeding the judge may award the participant a certificate of program completion or, if appropriate, may provide the participant with a copy of the court's order discharging the participant from probation or dismissing the case. This special proceeding is an opportunity for a participant to receive recognition for completing the program.

## Standard 4: Court Proceedings

**4A. Review hearings and Pre-hearing Team Meetings. T**eam supervision of a participant is integral to the participant's successful completion of the program.

The team typically meets immediately before a review hearing. The team discusses confidential information (see Standard 7), and the meeting is not open to the public or to the participant, although the participant's counsel usually attends. The team meeting is most effective when team members prepare and share progress reports and have current information on each participant. The team discusses the participant's compliance with the case plan (see Standard 5(A)), results of random drug tests, progress reports from treatment providers, and social or other issues, as well as any appropriate adjustments to the case plan, incentives, or sanctions (see Standard 6).

Following the team's meeting, the team convenes in the courtroom for a review hearing. The review hearing is open to the public, but the calendar should include only mental health cases to reduce stigma and to promote a sense of community among participants. The participant must be present at the review hearing. When appropriate, family members or other supporting individuals should be welcomed and acknowledged. The judge must confer with a participant concerning the participant's compliance with the case plan and progress in the program, and the judge may request input from team members. The review hearing has legal as well as therapeutic purposes. The review hearing may conclude with the court providing the participant with a contract detailing the participant's ongoing and upcoming responsibilities.

**4B. Frequency of Court Appearances and Contacts**

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A participant's contacts with a judge at review hearings, as well as with other team members in and out of court, provide accountability and oversight. These contacts also ensure that the court and team have up-to-date information about the participant, which allow the court and team to timely and meaningfully respond to any inappropriate behavior.

Contacts between a participant and a judge, and with other team members, should be more frequent at the outset of the program to promote the participant's stability. Those contacts should decrease as a participant progresses positively through the program.

**4C. Length of Interactions in Court**

The judge should spend an appropriate amount of time during review hearings to interact with each participant, to have a conversation directly with the participant (rather than with defense counsel), and to review with each participant his or her progress in the mental health program. For example, and although adult drug courts might be distinguishable from mental health courts, empirical research nonetheless suggests a judge should spend at least three minutes interacting with each drug court participant. See Adult Drug Court Best Practice Standards, Volume I (NADCP, 2013) particularly Standard III, "Roles and Responsibilities of the Judge," Comment F, which states:

> "In a study of nearly seventy adult Drug Courts, outcomes were significantly better when the judges spent an average of at least three minutes, and as much as seven minutes, interacting with the participants during court sessions….Shorter interactions may not allow the judge sufficient time to gauge each participant's performance in the program, intervene on the participant's behalf, impress upon the participant the importance of compliance with treatment, or communicate that the participant's efforts are recognized and valued by staff."

**4D. Judicial Demeanor**

The quality of interactions between a judge and a participant is one of the most influential factors in a participant's success. A judge should offer positive and supportive comments to a participant, stress the importance of the participant's commitment to treatment and other program requirements, and express optimism about the participant's abilities to improve his or her health and behavior. The judge may also admonish the participant when appropriate. The judge should give a participant a clear explanation about why a particular consequence is or is not being imposed.

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### 4E. Consistent Docket

A participant should ordinarily appear before the same judge throughout the term of enrollment in a mental health court to provide consistency and stability in attaining program goals. A consistent docket also allows the judge to develop a deeper knowledge of each individual case, as well as expertise in dealing with this particular type of case.

To help maintain the continuity of a program, a judge should serve in a mental health court for at least two consecutive years.

### 4F. Opportunity to Be Heard

A judge should give a participant an opportunity to explain the participant's perspectives regarding matters before the court, particularly regarding factual controversies and the imposition of incentives, sanctions, and therapeutic adjustments. If a participant has difficulty expressing himself or herself because of factors such as a language barrier, nervousness, or cognitive limitation, a judge must permit the participant's attorney or legal representative to assist in providing such explanations.

## Standard 5: Treatment

### 5A. Case Plan

The mental health court team must ensure that there is a written case plan for each participant in a mental health court. The case plan includes specific ways for connecting a participant with necessary services and support. Tailoring a case plan to the needs of the individual participant is an important element of a mental health court. The treatment provider or probation officer is generally responsible for maintaining the case plan.

The case plan must consider a participant's mental health and substance abuse assessments; risk assessments and public safety concerns; the individual participant's needs; and any other relevant factors and information. A participant in a diversion-model mental health court may have input into the case plan by expressing his or her personal needs.

The case plan includes clinical services based on recommendations from behavioral health professionals. Clinical services typically include, as appropriate, a combination of mental health treatment, medication management, substance abuse treatment, other forms of counseling, crisis intervention services, peer

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support and mentoring, and community-based case management services. Clinical services also may address co-occurring medical issues.

The case plan addresses social services that are adjuncts to clinical treatment, such as transportation or housing, public benefits, vocational or educational services, or other appropriate services. The case plan also includes other court requirements, such as payment of fines or restitution, if any, performance of community service, and court-ordered obligations, terms, and conditions.

**5B. Court Order**

The judge must enter an order encompassing the terms of the case plan and detailing a participant's responsibilities in a mental health program. For a participant in a specialized probation caseload, this order may be the same as the terms and conditions of probation. For a participant in another mental health court program, the order may be in the form of a contract between the court and the participant.

The court order must require the participant to comply with the terms of the case plan, including additional terms and conditions the judge deems necessary and appropriate. The judge may authorize other members of the mental health court team, including service providers, to carry out the terms of the court's order. For example, the order may require the participant to submit to random urine tests, and a probation officer or clinical provider may be authorized to carry out this term.

**5C. Adjustments to the Level of Treatment**

Adjustments to the level of treatment should be based on each participant's response to treatment rather than tied to the mental health court's programmatic structure. A participant should not receive sanctions or an augmented sentence for failing to respond to a level of treatment substantially below or above the participant's assessed treatment needs.

**5D. Efficient and Effective Treatment**

A participant's treatment success is enhanced by reducing delay between the time of arrest and the time a participant is linked to treatment, as well as by the quality of services delivered by treatment providers. Mental health courts have the authority to evaluate and require quality and effective treatment services.

A participant is generally not incarcerated to achieve a clinical or social service objective, such as obtaining access to a treatment bed.

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### 5E. Provider Training and Credentials

Clinical service providers must meet applicable state licensing requirements or be appropriately certified to deliver mental health treatment, or to deliver substance abuse treatment if serving a co-occurring population. Service providers should have experience working with criminal justice populations, and must have appropriate supervision to ensure adherence to evidence-based practices.

## Standard 6: Case Plan Adjustments, Incentives and Sanctions

### 6A. Advance Notice

A mental health court should adopt written policies and procedures concerning the administration of therapeutic adjustments, incentives and sanctions to mental health court participants. The court should provide these policies and procedures to team members in advance, or at the start, of a participant's participation in the program. The policies and procedures should provide a range of consequences the court may impose; the criteria for program advancement, successful completion, and termination from the program; and the legal and collateral consequences of successful completion and termination. Within these parameters, the mental health court judge reserves discretion to modify a presumptive consequence in light of circumstances presented in each case.

### 6B. Individual and Consistent Consequences

The judge should impose positive or negative consequences that are appropriate to the individual and compatible with the individual's case plan. To assure procedural fairness, those consequences should be substantially consistent with those received by other participants in the same stage of the program who engaged in comparable conduct, barring extenuating factors or individual circumstances.

### 6C. Motivating Behavior

The mental health court should place substantial emphasis on incentivizing productive behavior. A participant's advancement in, and successful completion of, the program should include objective evidence the participant is engaged in productive activities, such as volunteering, employment (as appropriate), education, or attendance at peer support groups. See Adult Drug Court Best

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Practice Standards, Volume I (NADCP, 2013) particularly Standard IV, "Incentives, Sanctions, and Therapeutic Adjustments," Comment H, which states:

> "Drug Courts achieve significantly better outcomes when they focus as much on incentivizing behaviors as they do on reducing undesirable behaviors….significantly better outcomes were achieved by Drug Courts that offered higher and more consistent levels of praise and positive incentives from the judge….several other studies found that a 4:1 ratio of incentives to sanctions was associated with significantly better outcomes among drug offenders….Support for the 4:1 ratio must be viewed with caution because it was derived from after-the-fact correlations rather than from controlled studies….Nevertheless, although this correlation does not prove causality, it does suggest that Drug Courts are more likely to be successful if they make positive incentives readily available to their participants."

**6D. Case Plan Adjustments**

The judge should consider alternative, or additional, support or services for a participant who has willfully failed to comply with program conditions, if those alternatives might reasonably assist the participant in being successful in the program. The judge should consider, if applicable and with clinical input, an adjustment of the treatment plan before administering sanctions or terminating a participant from the program.

**6E. Jail Sanction**

Graduated sanctions are a fundamental feature of a mental health court. Because a jail is not a good therapeutic environment, a sanction of incarceration is generally contrary to the objectives of a mental health court. A jail sanction must be imposed judiciously and sparingly. Prior to imposing a jail sanction, a judge should consider the potential impact of incarceration on the continuity of the participant's medication schedule. A judge should impose a jail sanction in a post-adjudication case only if less severe sanctions have been ineffective, although there are exceptions when a participant poses an immediate risk to public safety, or is substantially not compliant with the case plan. A jail sanction should be definite in duration and, generally, brief.

**6F. Termination**

The court team must provide a participant with advance notice of circumstances that may result in participant's termination from the mental health court program. Generally, a participant may be terminated from the program if the participant

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cannot continue to safely reside in the community, or if a participant repeatedly fails to comply with the case plan, or treatment or supervision requirements. A participant who is unsuccessful and terminated from the mental health court may receive a sentence or disposition based on the original, underlying offense.

In courts serving a co-occurring population, a judge should not automatically terminate a participant from the mental health court because of the participant's continued substance use, if the participant otherwise complies with the conditions of treatment and supervision. However, a participant may be terminated for continued substance use if the participant is not amenable to treatment that is reasonably available in their community. If a participant is terminated from a mental health court because adequate treatment is not reasonably available in their community, the participant must not receive an augmented sentence or disposition for failing to complete the mental health court program.

## Standard 7: Confidentiality of Records

**7A. Sharing Confidential Information**

The court and team members must maintain the privacy of treatment information as required by law and as provided in Rule 123 of the Rules of the Supreme Court[1]. The exchange of treatment information among team members should be limited to what is necessary for the team to make decisions concerning the case plan. Written information must only be exchanged by methods that maintain confidentiality. The team's discussion of confidential information must occur in closed team meetings. The team should avoid discussion of treatment information in open court.

The prosecutor must not use in the underlying case, or in any subsequent case, clinical information concerning a participant's program-related treatment that the prosecutor acquired as a member of the team, without a court order or other authorized process established by law.

**7B. HIPAA**

Each mental health court must use a Release of Information form, developed in consultation with legal counsel, which adheres to federal and state laws.

[1] For further guidance on access to mental health court records, see Maricopa County Superior Court Administrative Order number 2014-092.

While the court is not a covered entity under HIPAA, to comply with HIPAA and allow disclosure of protected behavioral health information to other mental health court team members, as a condition of acceptance into the mental health court, absent a court order, the participant shall be ordered to execute a release and authorization in compliance with HIPAA and 42 CFR part 2 (for substance use information).

**7C. Defense Attorney Representation**

Potential participants must be allowed to review the waiver or consent to release information form with defense counsel. Participant's counsel should confirm to the court the waiver or consent form has been reviewed with the participant. The court when necessary should inquire whether these forms have been interpreted for the participant.

**7D. Retention and Destruction of Mental Health Court Records.**

Court records should be retained and destroyed in accordance with the schedule provided by the Arizona Code of Judicial Administration §§ 3-402 in the (Superior Court Retention and Disposition Schedule) and 4-302 (Limited Jurisdiction Records Retention and Disposition Schedule).

## Standard 8: Sustainability

**8A. Public Awareness**

Under the direction of its presiding judge or court administrator, a court should publicize and educate the community, the media, and key criminal justice and mental health organizations and individuals concerning the benefits to the community of a mental health court, and the court's values and purposes.

**8B. Mental Health Court Collaboration**

Mental health courts should collaborate with one another to improve existing mental health court operations, and to offer advice and information to jurisdictions that may want to establish a new mental health court. Mental health courts should provide resources to one another, identify courts willing to serve as mentor courts, and assist in the identification of other practices to improve mental health court operations.

**8C. Periodic Reviews of Operation**

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The mental health court team should periodically review its mental health court process, procedures, operation, and MOUs, and revise them as necessary and appropriate. The team should review available data, obtain participant feedback, solicit observations of team members, and make recommendations to and receive direction from the planning group in order to regularly improve the operation of its mental health court. The team should also consider its needs for training and cross-training, and plans for transition and succession of team members.

**8D. Performance Monitoring**

To ensure long-term sustainability, and to promote accountability, efficiency, and effectiveness, a mental health court should monitor its own performance. To do so, it should collect and compile measures of performance.

**8E. Performance Measures**

Performance measures serve as tools to better manage and effectively administer mental health courts. Performance measures will assist with making policy decisions about how to address mental health issues within the criminal justice system and provide information to the public, the court community, participants, and funding agencies to provide accountability and sustainability.

The National Center for State Courts ("NCSC") established nationally recognized performance measures. Detailed descriptions and calculations of each measure can be found in the Mental Health Court Performance Measures: Implementation and User's Guide at http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Problem-solving-courts/Mental-Health-Court-Performance-Measures.aspx.

Arizona courts use the following NCSC performance measures:

*1. In-Program Reoffending*

*2. Attendance at Scheduled Judicial Status Hearings*

*3. Attendance at Scheduled Therapeutic Sessions*

*4. Living Arrangement*

*5. Retention*

*6. Time from Arrest to Referral*

*7. Time from Referral to Admission*

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*8. Total Time in Program*

*9. Team Collaboration*

*10. Agency Collaboration*

*11. Need-Based Treatment and Supervision*

*12. Participant-Level Satisfaction*

*13. Participant Preparation for Transition*

*14. Post-Program Recidivism*

Details concerning the NCSC performance measures are included in Appendix 4.

Mental health court teams must collect and maintain the basic data identified in performance measures 1, 2, 3, 6, 7, and 8.

These standards require all stakeholders, including the Arizona Department of Health Services ("ADHS"), RBHA's, service providers, law enforcement, jails, and the courts, to develop methods and systems for collecting and sharing additional data shown in performance measures 4, 5, 9, 10, 11, 12, 13, and 14.

An MOU must specify responsibilities for data collection, or collection of certain data elements, by particular team members. MOUs may specify protocols for data collection and data sharing. Data collection processes optimally should be standardized statewide, because standardization of data elements will have the benefit of allowing aggregation and comparison of collected data. However, collection of certain data by particular jurisdictions may require customization based on local infrastructure and organization.

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**Resources**

- **General Information:**

Justice Center: The Council of State Governments – Essential Elements for a Mental Health Court

Justice Center: The Council of State Governments - Improving Responses to People with Mental Illnesses: The Essential Elements of Specialized Probation Initiatives

Justice Center: The Council of State Governments – Mental Health webpage

California Administrative Office of the Courts: Mental Health Courts, an Overview (2012)

National Center for State Courts: Mental Health Court Performance Measures

National Center for State Courts: Mental Health Courts Resource Guide (multiple links)

National Association of Drug Court Professionals: Adult Drug Court Best Practice Standards, Volume I

Ohio Administrative Office of the Courts: Handbook for Developing a Mental Health Court Docket

SAMHSA ("Substance Abuse and Mental Health Services Administration") Gains Center for Behavioral Health and Justice Transformation http://gainscenter.samhsa.gov/

Dr. Nicole Waters: Responding to the Need for Accountability in Mental Health Courts (2011)

Website for the Arizona Department of Health Services, Division of Behavioral Health Services

Common Characteristics of Juvenile Mental Health Courts (Policy Research Associates)

- **Training Curriculum:**

Justice Center: The Council of State Governments – Interdisciplinary Curriculum for Developing a Mental Health Court: http://learning.csgjusticecenter.org/

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# Model Memorandum of Understanding

# [Multiple Parties]

## MENTAL HEALTH TREATMENT COURT

This agreement is entered into between **[insert court name and number]** and **[insert agencies names]** to document the roles and responsibilities of each agency in the planning and operation of the mental health treatment court.

**A. Program Description**

[insert content]

**B. Mission Statement and Program Goals**

[insert content]

**C. Provisions**

Each agency agrees to participate by coordinating and/or providing the following:

**The [insert court name and number] agrees to:**

1) Designate a judge to preside over the mental health treatment court program and docket.

2) Establish a planning committee to develop written program policies and procedures.

3) Establish procedures to be used to determine that participants have sufficient understanding to participate in the program.

4) Establish points of participant eligibility for the mental health treatment court at post-arraignment or later.

5) Designate primary court personnel responsible for answering questions, serving as liaison to agency personnel, and participating in treatment team meetings and status review hearings.

6) Indicate processes by which court personnel will identify prospective program participants, initially screen for legal and clinical eligibility, and refer prospective program participants to the community mental health service program for further assessment.

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7) Identify the clinical eligibility criteria for the designated target population.

8) Designate case manager roles, responsibilities, and caseloads.

9) List the procedures court personnel use to relay information regarding prospective participants to the treatment agency to enable them to conduct the psychiatric assessment to determine clinical eligibility.

10) Develop preferred methods, forms, and timetables for exchanging information between court staff and agency personnel regarding court-related progress and compliance of program participants, including filing of new criminal charges or technical probation violations and reporting results of drug and alcohol tests.

11) Compile and submit any mandated financial or program progress reports to the appropriate agencies.

12) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

13) Work with the community mental health service program to determine consumer representative(s) on the planning committee to represent the interests of participants and their families.

14) [insert content]

**The mental health treatment court judge agrees to:**

1) Chair meetings, preside over status review hearings, coordinate team meetings, participate in the development of policies and procedures, and assist with identifying funding sources to sustain the program.

2) Assist in the development of legal and clinical eligibility criteria.

3) Use incentives, sanctions and disciplines as deemed necessary for participant success.

4) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

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5) Participate in training on how to screen for eligible participants.

6) [insert content]

**The community mental health services program agrees to:**

1) Assist in the development of legal and clinical eligibility criteria.

2) Participate on the planning committee.

3) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

4) Identify primary agency personnel responsible for answering questions, serving as liaison to court personnel, and participating in treatment team meetings and status review hearings.

5) Provide a description of services including admissions and discharge criteria available to mental health treatment court program participants and notify the court in writing of any changes in program services offered.

6) Communicate maximum time frames needed for conducting psychiatric assessments from date of court referral, beginning program participant treatment from date of acceptance, and exchanging progress and compliance information from date of occurrence.

7) Develop preferred methods, forms, and timetables for exchanging information between agency and mental health court docket personnel regarding agency-related progress and compliance of program participants, including appointment attendance, medication compliance, drug and alcohol test results, individualized treatment plan status, progress, changes, agency discharge plans, and recommendations for continuing care or additional service needs.

8) Participate in treatment team meetings and in staffing of cases.

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9) Arrange or coordinate with the substance abuse coordinating agency for substance use disorder treatment services for persons with co-occurring mental health and substance use disorders.

10) Provide training to team members on how to screen for individuals exhibiting symptoms of mental illness.

11) Provide information to the mental health court team on relevant mental health confidentiality and recipient rights laws.

12) [insert content]

**The county prosecuting attorney agrees to:**

1) Assist in the development of legal and clinical eligibility criteria.

2) Participate on the planning committee and in the staffing of cases.

3) Designate someone to attend treatment team meetings and all scheduled court proceedings.

4) Interact with defense counsel in a non-adversarial manner to address pleas and the application of sanctions and incentives.

5) Screen all potential participants based upon established eligibility criteria.

6) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

7) Participate in training on how to screen for eligible participants.

8) [insert content]

**The city attorney agrees to:**

1) Assist in the development of legal and clinical eligibility criteria.

2) Participate on the planning committee and in the staffing of cases.

3) Interact with defense counsel in a non-adversarial manner to address pleas and the application of sanctions and incentives.

4) Designate someone to attend treatment team meetings and all scheduled court proceedings.

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5) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

6) Screen all potential participants based upon established eligibility criteria.

7) Participate in training on how to screen for eligible participants.

8) [insert content]

**The public defense attorney agrees to:**

1) Participate on the planning committee and in the staffing of cases.

2) Attend treatment team meetings.

3) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

4) Interact with the city attorney and/or county prosecutor in a non-adversarial manner to address pleas and the application of sanctions and incentives.

5) Assure that participant procedural and due process rights are protected.

6) Participate in training on how to screen for eligible participants.

7) [insert content]

**The [insert law enforcement agency] agrees to:**

1) Participate on the planning committee.

2) Identify and screen in-custody offenders for referral to the mental health treatment court based upon eligibility criteria.

3) Designate an officer(s) who will complete specialized training on identifying individuals with mental illness. This officer(s) will be a member of the mental health treatment court team.

4) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

5) Participate in training on how to screen for eligible participants.

6) [insert content]

**The city and/or county jail agree(s) to:**

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1) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

2) Screen all potential participants based upon established eligibility criteria.

3) Provide treatment such as medications to jail residents that are participants in the mental health treatment court program to stabilize their mental illness while they are incarcerated.

4) Participate in training on how to screen for eligible participants.

5) [insert content]

**The [insert court name and number] Probation Department and/or Department of Corrections Probation Department agree(s) to:**

1) Participate on the planning committee.

2) Designate probation officer(s) to handle all presentence and supervision duties for the mental health treatment court caseload and to serve on the team.

3) Identify and recommend referrals.

4) Attend status review hearings and team meetings.

5) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

6) Participate in training on how to screen for eligible participants.

7) [insert content]

**The substance abuse coordinating agency agrees to:**

1) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

2) Provide, arrange, or coordinate with the community mental health services program for mental health treatment services for persons with co-occurring mental health and substance use disorders.

3) Provide information to the mental health treatment court team on a timely basis regarding participant treatment progress.

4) [insert content]

**The case manager agrees to:**

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1) Coordinate the work and activities of all parties serving as members of the mental health treatment court team.

2) Serve as primary contact person for the mental health treatment court.

3) Screen all potential participants based upon established eligibility criteria.

4) Collaborate with the participant and other mental health treatment court team members when developing the treatment plan.

5) Comply with all mental health treatment court policies and procedures that have been previously agreed upon by all parties.

6) Coordinate activities with assigned probation staff without duplicating supervision activities.

7) Serve as the primary team member that brokers services for treatment, employment and/or education, and housing, and monitors participant compliance and progress with the treatment plan.

8) Participate in training on how to screen for eligible participants.

9) [insert content]

**D. Methods for Exchanging and Maintaining Confidential Information**

[insert content (i.e. regarding HIPPA; 42 CFR Part 2; Michigan Mental Health Code; Michigan Public Health Code; etc.]

**E. Other Data Reporting Requirements**

[Insert information on various team member evaluation and/or any other specific reporting requirements and methods].

**F. Procedures for Conflict Resolution**

[insert content]

**G. Mutual Indemnification**

The participating agencies agree to indemnify, defend, and hold harmless each other and their officers, agents, and employees from any and all claims, actions, or proceedings arising solely out of the acts or omissions of the indemnifying agency in the performance of this memorandum of understanding.

The participating agencies agree that each is acting in an independent capacity and not as officers, employees, or agents of the other agencies.

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**H. Terms of Agreement**

This agreement is effective on [insert date] and may be renewed each year upon mutual agreement of all parties.

**I. Fiscal Terms**

This memorandum of understanding does not involve an exchange of funds. Any exchange of funds for services rendered as part of the mental health treatment court will be described in a separate contract.

**J. Terms and Conditions**

All terms and conditions of this agreement are subject to the continuation of mental health treatment court funding.

**K. Termination of Memorandum of Understanding**

Upon mutual consent of all parties, this memorandum of understanding is subject to further negotiation and revision as required to support the needs of the mental health treatment court program. Any changes shall be in writing and signed by all parties herein or their duly appointed representatives authorized to act on their behalf. This memorandum of understanding may be terminated by any party for any reason by giving a 30-calendar-day written notice.

**L. Review of the Memorandum of Understanding**

This memorandum of understanding will be reviewed on a yearly basis by the [insert court name and number] mental health treatment court planning committee and revised as necessary upon mutual agreement of all parties.

Signatures of Authorized Representatives:

_____ _____

Name and Title Date

Agency Name

_____ _____

Name and Title Date

Agency Name

_____ _____

Name and Title Date

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Agency Name

_____ _____

Name and Title Date

Agency Name

_____ _____

Name and Title Date

Agency Name

_____ _____

Name and Title Date

Agency Name

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# TEMPLATE FOR A MEMORANDUM OF UNDERSTANDING (MOU) FOR CROSS-SYSTEM COLLABORATION

A Memorandum of Understanding (MOU) is a document describing a collaborative relationship between parties. It expresses a mutual accord between the parties, and indicates an intended common line of action.

A memorandum of understanding at a minimum must (1) identify the parties, (2) spell out the subject matter of the agreement and its objectives, (3) summarize the essential terms of the agreement, and (4) be signed by the parties.

This sample MOU template is designed to establish a framework and articulate responsibilities for developing cross-system collaboration among justice, mental health and substance abuse organizations, as well as with other parties and entities that provide resources, services and supports to individuals with mental illnesses, substance use disorders, and/or co- occurring disorders. Although the four items in the preceding paragraph, standing alone, may be sufficient for some MOUs, mental health court stakeholders should consider including the additional sections identified in this template.

**Important Note:** Although the "example" language in this template suggests ~~that~~ there can be multiple parties to a single MOU, it may instead be more practical and appropriate to have multiple MOUs, with only two parties to each individual MOU.

**A. Title of MOU:** The title should reflect its purpose.

**B. Intent:** This section should articulate the desire to formalize relationships across systems to address the needs of a target population. It should identify the involved stakeholders and indicate their desire to work together.

Example:

*The intent of this MOU is to establish and maintain a partnership with the judicial system, juvenile and criminal justice system, local mental health and substance abuse providers, hospitals, families, consumers, provider networks, HMO's, social services, educational system, social security, housing, vocational services and other organizations that share and will promote the common goals and objectives ~~to~~ that address the needs of individuals with serious mental illnesses and/or substance use disorders who frequently appear in the juvenile or criminal justice system*

Another example:

*The intent of this MOU is to formalize the establishment of the (name of group) and to develop goals, objectives and guiding principles that address the needs of individuals with serious mental illnesses and/or substance use disorders who frequently appear in the juvenile or criminal justice system; as well as establish membership and responsibilities of its members.*

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**C. Purpose:** This section should state the purpose of this document, and how it will guide the parties' actions.

Example:

*This agreement is intended to guide the (name of group) in identifying the needs of individuals with serious mental illnesses and/or substance use disorders who frequently appear in the juvenile or criminal justice system. The parties agree to share and develop strategies and best practices that will address the needs and create system improvements, increase public safety, use limited resources effectively and efficiently, and promote advocacy for increased resources*

**Goals:** This section should outline the goals the group identifies relevant to the overarching reason they have come together., i.e. what do they hope to accomplish, what changes do they want to make, what are their primary outcomes, etc.

Example:

*The goals of (name of group) are to:*

1. *Reduce recidivism of individuals with mental illnesses and/or co-occurring substance use disorders from having contact with the juvenile or criminal justice system*
2. *Increase public safety*
3. *Increase access to services*
4. *Increase capacity of community-based services*
5. *Improve information sharing and data collection for continuity of care and outcome reporting*
6. *Improve coordination of care among systems*

Example:

*Improve access to and quality of mental health and substance abuse services and supports through a systematic approach to developing and supporting strategies to introduce, adapt and apply evidence-based and best practices to reduce contact with the juvenile or criminal justice system for individuals with serious mental illnesses and/or substance use disorders*

**D. Guiding Principles:** This section addresses the shared principles, values and ideals the group will adhere to in its work together. This section can also outline the overall responsibilities of its members. Guiding principles may be written as "Where As"

Examples

*The members of (name of group) agree to adhere to the following guiding principles:*

1. *Be respectful of the ideas and opinions of all members*
2. *Be responsive to assigned responsibilities*
3. *Promote open communication*
4. *Work for the common good of the community and the people it serves*
5. *Adopt a shared vision and mission, goals and objectives*

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Example:

Recitals:

*1. The participating members agree to support this MOU*
*2. This agreement is intended to promote system change and improvements to reduce contact with the juvenile or criminal justice systems for individuals with serious mental illnesses, emotional disorders and/or substance use disorders; and to promote recovery and resiliency*
*3. The participants of this agreement will work in collaboration to support and strengthen this agreement*

**E. Objectives:** This section outlines the strategies or processes of how the group will achieve its goals. Also this section may also articulate the various roles and responsibilities of the members.

Example:

*The objectives of this (name of group) to achieve its goals are:*

1. *To complete a system mapping how a person moves through the system that will identify strengths and weaknesses of the system, its resource needs, duplication, etc.*
2. *To identify and recommend evidence based and best practice approaches that will help support a process of change within the community*
3. *To build on existing management and leadership skills at all levels to enable the application of innovative and creative approaches for change and improvements*
4. *For members of this MOU to share resources to change and improve the system*

**F. Responsibilities of the Members:** This section can be broad or specific for each member.

Example:

*All members of the (name of group) will designate staff members to participate in meetings and serve on committees*
*All members are expected to support the specific activities of this group (name of group) All members must be willing to share necessary information for system change and improvements*
*One member may be identified as providing meeting space*
*One member may offer staff to take minutes of group*

**G. Closing sentence before the signature lines:** This is intended to imply that by signing this MOU the person signing agrees with its intent, purpose, content and duties.

Example:

This agreement will be signed by the appropriate agency representatives. By signing, the parties agree to support and uphold this agreement. The parties agree to renegotiate

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this Agreement if revisions of any applicable laws or regulation make changes in this Agreement necessary, or at least annually.

**H. Signature Page:** There should be a signature section listing the Name and Title of each party and the date.

Example:

Signed by:
Name: John or Jane Doe
Title: Judge or Sheriff or CEO, etc
Date:

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## Best Practices Regarding Historically Disadvantaged Groups

The planning group and the mental health court team, when appropriate, should consider the following best practices for mental health courts with dockets involving historically disadvantaged groups.

**Equivalent Access**
Eligibility criteria for the mental health courts should be non-discriminatory in intent and impact. If eligibility requirements have the unintended effect of restricting access for members of a historically disadvantaged group, those requirements should be adjusted to increase the representation of such persons, unless doing so would jeopardize public safety or the effectiveness of the mental health court. Assessment tools used to determine participants' eligibility for a mental health court are valid for members of historically disadvantaged groups represented in the respective arrestee population.

**Equivalent Retention**
The mental health court should monitor whether members of historically disadvantaged groups complete the program at rates equivalent to other participants. If completion rates are significantly lower for members of a historically disadvantaged group, the mental health court team should investigate reasons for the disparity, develop a remedial action plan, and evaluate the success of these remedial actions.

**Equivalent Dispositions**
Members of historically disadvantaged groups should receive the same legal dispositions as other participants for completing or failing to complete the mental health court program.

**Team Training**
Each member of the mental health court team should attend up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.

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**<u>Welcome to the Mental Health Court</u> [Sample form for limited jurisdiction courts]**

You have been charged with a crime. The judge has found that because of a mental illness, you are eligible for this court's mental health program. This program is voluntary. You do not have to participate in the program.

If you decide to go through this program, you must agree to the terms of participation on the next page. The program can last a year or longer, and you must follow these terms as long as you are in the program.

There are a number of people you will contact as you go through the program. These include the judge and the court staff.

The people who you contact through this program – known as the mental health court team - may also include

- Your attorney
- Your probation officer
- Your case manager
- A representative from the Arizona Department of Behavioral Health Services
- A court coordinator
- Treatment providers, who will provide mental health and substance abuse counseling
- Peer support
- And others

Shortly after you enter the program, one or more members of the mental health court team will provide you with a case plan. The case plan will contain the mental health and substance abuse services you need to successfully complete the mental health court program.

You will return to court several times during the program. The judge will meet with the mental health court team and learn about your progress in the program. In order for the judge to speak with the mental health court team, you will be required to sign consent forms. The judge will also speak with you about the progress you are making in your treatment, and other issues you may be having such as housing, school, or a job. The judge or the mental health court team may help you with these issues.

If you successfully complete the program, your family and friends may be invited to attend a special court proceeding. Successful completion of the program may sometimes result in a dismissal or a reduction of the criminal charges.

If you do not abide by the terms of participation on the next page, the judge will impose a sanction. The sanctions are also listed on the next page. One sanction is that the judge will end your participation in the mental health court program.

Please contact a member of your mental health court team if you have any questions. We hope you take this opportunity to be successful in the mental health court program!

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**Standard Terms of Participation in the Mental Health Court**

**You must:**

☐ 1. Take all of your prescribed medication

☐ 2. Not use alcohol or illegal drugs (you may be required to provide random breath and urine samples for alcohol and drug testing)

☐ 3. Attend all of your court appearances

☐ 4. Attend all group and individual counseling, including substance abuse treatment

☐ 5. Reach the individual treatment goals established by your treatment plan

☐ 6. Maintain frequent contact with your case manager and, if you have one, your attorney and your probation officer

☐ 7. Attend vocational or educational classes

☐ 8. Improve relationships with family members and others

☐ 9. Have stable housing

☐ 10. Make progress in the phases of your mental health court program

☐ 11. Accomplish other goals identified by your treatment team

☐ 12. Obey the law

**Sanctions:**

If you do not abide by the terms of your participation, the judge may impose a sanction, including one or more of the following:

1. Increasing the length of time of your mental health program
2. Increasing the number of times you must appear in court
3. Issuing an arrest warrant (if you fail to appear for a court date)
4. Ordering jail time
5. Ordering community service
6. Giving you writing assignments
7. Terminating you from the mental health program, which may result in you being sentenced on your original criminal charges
8. Ordering another appropriate sanction not listed here

**Incentives:**

As you progress through the program, the judge may provide incentives, such as:

- ✓ Reducing the number of times you must appear in court
- ✓ Praising your accomplishments
- ✓ Increasing your privileges and providing you with new opportunities

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# National Center for State Courts: Performance Measures:

## Participant Accountability

1 **In-Program Reoffending** —The incidence of in-program reoffending (i.e. whether an arrest occurred, yes or no). In-program reoffending is defined as an arrest that results in the offender being formally charged (excluding traffic citations other than DUI) and which occurs between admission and exit. While the date of arrest must fall between the entry date and exit date, the charge date may come after the participant has exited the program. This measure serves as an important measure of offender compliance and the level of supervision received, hence, an indicator for public safety.

2 ***Attendance at Scheduled Judicial Status Hearings*** — The percent of scheduled judicial status hearings attended by the participant. The performance measure reflects the level of judicial supervision for each participant.

3 ***Attendance at Scheduled Therapeutic Sessions*** — The percent of scheduled therapeutic sessions (defined as services to address mental health and/or substance abuse problems) attended. Therapeutic treatment is an essential element of MHCs.

## Social Functioning

4 ***Living Arrangement*** — Tracks the progress of MHC participants toward securing a stable living arrangement. Specifically, the percent of participants who are homeless or not at exit, by living status at entry. Adequate housing is a prerequisite for treatment effectiveness.

## Case Processing

5 ***Retention*** — The percent of participants admitted to the MHC during the same time frame, who exit the program by one of the following means: Successful completion, administrative closure, voluntary withdrawal while in compliance, discharge, transfer, and failure/termination. Retention is important in MHCs because it is critical that participants receive treatment and supervision of long enough duration to affect change.

6 ***Time from Arrest to Referral*** — The average length of time between a participant's arrest and referral to MHC. While the referral process is not entirely under the court's control, it is an important component in obtaining relevant and timely information. This is especially true when offenders who are mentally ill are incarcerated and are at risk for decompensation.

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7 ***Time from Referral to Admission*** — The average length of time between the referral to MHC and when the participant was accepted into the program. The span of time between referral and admission is an important part of controlling the length of time it takes to get a participant into treatment. This measure will help the court identify inefficiencies in the screening and qualification process.

8 ***Total Time in Program*** — The average length of time between a participant's admission into the MHC and permanent exit. If this time span is very short, participants may not be receiving enough treatment and care to affect long term improvement. If it is very long, courts may be devoting too great a share of their resources to difficult cases, denying opportunities to other potential participants.

## Collaboration

9 ***Team Collaboration*** — The percentage of time that information relevant for discussion at the pre-docket meeting is available to the team. This provides a gauge to the court of the level of collaboration across the entire MHC team and allows for the identification of gaps in information sharing. With this measure, courts can investigate a lack of resources or lack of commitment by individuals/agencies. This is NOT a measure of attendance at pre-docket meetings.

10 ***Agency Collaboration*** — The percentage of time that a MHC representative was notified within 24 and 48 hours that a participant in the program was arrested. This measure assesses the timeliness of the basic communication flow between corrections (jail) and the MHC program so that services and medication are maintained during time spent in detention. Effective inter-agency collaboration will improve the effectiveness of the MHC and its operations.

## Individualized and Appropriate Treatment

11 ***Need-Based Treatment and Supervision*** — The goal of this measure is to align participants' diagnosis and criminogenic risk with the appropriate treatment and service dosage. The measure provides courts with an indicator of whether the resources available for supervision and treatment are allocated based on need. Operationally, it measures the percentage of participants who receive the highest (and alternatively lowest) level of services and supervision and whether those are the same participants who are designated as having highest (and lowest) needs. Achieving this will provide the necessary balance for effective use of tax payer money, ensuring public safety, and improving the welfare of the participant using need-based, individualized, and appropriate treatment.

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## Procedural Fairness

12 ***Participant-Level Satisfaction*** — Perceived fairness of the program by the participant as expressed in a short 5-question survey. Research indicates that the perception of fairness is often more important than the actual outcome of the case (see e.g., procedural justice) making this measure important in gauging the perception of the participant.

## Aftercare/Post-Exit Transition

13 ***Participant Preparation for Transition*** — Percent of correct responses by the participant identifying sources of assistance (e.g., for medication or mental health symptoms) to be used after exiting the program. This measure provides the MHC with an assessment of whether participants are prepared for their transition by ensuring that needed treatment and services will remain available and accessible after their court supervision concludes.

14 ***Post-Program Recidivism*** — Percentage of participants who reoffended within two years after exiting the MHC. This performance measure is an important measure of the lasting outcomes of the court's program as well as public safety. It captures longer-term outcomes, as compared to Measure 1 "In-Program Reoffending," and is thus reflective of the effectiveness of the program.

### Performance Measures for Mental Health Courts are Used…

- as a Management Tool,
- to Monitor Program Performance,
- to Demonstrate Accountability to Funding Agencies, Court Leaders, External Partners, and the Public.

Performance measurement is considered an essential activity in many government and non-profit agencies because it provides tools for managers to exercise and maintain control over their organizations, as well as provides a mechanism for governing bodies and funding agencies to hold organizations accountable for producing the intended results. As a relative newcomer among problem-solving courts, Mental Health Court (MHCs) are still seen as experimental models for courts in some jurisdictions. MHCs are designed for offenders with mental illnesses who enter the criminal justice system. The programs are diverse, including specialized criminal dockets or pre-trial diversion programs, which operate to align the offender with mental health services and judicial supervision as an alternative to traditional jail time. While there are nearly 300 MHCs nationwide at the present time, there is a paucity of data to evaluate the success of MHCs. Moreover, there is a lack of consensus on what key elements ought to be used to measure the

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performance of MHCs. The extent to which MHCs offer an effective problem-solving alternative to the criminal justice system is currently unanswerable without adequate performance measures designed for MHCs.

### 14 Core Performance Measures

The performance measures are designed to be implemented as a complete and comprehensive set, providing balance across seven key measurement domains. These measures are both important management tools to gauge performance of the MHC program and relatively simple measures to implement. The performance measures are organized by domain. A select advisory group of MHC experts and project staff from the National Center for State Courts (NCSC) worked together to produce a set of performance measures designed specifically for MHCs. These measures were then tested for feasibility, ease of implementation, and usefulness by four courts located in Orange Co., CA; Monroe Co., NY; York Co., PA; and Washington DC.

## MHCPM DATA ANALYSIS TEMPLATES

The project provides free, Excel-based templates that allow mental health court officials to enter data and produce easy to interpret data-based graphics. These graphics show the results for each measure on a summary level for the court, and can be viewed on screen or printed as hand-outs.

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**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

| **Date Action Requested:** | **Type of Action Requested:** | **Subject:** |
|---|---|---|
| December 11, 2014 | _X_ Formal Action/Request<br>__ Information Only<br>__ Other | Report of the Business Court Advisory Committee |

**FROM:** David Rosenbaum, Committee Chair

**DISCUSSION:** The Chief Justice established the Business Court Advisory Committee ("BCAC") in May 2014 by entry of Administrative Order number 2014-48. The BCAC was directed to study and, if appropriate, to make recommendations with regard to establishing a business court in Arizona. The Order required the BCAC to prepare its recommendations and report by December.

Mr. Rosenbaum will present those recommendations to the Council. The primary recommendation is the establishment of a three-year pilot commercial court in the Superior Court of Arizona in Maricopa County. The remaining recommendations support this primary objective.

On November 7, 2014, the BCAC's recommendations were presented to the Committee on Superior Court, which passed a motion to support them.

**RECOMMENDED COUNCIL ACTION:**

Approve the BCAC's report and recommendations.

# Business Court Advisory Committee

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# Report to the Arizona Judicial Council

December 11, 2014

ADVANCING JUSTICE TOGETHER | 2014-2019

# Business Court Advisory Committee

***Chair:***
**David Rosenbaum, Esq.,** Osborn Maledon, PA

***Members:***
**Michael R. Arkfeld, Esq.,** Arkfeld & Associates

**Mr. Ray Billotte,** Superior Court in Maricopa County

**Hon. Kyle Bryson,** Superior Court in Pima County

**Andrew M. Federhar, Esq.,** Fennemore Craig

**Glenn Hamer, Esq.,** Arizona Chamber of Commerce and Industry

**William G. Klain, Esq.,** Lang & Klain, PC

**Mark J. Larson, Esq.,** Honeywell International, Inc.

**Lisa S. Loo, Esq.,** Arizona State University

**Hon. Scott Rash,** Superior Court in Pima County

**Hon. John Rea,** Superior Court in Maricopa County

**Patricia Refo, Esq.,** Snell & Wilmer, LLP

**Mr. Marcus Reinkensmeyer,** Arizona Supreme Court

**Mark Rogers, Esq.,** Insight Enterprises, Inc.

**Nicole Stanton, Esq.,** Quarles & Brady, LLP

**Stephen Tully, Esq.,** Hinshaw & Culbertson, LLP

**Steven Weinberger, Esq.,** Liberty Mutual

**Hon. Christopher Whitten,** Superior Court in Maricopa County

***AOC Staff:***
Theresa Barrett, Mark Meltzer, Sabrina Nash, Nick Olm

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2. *The Superior Court of Arizona in Maricopa County should enter a corresponding administrative order to actually establish the pilot commercial court.*

3. *The foregoing Supreme Court administrative order should adopt for the pilot commercial court a proposed experimental Rule 8.1 of the Arizona Rules of Civil Procedure, and two new forms in Rule 84.*

4. *The Superior Court of Maricopa County should (a) modify its civil cover sheet, and (b) adopt a proposed checklist and model order concerning disclosure and discovery of electronically stored information in a commercial case.*

5. *The commercial court should establish a repository of its decisions.*

6. *The Supreme Court should extend the term of the Business Court Advisory Committee and its members for four years.*

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## Executive Summary and Recommendations

The Supreme Court established the Business Court Advisory Committee ("BCAC") on May 8, 2014 by the entry of Administrative Order number 2014-48. The Order directed the committee, after a period of study, to make recommendations on court rules, discovery (including electronic discovery), alternative dispute resolution, judicial staffing, resources, and other elements of a business court model and, if appropriate, to make recommendations for potential pilot projects to evaluate the efficacy of a business court model in the Superior Court of Arizona.

The Order required the committee to submit its recommendations by December 11, 2014. This is the committee's report and its recommendations.

The committee recommends:

1. Entry of a Supreme Court administrative order that would permit the Superior Court of Arizona in Maricopa County to establish a three-year pilot commercial court.

2. Entry of a corresponding administrative order by the Superior Court of Arizona in Maricopa County that would actually establish the pilot commercial court.

3. Adoption by the foregoing Supreme Court administrative order of amendments to the Arizona Rules of Civil Procedure. An experimental Rule 8.1 would define a "commercial case," specify the types of cases that would be eligible for assignment to the commercial court, and provide procedures for judicial management of commercial cases. Amendments to Rule 84 would add Forms 14(a) and 14(b), a joint report and scheduling order for use in commercial cases.

4. Adoption by the Superior Court of Maricopa County of (a) modifications to its civil cover sheet; and (b) a checklist and model order concerning disclosure and discovery of electronically stored information in a commercial case.

5. Creation of a repository of the decisions of the commercial court judges.

6. Inclusion of a provision in the Supreme Court administrative order of a four-year extension of the term of the Business Court Advisory Committee and its members, and adding as members the commercial court judges.

This report further explains these recommendations.

**Background.** Business courts were established in New York and Illinois in 1993. In the years to follow, North Carolina (1995), New Jersey (1996), Pennsylvania (2000), Massachusetts (2000), Nevada (2000), Rhode Island (2001), Maryland (2003), Florida (2004), Georgia (2005), Oregon (2006), Colorado (2006), South Carolina (2007), Maine (2008), New Hampshire (2008), Alabama (2009), Ohio (2009), and Delaware (2010) created similar courts, (*See,* John F. Coyle, "Business Courts and Interstate Competition," 53 *William and Mary Law Review,* page 1915, 1918 (2012).) Some local jurisdictions also established commercial court dockets.

The Superior Court in Arizona has established several specialty courts in the twenty-first century. These include a drug court, a veterans court, a mental health court, and a complex civil litigation court. However, and notwithstanding the complex civil litigation program, the Superior Court in Arizona lags other jurisdictions in the creation of a general business or commercial court. Pursuant to Administrative Order 2014-48, the BCAC recommends that Arizona now establish such a court.

The BCAC has eighteen members. The committee's membership includes four judges of the Superior Court (two from Maricopa County and two from Pima County), four in-house counsel (including a member from the office of general counsel for Arizona State University), the court administrator for Maricopa County, the director of the Court Services Division of the Administrative Office of the Courts, the president of the Arizona Chamber of Commerce and Industry (who is also a member of the State Bar of Arizona), and seven attorneys in private practice. Five of those attorneys are members of large law firms, one is a member of a small firm, and one is a sole practitioner and a nationally recognized expert on law office technology. Three members of the BCAC were members of the former Complex Civil Litigation Court Evaluation Committee that was established by Supreme Court Administrative Order number 2002-107.

The BCAC met five times, usually for three hours, over the course of six months. In addition, it established workgroups to study case eligibility; rules, procedures, and forms; and judge assignment and rotation. Midway through its tenure the committee established a fourth workgroup to address issues involving electronically stored information. Each workgroup reported its conclusions to the full committee.

The BCAC considered materials from other jurisdictions that established commercial courts, including Delaware, Florida (Ninth and Eleventh Judicial Circuits), Georgia (Fulton County), Iowa, Maine, Maryland, Massachusetts (Suffolk County), Michigan (Wayne County), New York, North Carolina, Ohio,

Oregon, Pennsylvania (Allegheny County and the Philadelphia Commerce Court), Rhode Island, South Carolina, and West Virginia. The BCAC also reviewed materials from several federal district courts.

**Reasons for Arizona to establish a business court.** Committee members noted a variety of reasons why Arizona should have a business court, including:

- To make Arizona a more favorable forum for resolving business disputes
- To improve the business community's access to justice
- To expeditiously resolve business cases and reduce litigation costs
- To improve the quality of justice
- To gain the business community's support for the State of Arizona's dispute resolution system

The members shared expectations that a business court in Arizona could (1) process commercial cases efficiently, (2) help to reduce the cost of commercial litigation, and (3) provide businesses with access to judges who are knowledgeable about commercial transactions and business issues. There was unanimity among committee members that the success of a business court is ultimately dependent, first, on the quality of the judges who are assigned to the court, and, second, on early and active judicial case management. Committee members agreed that Arizona's merit selection system was already an attractive feature to the business community because it has generated confidence in judicial independence, especially compared to some other states. A business court populated with judges especially familiar with commercial disputes would further enhance confidence in the Superior Court of Arizona as a venue for resolving business controversies.

**Reasons to establish a pilot court in Maricopa County.** The BCAC believes that while a business court will prove to be a valuable and effective component of the superior court in the long-term, a "test" program could empirically demonstrate its usefulness in the immediate future, and help to identify improvements before the commercial court achieves a permanent or statewide status. Therefore, the committee recommends establishing the commercial court as a pilot program, as was done in 2002 with the complex civil litigation court. The committee believes that three years is an appropriate length of time to determine if the pilot commercial court meets expectations.

The BCAC further concluded that Maricopa County is the most suitable venue for the pilot. The members reasoned that the pilot court must have a sufficient case volume to justify its existence. It also concluded that the bench in the county where the pilot is established must be large enough to

accommodate the assignment of two or three judges to the program. Given these practical considerations, the BCAC recommends establishment of a pilot commercial court in Maricopa County, which has more civil filings and more judicial officers than any other county. In addition, Maricopa County serves as the location of the complex civil litigation court, and it has developed experience over the past decade with the operation of a specialty civil court.

The committee further recommends that the pilot court commence on July 1, 2015. The BCAC believes this date would be appropriate for commencing a commercial court because it is when the annual judicial rotation occurs in the Maricopa County Superior Court, and a number of Maricopa County judges will be assuming new calendars.

**Selection of commercial cases.** The BCAC reached consensus that a business court was not an appropriate forum to resolve consumer cases or individual tort cases against businesses. The court's expertise and focus should be on resolving intra- and inter-company controversies, and it should not be viewed as a "pro-business" court. To reinforce that point and avoid misperceptions, the members decided to refer to the program as a "commercial court" rather than a "business court." Several other jurisdictions, such as New York, have adopted a "commercial" court descriptor.

The determination of which cases should be assigned to the pilot commercial court depends on multiple factors, and the BCAC discussed case scenarios at length.

The BCAC concluded that some cases are inherently "commercial" and belong in the commercial court, regardless of the amount in controversy. An example is litigation concerning corporate governance. For cases that are not inherently business in nature, the BCAC discussed monetary floors and ceilings as eligibility factors. The members decided that the floor for eligible cases should be the superior court arbitration limit in Maricopa County, which currently is set at $50,000. A threshold higher than $50,000 would exclude a number of otherwise suitable cases, and committee members did not want to deprive parties in those cases of the benefits of the commercial court. Cases under $50,000 would proceed, like any other civil litigation, through mandatory arbitration under the supervision of a judge assigned to a general civil calendar. The members also agreed that there should be no monetary ceiling for commercial cases; however, an assignment to the commercial court should not preclude subsequent transfer of an eligible case to the complex civil litigation court.

The committee's conclusions were codified in an experimental Rule 8.1 (see Appendix 2). In summary, Rule 8.1 provides as follows:

- To request assignment of a case to the commercial court, a plaintiff must include in the caption of the initial complaint the words "commercial court assignment requested." The plaintiff must also complete a cover sheet, as modified, that indicates the action is an eligible commercial case. (See Appendix 6.) The court administrator will review cover sheets and complaints that are identified in this manner and, if appropriate, will then refer the case to a commercial court judge. The judge has discretion to enter an order assigning, or declining to assign, a referred case to the commercial court.

- A "commercial case" is one in which either (a) at least one plaintiff and one defendant are "business organizations," or (b) the primary issues of law and fact concern a business organization or a "business contract or transaction." A "business organization" and a "business contract or transaction" are both further defined in the Rule.

- The term "consumer contract or transaction" is also defined in the Rule. The definition of "business contract or transaction" excludes a "consumer contract or transaction."

- Certain types of "commercial cases" are eligible for assignment to the commercial court regardless of the amount in controversy. These case types include those concerning the internal affairs or governance of a business organization, receiverships, and cases involving the sale or dissolution of a business organization, or the sale of substantially all of an organization's assets. They also include shareholder derivative actions, commercial real estate transactions, and cases concerning franchise relationships, securities, or antitrust claims.

- Other types of "commercial cases" are eligible for assignment to the commercial court if the amount in controversy is at least $50,000. These cases include transactions governed by the Uniform Commercial Code, tortious business activity, the sale of services by or to a business organization, and malpractice claims other than one against a medical professional.

- Proposed Rule 8.1 identifies certain case types that are not eligible for the commercial court. Examples are evictions, wrongful termination claims, and condemnation proceedings.

- After assignment of a case to the commercial court, proposed Rule 8.1 allows a commercial court judge, upon motion of a party or on the judge's own initiative, to reconsider whether assignment of the case to the commercial court is appropriate under the factors enumerated in the proposed rule. Another provision allows a judge on a general civil calendar, on the judge's initiative or on a party's motion, to order transfer of a case to the commercial court.

**Management of commercial cases.** Case management would be generally governed under existing Rules 16(a) through 16(k) of the Arizona Rules of Civil Procedure. But proposed Rule 8.1 adopts for commercial cases two specific refinements that are specifically designed to meet the commercial court's core objectives.

First, proposed Rule 8.1 would make mandatory in-person or telephonic initial scheduling conferences under Rule 16(d). The committee feels strongly that early judicial management of commercial cases is essential to promote cost-effective and efficient processing of commercial disputes. An early conference will help identify factual and legal issues and focus the parties on discovery that is needed and proportionate to the issues and to the amount in controversy.

Second, to guide the parties and to assist the court, proposed Rule 8.1 adds several other items to the current Rule 16 list that the parties must include in their joint report to the court. Those additional items include electronically stored information (see the next section of this report), agreements pursuant to Rule 502 of the Arizona Rules of Evidence, protective orders, and privilege claims. The committee prepared modified forms for a joint report and a proposed scheduling order that incorporate these additions. (See Appendix 3.)

Commercial court judges may wish to adopt an abbreviated type of motion practice, such as "letter motions," to manage commercial cases efficiently. However, there are a variety of motion practices, and the committee recognizes that each judge may want to use his or her preferred method rather than a uniform practice established by rule. Proposed Rule 8.1 therefore provides that a commercial court judge, with notice to the parties, may modify the formal

requirements of Rule 7.1(a) and adopt a different practice to efficiently and promptly resolve motions.

**Electronically stored information.** BCAC members observed that potential burdens associated with preservation, collection, review and production of electronically stored information ("ESI"), in many cases, create costs that are disproportionate to the dollars and issues at stake, especially in smaller business disputes. A $50,000 UCC Article 2 dispute should not generate $75,000 in ESI discovery costs by each side. Early attention to ESI issues by the parties and the court will help produce an understanding of each side's obligations and establish expectations and parameters.

Proposed Rule 8.1 requires the parties early in the case to confer and attempt to reach agreements concerning ESI. To facilitate productive discussions, the committee prepared a detailed and comprehensive two-page checklist. (See Appendix 4.) The checklist was modeled on one used by the United States District Court for the Northern District of California, and includes a two-page explanation of specific features of the checklist. Because some attorneys may not be familiar with their clients' electronic document management systems, or with methods of collection and production of electronically stored information, the checklist provides an option for each party to designate an "e-discovery liaison" who is "knowledgeable" about the party's IT system. The protocol also includes a model court order concerning disclosure and discovery of ESI, which the court in most circumstances will enter upon stipulation of the parties. (See Appendix 5.)

The committee believes that the proposed ESI protocol will benefit the parties, save them time and expense, and allow them to reach agreements on discovery issues without the need for judicial micromanagement of those issues. The committee recommends that the Maricopa County Superior Court adopt the protocol (Appendices 4 and 5) for the pilot program.

**Repository of decisions.** Appellate court opinions provide the community with some measure of certainty concerning applicable legal rules and principles. This helps guide the community in the day-to-day conduct of business, helps parties and their counsel better assess risks and likely outcomes when disputes arise and, consequently, also helps facilitate settlement. The BCAC believes that publication of trial court decisions issued by judges on the commercial court, while not controlling precedent, would serve a similarly helpful role. Several jurisdictions with business courts post their commercial case decisions on-line to serve these purposes. (These jurisdictions include

Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Philadelphia, and South Carolina.)

The committee recommends that the Arizona commercial court pilot program develop a similar repository of decisions. One BCAC member spoke with representatives of Westlaw and Fastcase. (Fastcase maintains a comprehensive research database that provides desktop, online access to a variety of case law and other legal authorities; the State Bar of Arizona provides Fastcase access at no cost to members of the Bar.) Westlaw and Fastcase both are interested in publishing the Maricopa County rulings, and neither anticipates any obstacles in doing so. The Maricopa County Superior Court also might be able to post commercial court decisions on a new page of its existing website.

**Selection of commercial court judges.** This report previously noted that there was unanimity among committee members that the success of a business court is ultimately dependent on the quality of judges who are assigned to the court. Without judges who have strong business law backgrounds and knowledge of commercial transactions, the pilot program might be little different than a general civil calendar. Assignment of the right judges to the pilot program is crucial for its acceptance by the legal and business communities.

The committee also believes that long-term (and even permanent) judicial assignments to the business court would improve its function. While not relevant to the pilot project, if a permanent commercial court is established the committee sees no reason why, in larger counties, the tradition of judicial rotation could not be broken, with new vacancies on the commercial court filled by the Governor for permanent assignment. Among other benefits, this procedure would help attract well-qualified commercial litigators who, at present, may be reluctant to seek appointment to the bench. At a minimum the committee believes that judges should sit on the commercial court for rotations of at least five years.

The committee is mindful that the creation of a pilot court creates challenges to judicial rotations in the Maricopa County Superior Court as that system now exists. The committee therefore suggests that it might be appropriate to assign a commercial docket to one of the complex civil litigation judges, who could manage it simultaneously with a complex case load. It might also be appropriate to assign one of the special assignment judges, or the tax court judge, to the commercial court, because one of those judges might have more flexibility in accommodating a commercial case calendar.

The committee also recommends that those judges assigned to the commercial court have the benefit of continuing education. Continuing education would ideally encompass not only commercial law, but it would also hone the judges' skills in technology and issues concerning electronically stored information. It is uncontroverted that attorneys with commercial practices should do likewise, with special emphasis on increasing competence concerning ever-evolving technology.

**Extend the term of the committee.** By virtue of Administrative Order number 2014-48, the terms of the members of this committee expire on December 31, 2014. The members request that the Court extend their terms and the term of this committee until December 31, 2018, as set forth in a draft administrative order. (See Appendix 1.)

A decade ago, the complex civil litigation committee overestimated the volume of complex litigation. To avoid a similar misstep, the members of the BCAC believe that it is desirable (1) that data collection be an ongoing element of the commercial court pilot program; and (2) that the BCAC monitor the data on an ongoing basis. (The BCAC reviewed a substantial amount of Maricopa and statewide data. However, because of the specific case type eligibility requirements of proposed Rule 8.1, the committee was unable to accurately estimate the volume of cases that might be assigned to the pilot commercial court.) An extension of its term would allow the committee to monitor data, and also would provide the committee an opportunity to propose modifications to rules or forms, or methods of data collection, as may be necessary or appropriate during the three-year term of the pilot program. The members of this committee expressed their willingness to serve during an extension of its term. The committee further recommends that the Court appoint to the BCAC the judges who are assigned to the pilot commercial court program.

**Conclusion.** The recommendations in this report are the unanimous consensus of the committee members, and the committee urges the Supreme Court and the Arizona Judicial Council to adopt these recommendations.

The committee members also express their deep gratitude to the Chief Justice for the extraordinary opportunity to serve on this committee, and to further the Strategic Agenda's vision of Advancing Justice Together.

## Appendices

1. Proposed Supreme Court Administrative Order
2. Proposed experimental Rule 8.1, Arizona Rules of Civil Procedure
3. Proposed forms: joint report and proposed scheduling order
4. Proposed ESI checklist
5. Proposed model order regarding ESI
6. Proposed modifications to Maricopa's civil cover sheet

**IN THE SUPREME COURT OF THE STATE OF ARIZONA**

| | | |
|---|---|---|
| In the Matter of: | ) | |
| | ) | |
| AUTHORIZING A COMMERCIAL | ) | Administrative Order |
| COURT PILOT PROGRAM IN THE | ) | **No. 2014-____** |
| SUPERIOR COURT OF MARICOPA | ) | |
| COUNTY | ) | |
| _____ | ) | |

On May 8, 2014, this Court entered Administrative Order 2014-48, which established the Business Court Advisory Committee. The Order required the committee to submit its recommendations to this Court and to the Arizona Judicial Council by December 11, 2014. The committee has now done so, and the committee's recommendations have been approved by the Arizona Judicial Council and recommended for adoption by this Court.

The committee's report proposes the establishment of a pilot commercial court in the superior court in Maricopa County. The report suggests establishing this pilot court for three years to permit a reasonable period for its evaluation. The report recommends that at the end of three years, the Supreme Court determine the advisability of adopting a commercial court as a permanent feature of the superior court. The report proposes that an evaluation committee monitor the pilot during its three-year phase, and that the evaluation committee submit annual progress reports to the Arizona Judicial Council.

The committee's report also proposes an experimental rule of civil procedure, a joint report and proposed scheduling order for use in commercial cases, a modified civil cover sheet that parties would use to identify cases that may be eligible for the pilot program, and a checklist and model order concerning disclosure and discovery of electronically stored information.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution.

IT IS ORDERED authorizing the superior court of Maricopa County to establish a pilot commercial court as follows:

1. **Pilot Court:** The pilot commercial court shall run for a period of three years, beginning July 1, 2015 and ending June 30, 2018.

2. **Rules of Procedure and Forms:** Experimental Arizona Rules of Civil Procedure Rule 8.1 and Rule 84, Forms 14(a) and 14(b), as shown in Appendix A attached hereto, shall apply to cases in the pilot commercial court.

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3. **Authority to Establish Additional Local Procedures and Forms:** In furtherance of the purpose and goals of the pilot commercial court, the presiding judge of the Superior Court in Maricopa County is authorized to adopt additional procedures and forms for the pilot commercial court, including a modified civil cover sheet, and a checklist and a model order concerning electronically stored information, as proposed by the committee.

IT IS FURTHER ORDERED that the terms of the Business Court Advisory Committee and its members, who were appointed pursuant to Administrative Orders numbered 2014-48 and 2014-58, are extended until December 31, 2018. The committee will only meet as its chair deems necessary or appropriate.

IT IS FURTHER ORDERED that on or before December 1 of calendar years 2016, 2017, and 2018, the committee shall submit a progress report to the Arizona Judicial Council that addresses the following:

1. Superior court data that analyzes cases assigned to the pilot commercial court;

2. Levels of litigant satisfaction with the pilot commercial court;

3. Views of judges and attorneys concerning the effectiveness and benefits of the pilot commercial court;

4. Recommendations concerning eligibility criteria for assignment of cases to the commercial court, adoption of additional measurements to evaluate the performance of this pilot commercial court, and proposed changes to rules and forms; and

5. Any other matter that the committee wishes to bring to the attention of the Arizona Judicial Council.

DATED this ___ day of December 2014

_____

SCOTT BALES
CHIEF JUSTICE

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**Experimental Rule 8.1: Assignment and management of commercial cases**

**(a) Application; definitions.** This Rule applies in counties that have established specialized courts for commercial cases, which are referred to in this Rule as "the commercial court."

The commercial court will hear a "commercial case," as defined in Rule 8.1(a)(1), when the case also meets the criteria of either Rule 8.1(b) or Rule 8.1(c).

1. A "commercial case" is one in which:

   A. At least one plaintiff and one defendant are "business organizations;"

   B. The primary issues of law and fact concern a "business organization;" or

   C. The primary issues of law and fact concern a "business contract or transaction."

2. A "business organization" includes a sole proprietorship, corporation, partnership, limited liability company, limited partnership, master limited partnership, professional association, joint venture, business trust, or a political subdivision or government entity that is a party to a business contract or transaction. A "business organization" excludes an individual, a family trust, or a political subdivision or ~~a~~ government entity that is not a party to a business contract or transaction.

3. A "business contract or transaction" is one in which a business organization sold, purchased, licensed, transferred, or otherwise provided goods, materials, services, intellectual property, funds, realty, or other obligations. The term "business contract or transaction" excludes a "consumer contract or transaction."

4. A "consumer contract or transaction" is one that is primarily for personal, family, or household purposes.

**(b) Cases with No Amount in Controversy Requirement.** Regardless of the amount in controversy, the commercial court will hear a commercial case that:

1. Concerns the internal affairs, governance, dissolution, receivership, or liquidation of a business organization;

2. Arises out of obligations, liabilities, or indemnity claims between or among owners of the same business organization (including shareholders, members, and partners), or which concerns the liability or indemnity of individuals within a business organization (including officers, directors, managers, member managers, general partners, and trustees);

3. Concerns the sale, merger, or dissolution of a business organization, or the sale of substantially all of the assets of a business organization;

4. Relates to trade secrets or misappropriation of intellectual property, or arises from an agreement not to solicit, compete, or disclose;

5. Is a shareholder or member derivative action;

6. Arises from a commercial real estate transaction;

7. Arises from a relationship between a franchisor and a franchisee;

8. Involves the purchase or sale of securities or allegations of securities fraud; or

9. Concerns a claim under state antitrust law.

**(c) Cases Subject to an Amount in Controversy Requirement.** If the amount in controversy is at least $50,000, the commercial court will hear a commercial case that:

1. Arises from a contract or transaction governed by the Uniform Commercial Code;

2. Involves the sale of services by, or to, a business organization;

3. Is a malpractice claim against a professional, other than a medical professional, that arises from services the professional provided to a business organization;

4. Arises out of tortious or statutorily prohibited business activity, such as unfair competition, tortious interference, misrepresentation or fraud; or

5. Concerns a surety bond, or arises under any type of commercial insurance policy purchased by a business organization, including an action involving coverage, bad faith, or a third-party indemnity claim against an insurer.

**(d) Ineligible case types.** Subject to Rule 8.1(e)(4), the following case types generally are not eligible for assignment to the commercial court, unless other criteria specified in Rule 8.1(b) and (c) predominate the case:

1. Evictions;

2. Eminent domain or condemnation;

3. Civil rights;

4. Motor vehicle torts and other torts involving physical injury to a plaintiff;

5. Administrative appeals;

6. Domestic relations, protective orders, or criminal matters, except a criminal contempt arising in a commercial court case; or

7. Wrongful termination of employment.

**(e) Assignment of cases to commercial courts.**

1. **Plaintiff's duties.** To request assignment of a case to the commercial court, the plaintiff must include in the initial complaint's caption the words "commercial court assignment requested." At the time of filing the initial complaint, the plaintiff must also complete a civil cover sheet that indicates the action is an eligible commercial case.

2. **Assignment to commercial court.** The court administrator will review complaints and civil cover sheets filed in accordance with Rule 8.1(e)(1). If a complaint appears appropriate for assignment to the commercial court, the court administrator will refer the case to a commercial court judge. That judge has discretion to enter an order assigning, or declining to assign, a referred case to the commercial court.

3. **Motion to reconsider assignment to commercial court.** After assignment of a case to the commercial court, a commercial court judge, upon motion of a party or on the judge's own initiative, may reconsider whether assignment of that case to the commercial court is appropriate under Rules 8.1(a) through (d). Any party filing a motion under this Rule must do so not later than 20 days after the defendant files an answer or a motion under Rule 12, or within 20 days after that party's appearance in the case. If a commercial court judge concludes that a case is not appropriate for assignment to the commercial court, that judge may reassign the case to a general civil court.

4. **Motion to transfer to commercial court.** On the court's own initiative, on motion of a party filed within 20 days after a defendant files an answer or a motion under Rule 12, or on motion of a party filed within 20 days of that party's appearance, a judge of a general civil court may order the transfer of a case to the commercial court if that judge determines that the matter meets the criteria of Rules 8.1(a) through 8.1(d).

5. **Complex cases.** Assignment of a case to the commercial court does not impair the right of a party to request reassignment of the case to a complex civil litigation program pursuant to Rule 8(i).

**(f) Case Management.** Rules 16(a) through 16(k) apply to cases in the commercial court~~s~~, except:

1. **Scheduling conference.** Scheduling conferences under Rule 16(d) are mandatory.

2. **Initial conference.** Prior to filing a Joint Report, the parties must confer, as set forth in the commercial court's ESI checklist, and attempt to reach agreements that may be appropriate in the case concerning the disclosure and production of electronically stored information ("ESI"), including:

   A. Requirements and limitations on disclosure and production of ESI;

   B. The form or formats in which the ESI will be disclosed or produced; and

   C. If appropriate, sharing or shifting of costs incurred by the parties for disclosing and producing ESI.

3. **Joint report.** The parties' Rule 16(b) Joint Report must address the following additional items:

   A. Whether the parties have reached any agreements with regard to ESI, what those agreements are, those areas on which they were unable to agree, and whether the parties request the court to enter an order concerning ESI;

   B. Whether the parties reached agreements pursuant to Rule 502 of the Rules of Evidence;

   C. Whether any party is requesting the court to enter a protective order pursuant to Rule 26(c), and if so, a brief statement concerning the need for a protective order; and

   D. Whether there are any issues concerning claims of privilege or protection of trial preparation materials pursuant to Rule 26.1(f).

**(g) Motions.** With notice to the parties, a commercial court judge may modify the formal requirements of Rule 7.1(a), and may adopt a different practice for the efficient and prompt resolution of motions.

**Form 14(a) – Joint Report: Commercial Case**

In the Superior Court of Arizona
_____ County

| | | |
|---|---|---|
| | ) | |
| Plaintiffs | ) | Case number _____ |
| | ) | |
| v | ) | **Joint Report** |
| | ) | *(Commercial case)* |
| Defendants | ) | |
| | ) | Assigned to: |

The parties signing below certify that they have conferred about the matters set forth in Rules 8.1(f) and 16(d), and that this case is not subject to the mandatory arbitration provisions of Rule 72. With regard to matters upon which the parties could not agree, they have set forth their positions separately in item 14 below. The parties are submitting a Proposed Scheduling Order with this Joint Report. Each date in the Joint Report and in the Proposed Scheduling Order includes a calendar month, day, and year.

1. ***Brief description of the case:*** _____
_____
_____
   - If a claimant is seeking other than monetary damages, specify the relief sought _____
   _____.
   - This is a commercial case under Rule 8.1 because (refer to the specific provisions of Rule 8.1 that apply):_____.

2. ***Current case status:*** Every defendant has been served or dismissed. [] yes [] no
   - Every party who has not been defaulted has filed a responsive pleading. [] yes [] no
   - Explanation of a "no" response to either of the above statements: _____
   _____.

3. ***Amendments:*** A party anticipates filing an amendment to a pleading that will add a new party to the case: [] yes [] no

4. ***Special case management:*** Special case management procedures are appropriate: [] yes [] no
If "yes," the following case management procedures are appropriate because: _____
_____.

5. ***Commercial case management [Rule 8.1(f)]:***

   The parties have reached agreements regarding electronically stored information ("ESI") that are appended to this joint report: [] yes [] no

The parties have prepared a stipulated order regarding ESI, attached hereto: [] yes [] no

The parties have been unable to agree on areas of disclosure or discovery of ESI, which are described in item 14 below: [] yes [] no

The parties have reached agreements pursuant to Rule 502 of the Rules of Evidence and submit a proposed order that is attached to this report: [] yes [] no

The parties have agreed on a proposed protective order, attached hereto: [] yes [] no

A party has raised an issue concerning claims of privilege or protection of trial preparation materials pursuant to Rule 26.1(f), as further described in item 13 below: [] yes [] no

6. ***Settlement:*** The parties agree to engage in settlement discussions with [] a settlement judge assigned by the court, or [] a private mediator.

   The parties will be ready for a settlement conference or a private mediation by _____.

   If the parties will not engage in a settlement conference or a private mediation, state the reason(s): _____.

7. ***Readiness:*** This case will be ready for trial by _____.

8. ***Jury:*** A trial by jury is demanded. [] yes [] no

9. ***Length of trial:*** The estimated length of trial is ____ days.

10. ***Summary jury:*** The parties agree to a summary jury trial. [] yes [] no

11. ***Preference:*** This case is entitled to a preference for trial pursuant to the following statute or rule: _____.

12. ***Special requirements:*** [] At a pretrial conference or [] at trial, a party will require
    [] disability accommodations (specify) _____
    [] an interpreter (specify language) _____

13. ***Other matters:*** Other matters that the parties wish to bring to the court's attention that may affect management of this case: _____
    _____.

14. ***Items upon which the parties do not agree:*** The parties were unable in good faith to agree upon the following items, and the position of each party as to each item is as follows:
    _____

_____.

Dated this ____ day of _____, 20____.

_____ _____

For Plaintiff For Defendant

**Form 14(b) – Proposed Scheduling Order: Commercial Case**

In the Superior Court of Arizona
_____ County

| | | |
|---|---|---|
| | ) | |
| Plaintiffs | ) | Case number _____ |
| | ) | |
| v | ) | **Proposed Scheduling Order** |
| | ) | *(Commercial case)* |
| Defendants | ) | |
| | ) | Assigned to: |

Upon consideration of the parties' Joint Report, the court orders as follows:

1. ***Initial disclosure:*** The parties have exchanged their initial disclosure statements, or will exchange them no later than _____.

2. ***Expert witness disclosure:*** The parties shall simultaneously disclose areas of expert testimony by _____. (Alternative: Plaintiff shall disclose areas of expert testimony by _____, and Defendant shall disclose areas of expert testimony by_____.)

   The parties shall simultaneously disclose the identity and opinions of experts by _____. (Alternative: Plaintiff shall disclose the identity and opinions of experts by _____, and Defendant shall disclose the identity and opinions of experts by_____.)

   The parties shall simultaneously disclose their rebuttal expert opinions by _____.

3. ***Lay (non-expert) witness disclosure:*** The parties shall disclose all lay witnesses by _____. (Alternative: The parties shall disclose lay witnesses in the following order, and by the following dates: _____.)

4. ***Final supplemental disclosure:*** Each party shall provide final supplemental disclosure by _____. This order does not replace the parties' obligation to seasonably disclose Rule 26.1 information on an on-going basis and as it becomes available.

   **No party shall use any lay witness, expert witness, expert opinion, or exhibit at trial not disclosed in a timely manner, except upon order of the court for good cause shown or upon a written or an on-the-record agreement of the parties.**

5. ***Discovery deadlines:*** The parties will propound all discovery undertaken pursuant to Rules 33 through 36 by _____. The parties will complete the depositions of parties and lay witnesses by _____, and will complete the depositions of expert witnesses by _____. The parties will complete all other discovery by _____.

("Complete discovery" includes conclusion of all depositions and submission of full and final responses to written discovery.)

6. ***Settlement conference or private mediation:*** [choose one]:

   [] **Referral to ADR for a settlement conference:** The clerk or the court will issue a referral to ADR by a separate minute entry.

   [] **Private mediation:** The parties shall participate in mediation using a private mediator agreed to by the parties. The parties shall complete the mediation by _____.

   All attorneys and their clients, all self-represented parties, and any non-attorney representatives who have full and complete authority to settle this case shall personally appear and participate in good faith in this mediation, even if no settlement is expected. However, if a non-attorney representative requests a telephonic appearance and the mediator grants the request prior to the mediation date, a non-attorney representative may appear telephonically.

   [] **No settlement conference or mediation:** A settlement conference or private mediation is not ordered.

7. ***Dispositive motions:*** The parties shall file all dispositive motions by _____.

8. ***Trial setting conference:*** On _____ [the court will provide this date], the court will conduct a telephonic trial setting conference. Attorneys and self-represented parties shall have their calendars available for the conference.

9. [] Plaintiff [] Defendant will initiate the conference call by arranging for the presence of all other counsel and self-represented parties, and by calling this division at _____ [division's telephone number] at the scheduled time.

10. ***Firm dates:*** No stipulation of the parties that alters a filing deadline or a hearing date contained in this scheduling order will be effective without an order of this court approving the stipulation. Dates set forth in this order that govern court filings or hearings are firm dates, and may be modified only with this court's consent and for good cause. This court ordinarily will not consider a lack of preparation as good cause.

11. ***Further orders:*** The court further orders as follows: _____
_____.

_____ _____

Date Judge of the Superior Court

**Superior Court in Maricopa County: Commercial Court**
**Checklist for Rule 16(b) Joint Report Discussions Regarding ESI**

The court requires the parties to have a meet-and-confer discussion concerning electronically stored information ("ESI") at the earliest possible time in the litigation, and followed by ongoing discussions as necessary. The parties' discussions should occur in the context of the claims and defenses in their particular case. The parties should use this checklist on some of the most common ESI topics to guide their conversations. The applicability of specific topics in this checklist, the sequence in which the parties discuss these topics, and whether the parties should defer discussion of certain topics, often depend on the nature and complexity of the litigation.

1. **Liaison:** (See the explanation that follows.)

[] If appropriate, the identification by each party of a person who is knowledgeable about a party's IT system (also known as an "e-discovery liaison.")

2. **Location and Types of IT Systems and Media:**

[] Description of systems that store potentially discoverable information
[] Location of systems that store potentially discoverable information
[] How those systems store potentially discoverable information
[] How discoverable ESI can be collected from systems, and the media in which systems store ESI
[] Identification of the systems from which the parties will prioritize discovery (e.g., email, finance, HR systems)

3. **Preservation of ESI:** (See the explanation that follows.)

[] The ranges of creation dates, or receipt dates, for ESI that the parties will agree to preserve
[] The names, general job titles, or descriptions of custodians for whom the parties will preserve ESI (e.g., "HR head," "scientist," "marketing manager," etc.)
[] A list of systems, if any, that contain ESI not associated with individual custodians, such as enterprise databases, that the parties will preserve
[] The existence and status of any document destruction policies or activities, such as on-going erasures of e-mails, voicemails, and other electronically-recorded material
[] A description of data from sources that are not reasonably accessible and that the parties will not produce or review for responsiveness, but which the parties will nonetheless preserve
[] A description of data from sources that (a) a party believes could contain relevant information, but (b) has determined under the proportionality factors in Part 8 will not be preserved
[] Any other issues related to the scope of preservation, or the manner of preservation, of ESI

4. **Phased Discovery of ESI:**

[] Whether it is appropriate to conduct discovery of ESI in phases
[] Sources of ESI that are most likely to contain discoverable information and, if there is phased production, what the parties will include in the first phase
[] Custodians (by name or role) who are most likely to have discoverable ESI, and whose ESI will be included in the first phase of document discovery
[] Sources of ESI that are less likely to contain discoverable information, and from which the parties will postpone or avoid discovery
[] Custodians (by name or role) who are less likely to have discoverable information, and from

whom the parties will postpone or avoid discovery
[] The interaction between document requests under Rule 34 and the ESI methods or protocols of production agreed upon by the parties

5. **Search for ESI:**

[] The time period during which discoverable information was most likely created or received
[] The search protocols or methods, including specific words or phrases – or other methodology – that will be used to identify discoverable ESI and filter out ESI that is not subject to discovery
[] Whether the parties should use Technology Assisted Review ("TAR"), such as predictive coding, to reduce the costs and time for filtering and reviewing ESI
[] The quality control method that the producing party will use to evaluate whether production is missing relevant ESI or contains substantial amounts of irrelevant ESI

6. **Production of ESI:**

[] The formats (for example, PDF-searchable, TIFF, native, Load Files, paper, or combinations of the foregoing) in which the parties will produce structured ESI (database, collaboration sites, etc.)
[] The formats (see the preceding checkbox) in which the parties will produce unstructured ESI (email, word processing, presentations, etc.)
[] The extent, if any, to which the parties will produce metadata, and if so, the fields of metadata the parties will produce
[] The production format(s) that will ensure that when ESI is produced, any of its inherent searchability is not degraded
[] Whether to engage in deduplication, denisting, or other filtering methods

7. **Privilege Considerations:** (See the explanation that follows.)

[] How the parties will handle the production of privileged or work product protected information
[] Whether the parties can agree upon alternative ways to identify documents that are withheld on grounds of privilege or work product, such as identification by category, to reduce the burdens of identification
[] Whether the parties will enter into a stipulation and order under Rule 502(d) of the Arizona Rules of Evidence that addresses inadvertent or agreed production, or whether a party will file a motion to address these issues

8. **Proportionality and Costs under Rule 26(b)(1)(C):**

[] The nature and the amount of the claims made by the parties
[] The nature and scope of burdens associated with proposed discovery and preservation of ESI
[] The importance of particular issues at stake in the litigation as they relate to ESI
[] The likely benefit of the proposed discovery
[] Limitations on the parties' resources
[] Placing limits on the scope of preservation, or other cost-saving measures
[] Costs that the parties agree to share, or will shift, to reduce overall ESI discovery expenses, such as using a common electronic discovery vendor, a shared document repository, or other cost-saving measures

**The Court's Explanations Regarding the Checklist**

**Generally:** The court requires the parties to meet and confer about discovery of ESI at the earliest reasonable stage of litigation. Early discussion will assist the parties in efficiently requesting and responding to ESI discovery, it will reduce costs and delay, and it will assist the court in the event the parties are unable to resolve a dispute concerning ESI. ESI discovery as used in this checklist encompasses affirmative obligations of the parties to disclose ESI even in the absence of a specific discovery request.

**Cooperation:** The court requires the parties to cooperate on issues relating to the preservation, collection, search, review, and production of ESI. Conducting discovery in a cooperative manner is compatible with zealous representation. Note also that Rule 1 of the Rules of Civil Procedure requires construction of the rules "to secure the just, speedy, and inexpensive determination of every action."

**Liaison:** In some cases, the parties' meet and confer sessions will be aided by the participation of e-discovery liaisons. Each party in those cases should designate an e-discovery liaison who is knowledgeable about, and responsible for discussing, ESI. The e-discovery liaison could be an attorney (either in-house or outside counsel), an employee of a party, or a third-party consultant. "Knowledgeable" means that this liaison will:

(a) Be familiar with the technical aspects of e-discovery in the case, including electronic document storage, organization, retrieval technology, and search methodology;
(b) Know about the location, nature, accessibility, and format of ESI in the case, and the collection, search for, and production of that ESI, or have access to others who know;
(c) Be familiar with, or be able to learn about, the party's electronic systems and capabilities in order to explain those systems and to answer related questions;
(d) Be familiar with the party's e-discovery requests;
(e) Be prepared to participate in e-discovery dispute resolution in order to limit the need for court intervention.

**Preservation:** A party is not required to use a preservation letter to notify another party of the preservation obligation. However, if a party uses a preservation letter, the court discourages the use of overbroad letters. Instead, such a letter should provide as much detail as possible, such as the names of parties, a description of claims, potential witnesses, the relevant time period, sources of ESI the sending party knows or believes are likely to contain relevant information, and any other information that might assist the receiving party in determining what information to preserve.

**Privilege:** When discussing privilege and work product, the parties should consider Rule 25.1(f)(2), which provides:

*(1) Information Withheld*. When information is withheld from disclosure or discovery on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced or disclosed that is sufficient to enable other parties to contest the claim.

(2) *Information Produced*. If a party contends that information subject to a claim of privilege or of protection as trial-preparation material has been inadvertently disclosed or produced in discovery, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has made and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

**Proportionality:** The proportionality standard in Rule 26(b)(1)(C) should provide direction to the parties in preparing their discovery plan, including the preservation, collection, search, review, and production of ESI. This Rule provides:

> The frequency or extent of use of the discovery methods set forth in subdivision (a) may be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or obtainable from some other source that is either more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the discovery is unduly burdensome or expensive, given the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under subdivision (c).

**Disputes:** Before bringing a dispute concerning the preservation or discovery of ESI to the court, the parties and their liaisons should fully discuss the issue, and should consider bringing the issue to a special master or to an agreed-upon expert for resolution. If notwithstanding these efforts the parties are unable to resolve the dispute, they should present it to the court at the earliest possible opportunity

**Superior Court of the State of Arizona**

**Maricopa County**

| | |
|---|---|
| Plaintiff(s),<br><br>vs.<br><br>Defendant(s). | Case Number: CV-20xx-xxxxx<br><br>[MODEL] STIPULATED ORDER RE: DISCOVERY OF ELECTRONICALLY STORED INFORMATION FOR STANDARD LITIGATION |

1. **PURPOSE**

This Order will govern discovery of electronically stored information ("ESI") in this case as a supplement to the Arizona Rules of Civil Procedure, this Court's protocol for the Discovery of Electronically Stored Information, and any other applicable orders and rules.

2. **COOPERATION**

The parties are aware of the importance the Court places on cooperation and commit to cooperate in good faith throughout the matter consistent with this Court's protocol for the Discovery of ESI.

3. **LIAISON (***Note: Use of this section is optional; include it only when appropriate.)*

The parties have identified liaisons to each other who are and will be knowledgeable about and responsible for discussing their respective ESI. Each e-discovery liaison will be, or have access to those who are, knowledgeable about the technical aspects of e-discovery, including the location, nature, accessibility, format, collection, search methodologies, and production of ESI in this matter. The parties will rely on the liaisons, as needed, to confer about ESI and to help resolve disputes without court intervention.

4. **PRESERVATION**

The parties have discussed their preservation obligations and needs and agree that preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the

costs and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

a) Only ESI created or received between _____ and _____ will be preserved;

b) The parties have exchanged a list of the types of ESI they believe should be preserved and the custodians, or general job titles or descriptions of custodians, for whom they believe ESI should be preserved, e.g., "HR head," "scientist," and "marketing manager." The parties shall add or remove custodians as reasonably necessary;

c) The parties have agreed/will agree on the number of custodians per party for whom ESI will be preserved;

d) These data sources are not reasonably accessible because of undue burden or cost pursuant to Ariz. R. Civ. P. 26(b)(2)(B) and ESI from these sources will be preserved but not searched, reviewed, or produced: [e.g., backup media of [named] system, systems no longer in use that cannot be accessed];

e) The parties agree not to preserve the following sources of data: [e.g., backup media created before _____, digital voicemail, instant messaging, automatically saved versions of documents].

**5. SEARCH**

The parties agree that in responding to an initial Ariz. R. Civ. P. 34 request, or earlier if appropriate, they will meet and confer about methods to search ESI in order to identify ESI that is subject to production in discovery and filter out ESI that is not subject to discovery.

**6. PRODUCTION FORMATS**

The parties agree to produce documents in ☐ PDF, ☐TIFF, ☐native and/or ☐paper or a combination thereof (check all that apply)] file formats. If particular documents warrant a different format, the parties will cooperate to arrange for the mutually acceptable production of such documents. The parties agree not to degrade the searchability of documents as part of the document production process.

**7. PHASING**

When a party propounds discovery requests pursuant to Ariz. R. Civ. P. 34, the parties agree to phase the production of ESI and the initial production will be from the following sources and custodians: _____.
Following the initial production, the parties will continue to prioritize the order of subsequent productions.

**8. DOCUMENTS PROTECTED FROM DISCOVERY**

a) Pursuant to Ariz. R. Evid. 502(d), the production of a privileged or work-product-protected document, whether inadvertent or otherwise, is not a waiver of privilege or protection from discovery in this case or in any other federal or state proceeding. For example, the mere production of privileged or work-product-protected documents in this case as part of a mass production is not itself a waiver in this case or in any other federal or state proceeding.

b) The parties have agreed upon a "quick peek" process pursuant to Ariz. R. Civ. P. 26.1(f)(2) and reserve rights to assert privilege as follows _____ _____.

c) Communications involving trial counsel that post-date the filing of the complaint need not be placed on a privilege log. Communications may be identified on a privilege log by category, rather than individually, if appropriate.

**9. MODIFICATION**

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for good cause shown.

**IT IS SO STIPULATED**, through Counsel of Record.

Dated: _____

Counsel for Plaintiff

Dated: _____

Counsel for Defendant

**IT IS ORDERED** that the forgoing Agreement is approved.

Dated: _____

Judge of the Superior Court

# Superior Court of Arizona
# In Maricopa County

**Case Number**

_____

**CIVIL COVER SHEET- NEW FILING ONLY**
(Please Type or Print)

**Plaintiff's Attorney:**

_____

**Attorney's Bar Number:**_____

**Is Interpreter Needed?** ☐ **Yes** ☐ **No**

**If yes, what language:** _____

To the best of my knowledge, all information is true and correct.

_____
**Attorney/Pro Per Signature** (If no attorney, YOUR signature)

Plaintiff's Name(s): (List all)

_____

_____

_____

Plaintiff's Address:

_____

_____

_____

(List additional plaintiffs on page two and/or attach a separate sheet).

Defendant's Name(s): (List all.)

_____

_____

(List additional defendants on page two and/or attach a separate sheet).

EMERGENCY ORDER SOUGHT:
(if applicable)

☐ Temporary Restraining Order
☐ OSC – Order to Show Cause
☐ Employer Sanction
☐ Provisional Remedy
☐ Election Challenge
☐ Other _____

☐ RULE 8(i) COMPLEX LITIGATION APPLIES Rule 8(i) of the Rules of Civil Procedure defines a "Complex Case" as civil actions that require continuous judicial management. A typical case involves a large number of witnesses, a substantial amount of documentary evidence, and a large number of separately represented parties. (Mark appropriate box on page two as to complexity, **in addition** to the Nature of Action case category).

☐ THIS CASE IS ELIGIBLE FOR THE COMMERCIAL COURT UNDER RULE 8.1. Rule 8.1 defines a "commercial case" and establishes eligibility criteria for the commercial court. Generally, a commercial case involves either a business organization or issues arising from a business contract or business transaction. Check this box if this is an eligible commercial case. **In addition, mark the appropriate box below in the "Nature of Action" case category**. The words "commercial court assignment requested" must appear in the caption of the original complaint.

**NATURE OF ACTION**

(Place an **"X"** next to the **one** case category that most accurately describes your primary case.)

**100 TORT MOTOR VEHICLE:**
☐101 Non-Death/Personal Injury
☐102 Property Damage
☐103 Wrongful Death

**110 TORT NON-MOTOR VEHICLE:**
☐111 Negligence
☐112 Product Liability – Asbestos
☐112 Product Liability – Tobacco
☐112 Product Liability – Toxic/Other
☐113 Intentional Tort
☐114 Property Damage
☐115 Legal Malpractice
☐115 Malpractice – Other professional
☐117 Premises Liability
☐118 Slander/Libel/Defamation
☐116 Other (Specify) _____

**120 MEDICAL MALPRACTICE:**

☐121 Physician M.D. ☐123 Hospital
☐122 Physician D.O ☐124 Other

**130 CONTRACTS:**

☐131 Account (Open or Stated)
☐132 Promissory Note
☐133 Foreclosure
☐138 Buyer-Plaintiff
☐139 Fraud
☐134 Other Contract (i.e. Breach of Contract)
☐135 Excess Proceeds - Sale
☐Construction Defects (Residential/Commercial)
☐136 Six to Nineteen Structures
☐137 Twenty or More Structures

**150-199 OTHER CIVIL CASE TYPES:**

☐156 Eminent Domain/Condemnation
☐151 Eviction Actions (Forcible and Special Detainers)
☐152 Change of Name
☐153 Transcript of Judgment
☐154 Foreign Judgment
☐158 Quiet Title
☐160 Forfeiture
☐175 Election Challenge
☐179 Employer Sanction Action (A.R.S. §23-212)
☐180 Injunction against Workplace Harassment
☐181 Injunction against Harassment
☐182 Civil Penalty
☐186 Water Rights **(Not General Stream Adjudication)**
☐187 Real Property
☐Sexually Violent Persons (A.R.S. §36-3704)
(Except Maricopa County)
☐Minor Abortion (See Juvenile in Maricopa County)
☐Special Action Against Lower Courts
(See lower court appeal cover sheet in Maricopa)
☐194-Immigration Enforcement Challenge
(§§1-501, 1-502, 11-1051)

**150-199 UNCLASSIFIED CIVIL CASE TYPES:**

☐Notice of Appeal pursuant to A.R.S. § 12-904
(formerly "Administrative Review")
(Use lower court appeal cover sheet in Maricopa)
☐150 Tax Appeal
(All other tax matters must be filed in the AZ Tax Court)

**Case No.** _____

☐155 Declaratory Judgment
☐157 Habeas Corpus
☐184 Landlord Tenant Dispute - Other
☐159 Restoration of Civil Rights (Federal)
☐159 Clearance of Records (A.R.S. §13-4051)
☐190 Declaration of Factual Innocence **(A.R.S. §12-771)**
☐191 Declaration of Factual Improper Party Status
☐193 Vulnerable Adult (A.R.S. §46-451)
☐165 Tribal Judgment
☐167 Structured Settlement (A.R.S. §12-2901)
☐169 Attorney Conservatorships (State Bar)
☐170 Unauthorized Practice of Law (State Bar)
☐171 Out-of-State Deposition for Foreign Jurisdiction
☐172 Secure Attendance of Prisoner
☐173 Assurance of Discontinuance
☐174 In-State Deposition for Foreign Jurisdiction
☐176 Eminent Domain–Light Rail Only
☐177 Interpleader– Automobile Only
☐178 Delayed Birth Certificate (A.R.S. §36-333.03)
☐183 Employment Dispute - Discrimination
☐185 Employment Dispute - Other
☐195(a) Amendment of Marriage License
☐195(b) Amendment of Birth Certificate
☐163 Other
_____
(Specify)

**COMPLEXITY OF THE CASE**

If you marked the box on page one indicating that Complex Litigation applies, place an "X" in the box of no less than one of the following:

☐ Antitrust/Trade Regulation
☐ Construction Defect with many parties or structures
☐ Mass Tort
☐ Securities Litigation with many parties
☐ Environmental Toxic Tort with many parties
☐ Class Action Claims
☐ Insurance Coverage Claims arising from the above-listed case types
☐ A Complex Case as defined by Rule 8(i) ARCP

Additional Plaintiff(s)

_____
_____

Additional Defendant(s)

_____
_____