

AGENDA

ARIZONA JUDICIAL COUNCIL
Arizona State Courts Building
1501 W. Washington St., Suite 101
Phoenix, AZ 85007

March 20, 2014

10:00 a.m. Welcome/Opening Remarks Chief Justice Rebecca White Berch

Tab No.

(1) Approval of Minutes Chief Justice Rebecca White Berch

Action Items:

10:05 a.m. (2) Arizona Code of Judicial Administration (ACJA)
..... Ms. Kathy Waters

- 6-204.01: Interstate Compact Supervision Evidence-Based Practices (amendment)
- 6-208: Use of Conducted Electrical Weapons (new)

..... Mr. Chad Campbell

- 6-307: Uniform Conditions of Juvenile Probation (new)

10:20 a.m. (3) ACJA 5-206: Fee Deferrals and Waivers Mr. Patrick Scott
..... Mr. David Withey

10:50 a.m. (4) ACJA 7-206: Certified Reporter (amendment) Mr. Mark Wilson

11:30 a.m. (5) Judicial Branch Legislative Update Mr. Jerry Landau
..... Ms. Amy Love
Judicial Branch Budget Update Ms. Amy Love

12:00 p.m. Lunch

Study / Update Sessions: *Possible Adoption of Various Reports/Forms*

12:30 p.m. (6) Human Trafficking Mr. Chad Campbell

1:00 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:**

March 20, 2014

**Type of Action
Requested:**

Formal Action/Request

Information Only

Other

Subject:

Approval of Minutes

FROM:

Lorraine Smith, Staff to the Arizona Judicial Council

DISCUSSION:

The minutes from the December 12, 2013 meeting of the Arizona Judicial Council are attached for your review.

RECOMMENDED COUNCIL ACTION:

Approve the minutes as written.

ARIZONA JUDICIAL COUNCIL

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

December 12, 2013

DRAFT Meeting Minutes

Council Members Present:

Chief Justice Rebecca White Berch
Jim Bruner
David Byers
Judge Peter Cahill
Judge Rachel Torres Carrillo
Judge Norman Davis
Athia Hardt
Mike Hellon
Judge Joseph Howard
Yvonne R. Hunter, J.D.
Michael Jeanes
Judge Diane Johnsen

Emily Johnston
Gary Krcmarik
Judge David Mackey
William J. Mangold, M.D., J.D.
Judge Robert Carter Olson
Janet K. Regner
Judge Antonio Riojas, Jr.
Judge Sally Simmons
Judge Roxanne Song Ong
George Weisz
Judge David Widmaier

Council Members Absent (excused):

Whitney Cunningham, J.D.

Administrative Office of the Courts (AOC) Staff Present:

Mike Baumstark
Stewart Bruner
Amy Champeau
Melinda Hardman
Jerry Landau
Amy Love
General Greg Richard Maxon
Carol Mitchell
Alicia Moffatt

Heather Murphy
Nina Preston
Kay Radwanski
Marcus Reinkensmeyer
Lorraine Smith
Cindy Trimble
Kathy Waters
David Withey
Amy Wood

Presenters and Guests Present:

Vice Chief Justice Scott Bales
Thomas S. Boelts
Marty Herder

John MacDonald
Jodi Rogers
Trey Williams

Chief Justice Rebecca White Berch, Chair, called the meeting to order at 9:30 a.m. in Conference Room 119 at the Arizona State Courts Building, 1501 W. Washington, Phoenix, Arizona. The Chair welcomed those in attendance.

Approval of Minutes

The Chair called for any omissions or corrections to the minutes from the October 17, 2013, meeting of the Arizona Judicial Council. There were none.

MOTION: To approve the minutes from the October 17, 2013, meeting of the Arizona Judicial Council, as presented. The motion was seconded and passed. AJC 2013-33.

Arizona Code of Judicial Administration (ACJA) (taken out of order)

Mr. David Withey, Chief Legal Counsel for the AOC, presented ACJA § 1-110: Committee on the Impact of Domestic Violence and the Courts (*amendment*). He noted this was a consent item.

Ms. Kay Radwanski, Sr. Policy Analyst for the Court Services Division of the AOC, summarized the proposed amendments to the code.

MOTION: To approve ACJA § 1-110: Committee on the Impact of Domestic Violence and the Courts (*amendment*), as presented. The motion was seconded and passed. AJC 2013-34.

Approval of the 2014-2019 Strategic Agenda

Mr. Mike Baumstark, Deputy Director of the AOC, presented the FY 2014-2019 Judicial Branch Strategic Agenda. He stated the goal today is to finalize the agenda, and he asked for the Council's approval. Mr. Baumstark noted that once approved, staff would begin working on graphic design, layout, and fine tuning, and will launch the final plan to the Judicial Branch and the public in the spring.

Arizona Code of Judicial Administration (continued)

Ms. Kathy Waters, Director for the Adult Probation Services of the AOC, presented ACJA § 5-201: Evidence Based Pretrial Services (*new*). She presented the governing documents needed to launch evidence-based pretrial services for the courts in Arizona. Ms. Waters shared information on the John and Laura Arnold Foundation that is

embarking on a process of developing a national model for pretrial risk assessment. She noted we will be partnering with them in this effort.

Ms. Waters asked the Council for approval and adoption of § 5-201: Evidence Based Pretrial Services.

MOTION: To approve ACJA § 5-201: Evidence Based Pretrial Services (*new*), as presented. The motion was seconded and passed. AJC 2013-35.

Ms. Waters asked the Council for approval to allow Maricopa, Pima, and Coconino counties to continue to use their validated pretrial risk assessments per ACJA.

MOTION: To allow Maricopa, Pima, and Coconino counties to continue to use their validated pretrial risk assessments per ACJA, as presented. The motion was seconded and passed. AJC 2013-36.

Ms. Waters asked for approval of the four sites (Pinal, Yuma, Gila, and Mesa Municipal) for the pilot project with the John and Laura Arnold Foundation.

MOTION: To approve the four sites (Pinal, Yuma, Gila, and Mesa Municipal) for the pilot project with the John and Laura Arnold Foundation, as presented. The motion was seconded and passed. AJC 2013-37.

Ms. Waters asked for the Council's approval for Pinal and Yuma counties to continue to use the Virginia pretrial assessment until the beginning of the pilot.

MOTION: To approve Pinal and Yuma counties to continue to use the Virginia pretrial assessment until the beginning of the pilot, as presented. The motion was seconded and passed. AJC 2013-38.

Ms. Waters reported that ACJA § 6-106: Personnel Practices (*amendment*) is being held for further discussion, and she hopes to bring the code section back to the March meeting.

Ms. Waters presented ACJA § 6-112: Use of Force (*amendment*). She explained the amendments being proposed and asked for the Council's approval. Mr. George Weisz asked if the Peace Officers Standards and Training Board has been involved, and Ms. Waters noted that they had.

MOTION: To approve ACJA § 6-112: Use of Force (*amendment*), as presented. The motion was seconded and passed. AJC 2013-39.

Ms. Waters presented ACJA § 6-113: Firearms Standards (*amendment*) and explained the changes included in the code. Discussion ensued regarding the ability of officers to carry a weapon once they are trained.

MOTION: To approve ACJA § 6-113: Firearms Standards (*amendment*), as presented. The motion was seconded and passed. AJC 2013-40.

Judicial Branch Legislative Package

Mr. Jerry Landau, AOC Director of Government Affairs, and Legislative Liaison Amy Love updated the Council on the upcoming session and the following legislative proposals presented at the October Council meeting:

2014-2: Veterans' court establishment; eligibility for referral. Mr. Landau reported there is discussion at the Legislature to include mental health courts in the ability to regionalize. He stated he is talking with staff and members at this time and will provide updates.

2014-5: Issuance of Warrants; Authority. Mr. Landau provided an update and spoke on issues and concerns raised by the Clerks of Court. He noted that the Presiding Judges recommended accomplishing this in rule rather than statute.

MOTION: To pull 2014-5: Issuance of warrants; authority and accomplish in-house and work out in the rules. The motion was seconded and passed. AJC 2013-41.

2014-7: Dependency cases; court program. Ms. Amy Love provided an update and clarification.

Mr. Landau and Ms. Love presented the following bills of interest:

2014-A: National Instant Criminal Background Check System (NICS). Jerry Landau provided an update. Mr. Byers noted that the Arizona Criminal Justice Commission voted to support this bill.

MOTION: To approve the basic expansion of the NICS system, as presented. The motion was seconded and passed. AJC 2013-42.

2014-D: Peace officers bill of rights; probation officers. Mr. Landau explained the updates to the proposal.

2014-E: Criminal Restitution Orders. Mr. Landau and Mr. Michael Jeanes provided an update on the proposal.

2014-H: Searching of probationers and parolees. Mr. Landau provided an update on the proposal that would require a person who was convicted of a felony offense and is eligible for probation or parole to agree in writing as a condition of the probation or parole to be subject to search or seizure at any time if a peace officer has reasonable suspicion. He noted that 2 members of the public were present and wished to provide public comment.

Lt. Thomas S. Boelts from the Yavapai County Sheriff's Office provided public comment. He shared background information on the issue, and stated that California has been using this process successfully for almost 17 years. Lt. Boelts noted this is a way to enhance community safety without having to hire more officers.

Chief Justice Berch expressed concern over the limitations on this right and asked what the proposed language will be, i.e., will it impact someone with a DUI. Mr. Weisz questioned how they would verify that a person is actually on probation. Mr. Byers echoed this concern, especially for urban areas. Ms. Yvonne Hunter asked if there is a remedy if a person is stopped for reasonable suspicion, but it turns out they are no longer on probation. Lt. Boelts noted a person could file a civil suit. Ms. Hunter expressed concern with the elimination of safeguards if this moves forward, and stated she would have a hard time supporting this bill.

Judge Mackey expressed concern with separation of powers and extended an offer to work with his law enforcement staff to identify any problems with his county's probation response for a legitimate probation search and fix them. He noted he does not think a statewide solution is needed, and he is not in favor of this bill.

Mr. Byers stated the need for additional discussion and education, and he noted probation officers and chiefs oppose this bill.

Chief Justice Berch asked if there was any thought to limiting the definition of felony offense to serious crimes, violent felonies, or drug related charges. Judge Carter Olson noted the basic system/framework already exists to accomplish this, and we should be looking to identify simple steps that might achieve the same result within the current system. Lt. Boelts said he will take this idea back to the sheriffs to see if they would be open to it.

Mr. Mike Hellon asked why probation information is not generally available throughout the police community. Mr. Byers stated we would need a system in place for this with a link from their system to ours.

MOTION: To table 2014-H: Searching of probationers and parolees until the Council can see the language and actual proposal. The motion was seconded and passed. AJC 2013-43.

Capital Case Oversight Committee (taken out of order)

Judge Ron Reinstein provided background information on the Committee. He asked the Council to support an amendment to A.R.S. § 13-4041 and to extend the term of the Oversight Committee for an additional 2 years. Judge Reinstein stated the amendment to A.R.S. § 13-4041 would increase the hourly rate of PCR counsel from the current \$100 an hour to \$175 an hour. He noted this is comparable to the federal rate in a capital case and would further encourage qualified attorneys to apply for capital PCR appointments.

Mr. Hellon expressed concern with prospectively supporting something that does not yet exist. He suggested that we encourage legislation rather than approving something before it happens. Ms. Emily Johnson suggested having a conversation with State Bar staff and getting support from other entities. Ms. Hunter stated this is a county issue, and we do not have any control over it. She noted the county pays the bill, and a conversation with APAAC and the County Board of Supervisors Association is needed. She suggested our role could be to bring the parties together to have a frank discussion on moving this issue forward.

Mr. Weisz stated he served on the original Capital Case Commission and noted the need for adequate counsel was always agreed upon, but it always came down to the cost. Judge Olson asked why we would need to go the legislative route, and mentioned that although he hasn't looked at the statute in a while, he believes it is really a floor, and in Pinal County they pay more. He stated that the presiding judges should have flexibility on the compensation level. Judge Reinstein noted there is flexibility on compensation for trial, which has caused a huge impact on budgets in Maricopa County, but PCR is set by statute. Chief Justice Berch stated this issue needs further work and development, and although we are on board with the notion, more spade work needs to be done with the counties and other stakeholders.

MOTION: To approve the extension of the Oversight Committee for an additional 2 years. The motion was seconded and passed. AJC 2013-44.

Law for Veteran's Website (taken out of order)

General Richard (Greg) Maxon, Special Advisor to the AOC, reported on the website. He provided background information on how the website came about and presented statistics on the website since its launch.

Language Access Update (taken out of order).

Ms. Carol Mitchell, Court Access Specialist for the Courts Services Division of the AOC, provided an update on language access.

Certified Reporter Task Force Update

Vice Chief Justice Scott Bales provided an update on the Task Force. He reported that a committee has been formed and members named. Vice Chief Justice Bales stated that the Task Force has met once and has received input from the Arizona Reporters Association and Dan Maynard, attorney. He noted the Task Force is asking if the rules properly serve the role of protecting the record, etc. Vice Chief Justice Bales stated that the Task Force will meet after the first of the year, and they hope to have recommendations at the March meeting.

Report of the Electronic Records Retention and Destruction Advisory Committee

Mr. Marcus Reinkensmeyer, Director of the Courts Services Division of the AOC, briefed the Council on the Committee and provided background information including Committee charge, scope, and general policy direction.

Mr. Reinkensmeyer asked for approval of the Committee's recommendations and stated that detailed, redlined changes will be coming back to the Council for final approval. Mr. Weisz cautioned, on behalf of the small groups who solve crimes/cold cases, to be careful when destroying records.

MOTION: To approve the recommendations, as presented. The motion was seconded and passed (one opposed). AJC 2013-45.

Chief Justice Berch presented a certificate of appreciation to Judge Robert Carter Olson who announced his retirement at the end of December. She thanked him for his service on the Council.

The meeting adjourned at 1:14 p.m.

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
March 20, 2014	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> 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 three proposed code sections for consideration with their respective proposal cover sheets summarizing each of the proposals and comments received.

- 6-204.01: Interstate Compact Supervision Evidence-Based Practices (Amend)
- 6-208: Use of Conducted Electrical Weapons (New)
- 6-307: Uniform Conditions of Juvenile Probation (New)

Kathy Waters, Adult Probation Services Director, will present the proposed amendments to code section 6-204.01 and the proposed new code section 6-208. Chad Campbell, Juvenile Justice Services Director, will present the proposed new code section 6-307.

RECOMMENDED COUNCIL ACTION:

Recommend adoption of the proposed amendments to code section 6-204.01.

Recommend adoption of new code sections 6-208 and 6-307.

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:

March 20, 2014

Type of Action Requested:

Formal Action/Request
 Information Only
 Other

Subject:

ACJA 6-204.01
Interstate Compact
Probation Evidence-
Based Practices

FROM:

Kathy Waters, Adult Probation Services Division

DISCUSSION:

Proposed changes are technical in nature. Definition changes are being made to conform to other ACJA sections, statutory language and citation clean-up, and adding Arizona State Council Policy 1.1 regarding the elimination of dual supervision cases.

RECOMMENDED COUNCIL ACTION:

Approve as written

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-204.01: Interstate Compact Probation Evidence-Based Practices

~~Courts shall be governed by section 6-204, except and until approved by the Administrative Director to be governed by section 6-204.01.~~

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

“Absconder” means a probationer who has moved from the primary place of residence without permission of the probation officer and whose whereabouts are unknown.

“Actuarial risk” means measurable factors that have been correlated to the probability of offender recidivism that are gathered informally through routine interactions and observations with offenders and by formal assessment guided by instruments.

“Administrative director” means both the administrative director of the Administrative Office of the Courts and the director’s designee.

“Alcohol and drug testing” means any validated or verified method of determining the level ~~or~~ of identifiable substances in the body including, but not limited to, ~~breathalyzer tests, blood tests, oral fluid, and urine, hair, and sweat testing samples.~~

“AOC” means the Arizona Supreme Court, Administrative Office of the Courts.

“Arrest notification” means notice, by any means, that the probationer has been arrested, cited or had official contact with a law enforcement officer.

“Average caseload” means the total active cases divided by total number of supervising probation officers.

“Case Plan” means the documented behavior change plan and supervision strategy developed by the supervising probation officer, in collaboration with the juvenile and family or adult probationer, which clearly identifies the risk factors and needs of the probationer and how they will be addressed.

“Case record” means any record pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

“Collateral” means any individual or agency that has a relationship to a particular probationer that serves as a source of information or point of contact, including but not limited to friends, family members, law enforcement, victims, community members, neighbors, treatment providers or other associates.

“Community restitution” means unpaid labor or services provided to a not-for-profit private or governmental agency.

“Court” means the superior court.

“Criminogenic need” means any issues of concern which are directly linked to criminal or delinquent behavior that when addressed and changed affect a probationer’s risk for recidivism, which include, but are not limited to criminal personality, antisocial attitudes, values, beliefs, low self control, criminal peers, substance abuse, dysfunctional family, unemployment, and lack of education.

“Direct case” means probationers actively supervised.

“Employment verification” means face-to-face communication, telephone contact, or obtaining pay stubs.

“Evidence-based practice” means strategies that have been shown through current, scientific research to lead to a reduction in recidivism.

“Hand counts” means the manual tabulation of all interstate compact probation case files in the probation department, conducted independently from any automated system.

“Plan of supervision” means the terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

“Pro-social activity” means any action or event that promotes sobriety and/or provides an opportunity for building a social support system that encourages a crime free lifestyle and improved community bonds.

“Receiving state” means a state party to the compact who is requested to assume supervision of the probationer.

“Resident family” means a parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who meets the following criteria: (1) has resided in the receiving state for 180 days or longer as of the date of the transfer request; and 2) indicates willingness and ability to assist the offender as specified in the plan of supervision, as provided in the Interstate Compact on Adult Offender Supervision, Rule 1.101.

“Residential treatment” means any type of licensed treatment or counseling where the probationer resides at the facility. “Short term residential treatment” is 30 days or less. “Long term residential treatment” is 31 days or more. Halfway houses are not considered residential treatment.

“Sending state” means the state in which the conviction was had.

“Significant violation” means an offender’s failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision as provided in the Interstate Compact on Adult Offender Supervision, Rule 1.101.

“Specialized caseload” means a group of probationers with similar presenting problems or needs who are supervised by a probation officer focusing on addressing the problem or need.

“Standardized assessment” means the state-approved tool to determine the offender’s needs related to criminogenic behavior and propensity to re-offend.

“Standardized reassessment” means the state-approved tool designed to measure changes in an offender’s needs related to criminogenic behavior and propensity to re-offend.

“Target interventions” means supervision related services determined by the probationer’s risk, criminogenic needs, and other factors such as temperament, learning style, motivation, gender and culture.

“Visual contacts” means face-to-face communication with the probationer at any place, including but not limited to the probation department, the probationer’s residence, place of employment, treatment location or community restitution placement to discuss progress, issues of concern or other appropriate matters. Contacts with probationers are not ends in themselves but are opportunities for officers to achieve specific objectives. These objectives include establishing rapport with the offender, assessing the offender’s criminogenic factors and triggers, developing and, when needed, modifying a supervision plan, and using both subtle and overt incentives and sanctions to guide the offender toward positive change.

B. through E. [No change]

F. Program Plan and Financial Management.

1. through 6. [No change]

7. A.R.S. § ~~31-466~~ 31-467.06 provides:

~~A. A person being supervised in this state pursuant to this article shall pay, as a condition of probation or parole, a monthly supervision fee of not less than fifty dollars unless, after determining the inability of the person to pay the fee, the supervising agency requires payment of a lesser amount. The supervising parole or probation officer shall monitor the collection of the fee.~~

~~B. Seventy per cent of the monies collected pursuant to subsection A of this section shall be deposited, pursuant to §§ 35-146 and 35-147, in the victim compensation and assistance fund established by § 41-2407 and thirty per cent shall be deposited in the adult probation services fund established by § 12-267.~~

A. A person being supervised in this state pursuant to this article shall pay,

as a condition of probation, community supervision or parole, a monthly supervision fee of not less than sixty-five dollars if the person is on probation, parole or community supervision or not less than seventy-five dollars if the person is on intensive probation, unless, after determining the inability of the person to pay the fee, the supervising agency requires payment of a lesser amount. The supervising parole, community supervision or probation officer shall monitor the collection of the fee.

B. Seventy per cent of the monies collected pursuant to subsection A of this section shall be deposited, pursuant to sections 35-146 and 35-147, in the victim compensation and assistance fund established by section 41-2407 and thirty per cent shall be deposited in the adult probation services fund established by section 12-267 or, if the person is supervised by the state department of corrections, in the community corrections enhancement fund established by section 31-418.

C. In addition to any other fees, a person who is being supervised in this state pursuant to this article may be required to pay as a condition of parole or community supervision the reasonable costs associated with the person's participation in a drug testing program. The person's costs shall not exceed the state department of corrections' cost for the program. The monies collected pursuant to this subsection by the department may only be used to offset the costs of the drug testing program.

8. through 17. [No change]

G. [No change]

H. Interstate Compact Probation Caseload Limit. A.R.S. § 12-251(A) provides: “... Those deputy adult probation officers engaged in case supervision shall supervise no more than an average of sixty-five adults who reside in the county on probation to the court.” Only those probationers on the probation officer’s direct caseload are included in determining the average caseload of sixty-five adults. Probation officers funded by state interstate compact monies and engaged in case supervision shall supervise no more than an average of 65 interstate compact probationers who reside in the county. Pursuant to A.R.S. § 12-269(B):

A county with a population of two million or more persons shall maintain probation standards that are otherwise prescribed by law, except that the probation ratios and team compositions that are listed in sections 8-203, 8-353, 12-251 and 13-916 do not apply. The county shall maintain appropriate ratios of officers to probationers consistent with evidence based practices in differentiated case management

I. [No change]

J. Program Operations.

1. through 5. [No change]

6. In accordance with A.R.S. § ~~31-467.06 (B)~~ 31-467.06(B) ~~70~~ “Seventy per cent percent of the monies collected pursuant to subsection A of this section shall be deposited, pursuant to §§ sections 35-146 and 35-147, in the victim compensation and assistance fund established by A.R.S. § section 41-2407 and ~~30~~ thirty per cent percent shall be deposited in the adult probation services fund established by A.R.S. § section 12-267-”

K. [No change]

L. Supervision Process, Length and Termination.

1. A probationer seeking interstate compact probation supervision in Arizona shall accept the sending state’s terms and conditions of probation as a condition of acceptance for supervision in Arizona. The interstate compact probationer shall also accept the terms and conditions established by the Arizona adult probation department and court.
2. The Arizona probation department shall supervise an interstate compact probationer in accordance with all terms and conditions of probation and Arizona laws, rules, policies and procedures including the operational procedures developed by the supervising Arizona probation department.
3. In accordance with Arizona State Council Policy 1.1 attached and incorporated as Appendix A:
 - a. The probation department shall supervise a parole case if the sending state submits a transfer request for an offender who has a parole and probation case and the probation case will terminate last.
 - b. The probation department shall supervise a parole case if the sending state submits a transfer request for a parole matter for an offender who is also under probation supervision for a probation term imposed by a court in the State of Arizona.
 - c. The probation department shall continue to supervise the probationer when the sending state submits a transfer request that requires lifetime supervision and the request is initially transmitted to AOC.
- ~~43~~. An Arizona court or probation department shall not modify, extend or terminate early the length of probation supervision for an interstate compact probationer transferred to Arizona except as authorized by the appropriate jurisdiction of the sending state.

M. and N. [No change]

O. Retaking and Extradition.

1. If the sending state has indicated that retaking or incarceration is likely, the Arizona court may order that a probationer be held in custody after the hearing or waiver as may be necessary to arrange for the retaking or incarceration.

2. No action by Arizona probation staff or a court is required to authorize a sending state to retake an interstate compact probationer when the probationer waived extradition rights before transfer.
3. The sending state's authority is limited in A.R.S. § 31-467.05(A) as follows:

~~---~~The decision of the sending state to retake a person on probation or parole shall be conclusive on, and is not reviewable within, the receiving state, unless at the time a state seeks to retake a probationer or parolee there is pending against the probationer or parolee within the receiving state any criminal charge or the probationer or parolee is suspected of having committed within the state a criminal offense, in which case the probationer or parolee shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

P. Minimum Supervision Requirements.

1. [No change]
2. The probation department shall establish supervision strategies that are directed toward achieving desired outcomes that include, but are not limited to, the reduction of offender recidivism and criminogenic factors. The probation department shall ensure the majority of supervision resources are dedicated to medium and high risk probationers in order to successfully complete their term of probation and promote positive behavioral changes. Supervision strategies shall include the following considerations:
 - a. through e. [No change]
 - f. Responses to noncompliance shall be timely, realistic, and escalating and shall include elements designed to both control and correct noncompliance.
 - g. [No change]
3. through 8. [No change]

Q. Specialized Caseloads.

- 1A. Any court establishing or maintaining specialized caseloads shall have a written description of the specialized caseload, including objectives and goals.
- 2B. Any court establishing or maintaining specialized caseloads shall have written screening and assessment criteria for placement on the caseload, as well as criteria for exiting or graduating from the caseload.

3C. Any court establishing or maintaining specialized caseloads shall have written minimum supervision requirements specific to the needs and goals of the caseload.

4D. Probation officers assigned to supervise specialized caseloads shall participate in continuing education/training on the specific needs of the specialized population.

Appendix A

Arizona State Council Policy 1.1: Interstate Supervision of Incoming Offenders by the Administrative Office of the Courts (AOC) and the Arizona Department of Corrections (ADC):

AOC, on behalf of the Judicial Branch, will provide the investigation and sole supervision of an offender, if accepted, under any of the following circumstances:

1. The sending state or states submit a transfer request for an offender who has a parole and probation case and the probation case will terminate last.
2. The sending state submits a transfer request for a parole matter for an offender who is also under probation supervision for a probation term imposed by a court in the State of Arizona.
3. The sending state submits a transfer request that requires lifetime supervision and the request is initially transmitted to AOC.

ADC will provide the investigation and sole supervision of an offender, if accepted, under any of the following circumstances:

1. The sending state or states submit a transfer request for an offender who has a parole and probation case and the parole case will terminate last.
2. The sending state submits a transfer request for a probation matter for an offender who is also under parole supervision for a sentence imposed by a court in the State of Arizona.
3. The sending state submits a transfer request that requires lifetime supervision and the request is initially transmitted to ADC.

Adopted by the Arizona State Council, August 20, 2013

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-208: Use of Conducted Electrical Weapons

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

“Administrative director” means both the administrative director of the Administrative Office of the Courts or the director’s designee.

“Certified Conducted Electrical Weapon instructor” means an individual trained and certified in accordance with manufacturer standards and approved by the Administrative Office of the Courts.

“Conducted Electrical Weapon” means a device using propelled wires that transmit electrical pulses to override the central nervous system and control the skeletal muscles, causing immediate incapacitation.

“Officer” means both adult probation and surveillance officers.

“On duty” means the time period during which the officer performs probation duties or functioning at the direction of the probation department.

B. Applicability. An officer of a probation department with the authority of a peace officer pursuant to A.R.S. §§ 12-253, 13-916, and Arizona Code of Judicial Administration (ACJA) § 6-105.01, may carry and use a Conducted Electrical Weapon (CEW) while on duty and while performing warrants duties or planned arrests and if authorized by the chief probation officer and under the conditions specified in this code section.

C. Purpose. This code section establishes the protocol for the use of CEWs and governs the administration and authority of an officer to use a CEW for purposes of arrest and officer safety while on duty.

D. General Policy.

1. The chief probation officer may designate an officer to carry a CEW if the officer meets the following criteria:
 - a. Be authorized to carry a firearm, pursuant to ACJA § 6-113;
 - b. Carry the department issued firearm while carrying the CEW;
 - c. Has completed CEW training based on the CEW manufacturer specifications and delivered by a certified CEW instructor; and

- d. Be assigned to a specialized warrant unit or be on special assignment to perform warrant duties or conduct planned arrests.
2. The chief probation officer shall determine when an officer authorized to carry a CEW is restricted from carrying the CEW in the performance of certain duties.
3. The chief probation officer may require certain job assignments are staffed by an authorized CEW officer.
4. The chief probation officer shall not order an officer to carry a CEW.
5. Officers shall not carry a non-department issued CEW 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.
6. Authorized officers shall carry their CEW in a department-issued holster, which will be carried on their duty belt on the opposite side of the officer's department issued firearm or on a tactical vest.

E. Request for Authorization to Carry CEW.

1. An officer seeking authorization to carry a CEW or attend CEW training shall submit a written request to the chief probation officer.
2. The chief probation officer shall confirm and document, prior to granting authorization, that the requesting officer is:
 - a. Authorized to carry a firearm pursuant to ACJA § 6-113;
 - b. In compliance with the required CEW training; and
 - c. Assigned to a specialized warrant or arrest unit or on special assignment to perform warrant duties or conduct planned arrests.

F. Required CEW Training and Instructor Certification.

1. CEW training shall be delivered by a certified CEW instructor using only the Administrative Office of the Courts (AOC) approved CEW manufacturer's curriculum.
2. An officer may become a certified CEW instructor by:
 - a. Completing CEW manufacturer's instructor training course.
 - b. Submitting a written endorsement from their chief probation officer to become certified as an instructor.

- c. Receiving written confirmation from the AOC that the officer meets all certified CEW instructor criteria.
- d. Maintaining CEW manufacturer's criteria for instructor recertification.

G. Procedures for Authorization, Denial, Temporary Suspension or Revocation.

1. The chief probation officer shall deny, revoke or temporarily suspend authorization to carry a CEW if an officer meets any of the conditions specified in ACJA § 6-113(G).
2. The chief probation officer shall approve or disapprove the request to carry a CEW in writing within 30 days after the officer satisfactorily completes all requirements stated in subsection (E)(2).
3. The chief probation officer 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.
4. The chief probation officer 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.
5. All screening and testing records shall be maintained in the officer's personnel file and remain confidential as required by law.
6. The presiding judge shall hear all appeals to the denial, temporary suspension, or revocation and the judicial decision is final and not appealable.
7. An officer may submit a written request to the chief probation officer for reinstatement after one year. The officer shall clearly state the reasons for reinstatement of the authorization. The presiding judge or judicial designee shall hear all appeals to the denial of reinstatement.

H. Authorization.

1. An officer granted authorization to carry a CEW shall acknowledge and sign an authorization document indicating the officer understands the terms and conditions of this code and any department policy regarding CEW use. This includes all laws relating to the use of force.
2. An authorized CEW officer failing to comply with regulations and limitations is subject to disciplinary action and loss of CEW authorization.
3. An authorized CEW officer shall successfully complete regular re-qualification and participate in all required practice sessions.

I. Restrictions for Carrying CEWs. An authorized CEW officer is prohibited from carrying a department issued CEW 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 CEW 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, or designee directs, the officer not to carry a CEW;
6. When the chief probation officer 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.

J. Authority to Unholster, Draw and Display CEW. An authorized CEW officer shall only draw their CEW from its holster, or display it in public, under the following conditions:

1. In compliance with department policy regarding CEW concealment or exposure;
2. The circumstances surrounding the incident create a reasonable belief that it may become necessary to use the CEW in the performance of warrant and arrest duties;
3. When a law enforcement officer requests assistance from an officer;
4. For spark testing, maintenance, inspection and training purposes; and
5. When using the CEW in an approved training course, practice session or qualification with a certified CEW instructor.

K. Responses to Discharges and CEW Involved Incidents. Departments shall respond to discharges and CEW involved incidents according to the following criteria:

1. All deployments of a CEW whether intentional or unintentional, shall require an administrative review. All deployments resulting in an injury other than superficial puncture wounds from the device probes shall require an internal investigation and use of force review.

- a. Departments shall report Injuries requiring internal investigation to the AOC within 72 hours.
 - b. The chief probation officer shall have the authority to administer any discipline or remedial measures according to local personnel procedures.
 - c. The improper use of a CEW may result in sanctions, criminal, or civil action.
 - d. The chief probation officer shall ensure that when the officer's CEW is held as part of an investigation, a replacement CEW is issued as soon as is reasonable unless authorization to carry a CEW has been revoked or temporarily suspended.
2. Each department shall have and train officers on policies and procedures for the internal administrative investigation and responses of all CEW discharges or CEW involved incidents.

L. Notification. Notification shall follow the guidelines set forth in ACJA § 6-112(F), Use of Force.

M. Authorized CEW and Holster.

1. An authorized CEW officer may only carry and use a CEW approved by the AOC.
2. The chief probation officer shall ensure a database of each CEW serial number is maintained with the probation department.
3. The department shall maintain records of all CEWs carried by officers on duty.
4. Only technicians authorized by the AOC approved manufacturer shall make adjustments to a CEW.
5. All safety devices manufactured into the CEW shall be intact and functioning at all times.
6. The chief probation officer shall approve CEW holsters based on guidelines issued by the AOC.
7. An authorized CEW officer shall complete CEW training using an approved CEW holster.

N. CEW Safety and Storage.

1. An authorized CEW officer shall observe and practice CEW safety according to department regulations.
2. An authorized CEW officer shall ensure that the CEW is stored in a designated safe and locked place that is not accessible to unauthorized persons when not carrying the CEW.

- a. An officer shall not keep a CEW in the office overnight unless secured in a department approved storage unit.
 - b. An officer shall not store a CEW overnight in any vehicle.
 - c. An officer shall ensure that a CEW is kept in a secure and safe place where the CEW is not accessible to other individuals.
 - d. An on-duty officer who decides not to carry a CEW into a residence or public building, shall temporarily store the CEW in a locked automobile trunk or glove compartment.
 - (1) An officer shall ensure that the automobile is locked if the CEW 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 CEW in the glove compartment or trunk is not observed by the public.
 - (3) The chief probation officer may approve alternative arrangements, such as secure lock boxes under the seat.
 - e. An officer shall follow facility procedures for CEW safekeeping and temporary storage at all correctional and court facilities.
3. An officer shall notify their supervisor of any unauthorized use, handling or discharge of a department issued CEW no later than the close of the next business day.
 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 CEW.

O. Stolen or Lost CEW.

1. An authorized CEW officer shall immediately file a report with local law enforcement upon discovery that a CEW is missing.
2. An authorized CEW officer shall immediately report a stolen or lost CEW to a supervisor, who will in turn notify the chief probation officer.
3. An authorized CEW 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. Upon review the chief probation officer shall forward the report to an AOC probation safety specialist.
4. The chief probation officer shall discipline an officer who is found negligent in the loss of their department issued CEW. The discipline shall minimally consist of a letter of reprimand and may include the loss of authorization to carry a CEW.

5. An officer shall reimburse the county or state in the event that a probation department CEW and related equipment is lost or damaged through negligence.

P. CEW Care and Maintenance.

1. An authorized CEW officer shall be responsible for spark testing in accordance with CEW manufacturer's specifications and inspection of their issued CEW.
2. The department shall retain ownership of all CEWs purchased and provided to an officer.
3. An authorized CEW officer shall return the CEW to the department upon request.
4. An authorized CEW officer shall present the CEW to a certified CEW instructor for inspection upon the instructor's request.

Comments and Responses to ACJA Section 6-307: Uniform Terms and Conditions of Supervised Juvenile Probation

PARAGRAPH	COMMENT	RESPONSE
Throughout	Comment received by way of email, in summary, the proposed wording of this code created confusion around probation supervision of limited jurisdiction court juvenile cases.	Since ACJA §6-307 is for supervised probation, it would not apply to these LJC cases, all LJC references have been removed.
Throughout	Where are the Parents Requirements, Obligations, Duties, Understandings; Fee Payments, Meeting with POs, Reporting Violations, Attending Counseling, Getting Child to School, Community Restitution, etc.	Arizona Court Rules state that the imposition of probation applies to the “juvenile.” While family involvement is necessary, the court has limited authority over the parents.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet
Part 6: Probation
Chapter 1: General Administration
Section 6-307: Uniform Condition of Supervised Juvenile Probation

- 1. Effect of the proposal:** Introduce and instill evidence-based principles, as outlined in Justice 20/20.

- 2. Significant new or changed provisions:**
 - Implement standardized condition of probation
 - Conditions developed through workgroup of chiefs/directors
 - Formation of subcommittee to revise language within form used by parents and juveniles under the code
 - Removal of limited-jurisdiction language from code, as it does not pertain to juveniles. Thus, subsections (D)(2)(b) and (D)(3)(b) were eliminated by ad-hoc committee.

- 3. Committee actions and comments:**
 - Passed by majority vote in JAM (8/22/13)
 - Did not pass in COP (8/23/13):

The consensus of COP membership was that additional language changes were needed within the document. Chairperson, Chuck Moter asked to form an ad-hoc subcommittee to work on language within code and form used in supervision documentation.

- Resubmitted as action item in JAM (1/23/14) and passed by unanimous vote
 - Resubmitted as action item in COP (1/24/14) and passed by unanimous vote
 - Submitted as action item in COJC (2/13/14) and passed by unanimous vote
 - On the agenda for AJC (3/20/14) to be presented for final approval
- 4. Controversial issues:**

Do not anticipate further issues.

 - 5. Recommendation:** Recommend approval.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 3: Juvenile Services
Section 6-307: Uniform Conditions of Supervised Juvenile Probation

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

“Juvenile court” means “the juvenile division of the superior court when exercising its jurisdiction over children in any proceeding relating to delinquency, dependency or incorrigibility” as provided in § A.R.S. 8-201(18).

“Presiding juvenile judge” means the presiding judge of the juvenile court in each county.

B. Applicability. Based on the administrative authority provided by Article VI, Section 3 of the Arizona Constitution, the attached form and the following procedures shall govern the uniform conditions of supervised probation imposed by the juvenile court.

C. Purpose. The attached Uniform Conditions of Supervised Juvenile Probation form is adopted and incorporated as Appendix A in order to ensure consistency among courts and probation departments.

D. General Administration.

1. The presiding juvenile judge shall ensure all judges within their jurisdiction use the Uniform Conditions of Supervised Juvenile Probation form for cases assigned to the probation department for supervision.
2. Courts shall impose uniform conditions on juveniles dispositioned by the juvenile court to supervised probation using the attached adopted form, which may be amended pursuant to subsection D(3).
3. The form shall be duplicated and used by courts in the following manner. Each juvenile court shall duplicate the Uniform Conditions of Supervised Juvenile Probation form as adopted, except formatting changes which are permitted. If a court changes a condition, the change shall be documented on the form. When special conditions are imposed in addition to those specified, they shall be listed under Special Condition 3, or attached in a separate document.
4. A juvenile court shall use only the currently approved uniform conditions form when continuing probation.

Section 6-307: Uniform Conditions of Supervised Juvenile Probation
Appendix A
Uniform Conditions of Supervised Juvenile Probation Form

In the matter of _____ **JV#(s)** _____ **SWID#** _____

The _____ County Juvenile Court has placed me on Supervised Probation for a period of _____ months beginning on ____/____/____ or until my eighteenth birthday for the offense of _____, a delinquent act, which would be a _____, if I were an adult.

OR

I have been Reinstated on Supervised Probation, for a modified term of _____ months with a revised expiration date of ____/____/____.

I HAVE BEEN ORDERED TO ABIDE BY THE FOLLOWING TERMS AND CONDITIONS OF SUPERVISED PROBATION:

I have been Ordered to live with the following person: _____, at the following address: _____.

I SHALL ALSO OBEY THE FOLLOWING TERMS AND CONDITIONS #1-13 AS ORDERED:

1. I will obey all laws.
2. I will follow the rules of my parents, guardians and the juvenile probation officer (JPO); I will report to my probation officer and I will report any contact with law enforcement to the JPO within 24 hours.
3. I will tell my probation officer of any change of residence, address, and/or phone number; I will not leave: the County of _____ and/or the State of Arizona, without written permission from the JPO.
4. I will not use or possess any illegal drugs, toxic substances or vapors. I will not use alcohol or tobacco. I will not abuse any prescription or over the counter medication.
5. I will submit to random or periodic drug or alcohol testing directed by the JPO or the court.
6. I will submit to search and seizure of my person and/or property by an officer of the Court without benefit of a search warrant.
7. I will not have or use a firearm, dangerous, deadly or prohibited weapon.
8. I will not knowingly associate with anyone who is violating the law. I will not associate with anyone who is a known gang member or who has a criminal record without the permission of my probation officer. I will not associate with any of the following persons: _____.
9. I will go to school, have no unexcused absences and follow all rules and regulations. **OR**
10. I will seek and maintain regular full time employment, if legally permitted to do so, and provide a copy of my scheduled work hours to the JPO as directed.

11. I will perform _____ hours of community restitution service as directed by the JPO by ____ / ____ / ____.
12. I will abide by the following curfew: Sun. – Thurs: _____ Fri – Sat: _____.
13. Other: _____

SPECIAL CONDITIONS (AS APPLICABLE):

1. I will attend, participate, make satisfactory progress and complete any treatment program which I am directed or ordered by the court.
2. I will follow all other conditions of probation as ordered by the court and/or JPO.
3. Other: _____

ATTACHMENTS ADDED:

RECEIPT AND ACKNOWLEDGMENT: *I acknowledge receipt of the conditions of probation and any attachments added. I understand that by not abiding by the conditions of probation I may be arrested, returned to court, and/or committed to the Arizona Department of Juvenile Corrections.*

Juvenile Date	Juvenile Court Judge Date
Probation Officer Date	Parent or Guardian Date
	Parent or Guardian Date

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
March 20, 2014	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	A.C.J.A. § 5-206 Fee Deferrals and Waivers

FROM:

Patrick Scott
Court Services Division

DISCUSSION:

The core of the proposed changes to A.C.J.A. § 5-206 were based on recommendations of a small workgroup convened by the Court Services Division after the December 2013 meeting of the Superior Court Presiding Judges. The workgroup's charge was to discuss the various practices used by the courts in considering applications for fee deferrals and waivers. The discussions focused on the Maricopa County Superior Court's policy for processing these applications, the type of documentation courts should require from an applicant, and whether legal aid clients should receive a deferral to the end of a case

The workgroup provided AOC with guidance for the revision of the code and additional commentary following dissemination of an initial draft. The final draft provided today for your approval incorporates some of the workgroup's suggestions as well as other changes suggested by AOC Legal Services.

RECOMMENDED COUNCIL ACTION:

Approve the code as proposed.

Comments and Responses to ACJA Section: 5-206

Date: March 19, 2014

PARAGRAPH	COMMENT	RESPONSE
D(3) Page 3	D.3 consider changing the word, "charged" to "assessed."	Agreed, language has been added to address this comment.
E (1)(a) Page 34	Under section E, subsection 1 (a), there is no subsection 2. Subsection 3 needs to be re-numbered. Section E(c)	No change made. This section is a quote from statute. Section 2 of the statute refers to the supplemental security income program and is covered under F(1).
E(1)(b) Page 4	Under section E, subsection 1(b), is it expected (required) that the affidavit showing representation by a non-profit legal services organization is in addition to the application for fee waiver and deferral? Or is it sufficient that the affidavit by the legal services staff be submitted?	No change made. Statute requires the applicant to file an application at the time of filing. If the court is unaware of the applicants financial circumstance, the court would be unable to determine if those circumstances had changed during the pendency of the case. See F(2).
E(1)(c) Page 4	This section is the same as the statute.	No change made. The statute says the court "may" consider; by putting this as a separate section coupled with the "shall" language in E(1) the court is required to grant deferral and postpone payment.
E(2)(a) Page 4	Under section E, subsection 2 (a), the amount of the monthly payment will be determined by the court. The Institute is worried that some courts will set this amount too high. We strongly request that this monthly payment be capped at \$10 per month.	No change made. No fixed payment was prescribed. The workgroup recommendation was to let courts set their own presumptive payment locally. A fixed amount could be added with additional "not to exceed" language.
E(2)(b) Page 4	Under section E, subsection 2 (b), payment of no less than 25% is due at filing and the court can set a payment schedule for the remaining fee owed. For similar reasons expressed above, we strongly request that the first payment be capped at 25% and that the remaining fees be paid out in increments of no more than 25%. As drafted, a court could require 50%, 60% or even 80% of the filing fee at filing.	See above.

E(4) Page 5	Under section E, subsection 4, this section permits an applicant who received a deferral or waiver of the filing fee to “voluntarily” elect a payment plan that exceeds the limits in the administrative order. This section must be deleted. If it is not, its application could be used to circumvent the purpose and intent of the statewide administrative order and litigants will lose the protections in the administrative order and state law.	No change made. Members of the workgroup suggested this section to allow individuals, who for a matter of personal pride, insist on paying their fees even though they qualify for deferral or waiver.
F(1) Page 5	The documentation should be the original and current no older than one month.	No change made. The notice of award is the original notice from SSI. The program will only provide one eligibility letter every 6 months.
G Page 5	At the end of the first sentence, the Institute requests that you add the words “and the statutory minimum clerk fee for the fee deferral and waiver.” Otherwise we will have courts requiring the clerk fee upfront.	No change made. Payment arrangements are covered under E(2)(a)&(b).
H(2) Page 6	Litigants who received a waiver come in and ask for transcripts because they know there is no cost.	No change made. This section was not amended. A.R.S. § 12-302(H)(7) specifically provides for the preparation of court transcripts as a cost that is eligible for deferral or waiver.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet**

**Part 5: Court Operations
Chapter 2: Programs and Standards
Section 5-206: Fee Deferrals and Waivers**

1. Effect of the proposal:

The proposed amendments to A.C.J.A. § 5-206 standardizes procedures for granting or denying fee deferral and waiver applications.

2. Significant new or changed provisions:

Section D(3): Clarifies that the minimum clerk fee for filing the application for fee deferral or waiver is charged only once for the initial application. Some applicants who are granted a deferral rather than a waiver of filing fees may file a supplemental application at the conclusion of the case asking either for additional time to pay their debts or for a waiver. The minimum clerk fee should not be charged when these supplemental applications are filed.

Section E(1): Requires the court to postpone payments until the end of the case for persons represented by non-profit legal services organization, receiving benefits from the Temporary Assistance for Needy Families or Food Stamp Programs, and applicant's with income at or below 150% of the current federal poverty level. Some courts order these applicants to make installment payments during the pendency of the case.

Section E(2): Requires the court to establish payment plans for applicants whose income meets specified parameters based on the federal poverty guidelines and the applicant's ability to pay.

Section F(2): Requires the court to grant a waiver to applicants who were granted a postponement of all fees to the end of the case, if their financial status has not changed by the end of the case.

Section F(4): Allows for an applicant qualifying for deferral or waiver to elect a voluntarily payment plan.

3. Committee actions and comments: (Summarize comments and responses)

The proposed code was not circulated to the standing committees. The comments itemized on the following pages were gathered from the workgroup staffed by the Court Services Division.

4. Controversial issues:

Presumptively waiving fees that were postponed until the end of the case if the applicant's status has not changed This policy is based on the definition of "permanently unable to pay" in ARS §12-302(D), "income and liquid assets are insufficient or barely sufficient to meet the daily essentials of life and the income and liquid assets are unlikely to change in the foreseeable future."

Allowing an applicant who qualifies for a deferral or waiver to voluntarily make payments.

5. Recommendation:

Approve the code as proposed.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 5: Court Operations
Chapter 2: Programs and Standards
Section 5-206: Fee Deferrals and Waivers

A. Definitions. The following definitions apply to this section:

“Applicant” means a person who asserts the condition of being unable to pay court fees and costs and requests a deferral or waiver of that obligation.

“Application” means a request for deferral or waiver at any point before the end of a case.

“Arizona Department of Corrections (ADOC) inmate” means an incarcerated felon confined to a facility operated by Arizona State Department of Corrections.

“Day” means calendar day including holidays and weekends.

“Deferral” means “either postponement of an obligation to pay fees or establishment of a schedule for payment of fees” as provided in A.R.S. § ~~12-302(M)(1)~~ 12-302(M)(1).

“Fees and costs”, as provided in A.R.S. § ~~12-302(H)~~ 12-302(H), means:

1. Filing fees.
2. Fees for issuance of either a summons or subpoena.
3. Fees for obtaining one certified copy of a temporary order in a domestic relations case.
4. Fees for obtaining one certified copy of a final order, judgment or decree in all civil proceedings.
5. Sheriff, marshal, constable and law enforcement fees for service of process if any of the following applies:
 - (a) The applicant established by affidavit that the applicant has attempted without success to obtain voluntary acceptance of service of process.
 - (b) The applicant’s attempt to obtain voluntary acceptance of service of process would be futile or dangerous.
 - (c) An order of protection or an injunction against harassment in favor of the applicant and against the party sought to be served exists and is enforceable.

6. The fee for service by publication if service is required by law and if the applicant establishes by affidavit specific facts to show that the applicant has exercised due diligence in attempting to locate the person to be served and has been unable to do so.

7. Court reporter's fees for the preparation of court transcripts if the court reporter is employed by the court.

8. Appeal preparation and filing fees at all levels of appeal and photocopy fees for the preparation of the record on appeal pursuant to §§ sections 12-119.01, 12-120.31 and 12-2107 and § section 12-284, subsection A.

"Further deferral" means "the establishment of a schedule for payment of fees" as provided in A.R.S. § ~~12-302(M)(2)~~ 12-302(M)(2).

"Non-ADOC inmate" means an incarcerated felon confined to facilities in Arizona other than operated by the Arizona State Department of Corrections or to a facility outside of Arizona.

"Permanently unable to pay" means "the applicant's income and liquid assets are insufficient or barely sufficient to meet the daily essentials of life and the income and liquid assets are unlikely to change in the foreseeable future" as provided in A.R.S. § ~~12-302(D)~~ 12-302(D).

~~"Postponed fees" means the applicant has been ordered to pay fees due at the end of the case according to an established schedule of payments.~~

"Special commissioner" means a person appointed by the presiding judge to determine an applicant's eligibility for a deferral or waiver.

"Supplemental application" means the form used to request waiver or further deferral at the conclusion of a case.

"Waiver" means the court has determined that the applicant is not required to pay the fees unless the applicant's financial circumstances have changed during the action.

B. Purpose. The purpose of this section is to provide access to the courts for litigants unable to pay court fees and costs and to establish, standardize and maintain uniform procedures and forms in accordance with A.R.S. § 12-302.

C. Administration and Adoption of Forms. The Administrative Office of the Courts (AOC) shall adopt forms and procedures for deferrals and waivers of court fees. Courts shall make these forms available for use by the public at no cost. Courts may exercise discretion regarding technical formatting of forms (for example, number of pages, line and margin spacing, and font size); use multi-part, carbonless paper; and develop non-English translations. Courts shall submit any other proposed alteration to or deviation from the forms as adopted, including any change in wording, to the administrative director for approval prior to use. The administrative director is authorized to approve requested modifications that are

consistent with statutes and court rules and to approve revisions to reflect changes in laws, court rules or procedures and to make other administrative amendments or corrections as necessary.

D. Applications.

1. Applications shall be in writing on the approved forms except that in limited jurisdiction courts the applicant may make an application by verbal avowal in open court. The court shall deny incomplete applications. The court shall issue a written order on every application.

2. As provided by A.R.S. § 12-302(F):

At the time an applicant signs and submits the application for deferral to the court, the applicant shall acknowledge under oath and sign a consent to judgment. By signing the consent to judgment, the applicant consents to judgment being entered against the applicant for all fees and costs that are deferred but that remain unpaid after thirty calendar days following the entry of final judgment or order. ---

3. ~~The court shall impose the statutory minimum clerk fee for filing an application for fee deferral and waiver. The fee is subject to deferral or waiver as appropriate. The statutory minimum clerk fee shall be assessed for fee deferral and waiver only for the initial application in a case and is subject to deferral and waiver.~~

E. Eligibility for Deferral.

1. ~~Statutory Eligibility Postponement. As provided in A.R.S. § 12-302(C): Under the following circumstances, the court shall grant an application for deferral and shall postpone all payments until the conclusion of the case.~~

a. As provided in A.R.S. § 12-302(C):

~~Except as provided in subsection E of this section, the court shall grant an application for deferral of fees and costs [I]f the applicant establishes by affidavit, including supporting documentation, that the applicant either:~~

1. Is receiving benefits pursuant to one or more of the following programs:

(a) The temporary assistance for needy families program established by section 403 of title 4 of the social security act as it exists after August 21, 1996.

(b) The food stamp program (7 United States Code sections 2011 through 2029), ~~[renamed the supplemental nutrition assistance program]~~.

~~...~~

3. Has an income that is insufficient or barely sufficient to meet the daily essentials of life and that includes no allotment that could be budgeted for the fees and costs that are required to gain access to the court. In considering insufficient income pursuant to this paragraph, the court may consider the following as evidence of insufficient income:

(a) The applicant has a gross income that as computed on a monthly basis is one hundred fifty per cent or less of the current poverty level established by the United States department of health and human services. Gross monthly income includes the applicant's share of community property income.

(b) The applicant's income is considered to be sufficient, but the applicant provides proof of extraordinary expenses, including medical expenses, costs of care for elderly or disabled family members or other expenses that are deemed extraordinary, that reduce the applicant's gross monthly income to at or below one hundred fifty per cent of the current poverty level established by the United States department of health and human services. ~~Gross monthly income includes the applicant's share of community property income.~~

- b. If the applicant presents an affidavit showing representation by a non-profit legal services organization that has as one of its primary purposes the provision of legal assistance to indigents, free of charge, in civil matters.
- c. The applicant's income is 150% or less of the current U.S. Poverty Guidelines as established by the U.S. Department of Health and Human Services.

2. Payment. The court shall grant or deny a deferral or order payment as follows:

- a. The applicant's income is greater than 150%, but less than 175%, of the current U.S. Poverty Guidelines. A monthly payment will be due from the applicant as determined by the court based on the applicant's ability to pay.
- b. The applicant's income is greater than 175%, but less than 225% of the current U.S. Poverty Guidelines. Payment of no less than 25% of the filing fee is due at the time of filing. The balance due will be paid on a payment schedule over a period of time as ordered by the court.

~~2. Other Assets. The court shall consider assets other than cash listed on the financial questionnaire as a basis for possible further inquiry regarding an applicant's income and not as the sole determinant for denial of deferral or waiver. The court shall consider the applicant's income, expenses, and family circumstances in determining whether cash assets are available for the required fees.~~

3. Ineligibility. If the applicant's income is greater than 225% of the current U.S. Poverty Guidelines, payment of the entire fee is due at the time of filing.

4. Voluntary Payment. An applicant who has qualified for a deferral or waiver may voluntarily elect a payment plan that exceeds the minimum payment required by the code.

~~35. Judicial Discretion Good Cause. As provided in A.R.S. § 12-302(A):~~

~~The court shall grant a deferral if the applicant meets the financial criteria set forth in A.R.S. § 12-302(C). The court may grant a deferral of fees for applicants who do not meet these financial criteria, but who demonstrate other good cause for deferral, in accordance with A.R.S. § 12-302(A).~~

A. The court or any judge may for good cause shown extend the time for paying any court fees and costs required by law or may relieve against a default caused by nonpayment of a fee within the time provided by law, but no fees paid shall be refunded.

F. Eligibility for Waiver. The court shall grant a waiver:

1. if the court finds that the applicant is permanently unable to pay or if the applicant establishes by affidavit, including supporting documentation, that the applicant is receiving benefits pursuant to the supplemental security income program (42 U.S.C. §§ 1381 through 1385) and the applicant presents an eligibility letter or notice of award at the time the applicant seeks the waiver.

2. If the applicant was granted a deferral as provided in subsection E(1)(a) and the court determines the applicant's income and liquid assets have not changed and are unlikely to change in the foreseeable future.

G. Deferral and Waivers Orders. If the applicant meets the criteria for deferral or waiver, orders for deferral or waiver may include all fees but at a minimum shall include those ~~described~~ provided in A.R.S. § 12-302(H)(1)-(4). Deferrals or waivers ~~described for services provided~~ provided in A.R.S. § 12-302(H)(5)-(8) may require ~~additional~~ separate applications if not deferred or waived at the time of the initial application.

H. through P. [No changes]

Q. Cases Filed by Inmates.

1. ADOC Inmates. As provided by A.R.S. § 12-302(E):

Except in cases of dissolution of marriage, legal separation, annulment or establishment, enforcement or modification of child support, and notwithstanding subsection A of this section or chapter 9, article 4 of this title, if the applicant is an inmate who is confined to a correctional facility operated by the state department of corrections and who initiates a civil action or proceeding, the inmate is responsible for the full payment of actual court fees and costs. On filing a the civil action or proceeding, the clerk of the court shall assess and, when monies exist, collect as a partial payment of any court fees and costs required by law a first time payment of twenty per cent. Thereafter, the state department of corrections shall withhold twenty per cent of all deposits into the prisoner's spendable account administered by the department until the actual court fees and costs are collected in full. ---

However, in cases of dissolution of marriage, legal separation, annulment or establishment, enforcement or modification of child support, these inmates may use the application process provided in this section.

2. ADOC Inmates Awaiting Transportation to ADOC Facilities or Non-ADOC Inmates. As provided in A.R.S. § 12-302(K)(2) a waiver of court fees or costs shall not be granted for:

Civil actions other than cases of dissolution of marriage, legal separation, annulment or establishment, enforcement or modification of child support that are filed by persons who at the time of filing the application are incarcerated as a result of a felony conviction in an out-of-state correctional facility or in a jail waiting to be transported to a state department of corrections facility.

These inmates are eligible to apply for deferrals.

R. through U. [No changes]

TAB 3

Staff revised the language for the following two sections after obtaining input from the Superior Court Presiding Judges.

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D. 3. The court shall impose the statutory minimum clerk fee for filing an application for fee deferral and waiver. The fee is subject to deferral or waiver as appropriate. At the commencement of each action or each postadjudication proceeding, the party filing the initial petition and any responding parties that request a deferral or waiver shall be assessed a minimum clerk fee pursuant to section 12-284. The statutory minimum clerk fee shall be assessed only for the initial application of each party and is subject to deferral and waiver.

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E. 3. Ineligibility. If the applicant's income is greater than 225% of the current U.S. Poverty Guidelines, payment of the entire fee is due at the time of filing unless the court finds good cause to postpone, defer, or waive the fee.



March 18, 2014

Arizona Judicial Council
State Courts Building
1501 W. Washington St.
Phoenix, AZ 85007

RE: Updated Proposed Revisions to ACJA 7-206

Dear Council Member,

We, the Arizona Court Reporters Association, thank you for your consideration of our analysis and input in this process. ACRA's concerns are best stated by Task Force member Ret. Judge Jan Kearney: *"There are many pernicious effects to permitting contracting in a way that Arizona has not previously done that frankly don't seem to be outweighed by advantage to anybody with whom we are really concerned. And the bottom line for me is I do not think it's a good idea for us to change this provision at all;"* and Task Force member Vice Chief Justice Bales: *"I have real concerns about allowing multi-case contracts because I have trouble figuring out when that gets at the point you really are, in essence, a captive court reporting firm of a party of interest in the litigation, and that, I think, is inconsistent with our notions of the role of the court reporter;"* [\[tab 1 hyperlink\]](#) and, finally, Assistant AG Michael Tryon, *"The most obvious local interest served by Section 7-206 is the prompt, effective, and impartial operation of Arizona's judicial system, which is clearly a legitimate and important interest."*

Since September 13, 2013, when the CLD first proposed changes to ACJA 7-206, members of our association have been working with the Arizona Bar, the CLD and now Chief Justice Berch's Task Force on a solution to this problem which has beleaguered our state for too long. The draft presented for your consideration today goes a long way toward this goal by registering reporting firms, mandating demonstration of true equality in billing, prohibiting the reporting profession from facilitating or engaging in advocatory activities and defining protocols for increased security of the record.

However, ACRA's concerns are not answered by the Task Force's replacement of anti-contracting protections with disclosure and waiver protocols. There are also other inconsistencies and potential loopholes. If this Council believes the Task Force's "presumptive prohibition unless waived" approach is the best solution, ACRA provides what is necessary to close those loopholes and resolve inconsistencies [\[tab 2 hyperlink\]](#). If this Council believes maintaining current anti-contracting protections and adding the Task Force's recommendations

for registering reporting firms, increasing transparency and increasing security is the best solution, ACRA also attaches its redlined document for assistance [[tab 3 hyperlink](#)].

This Council will hear that perhaps this issue has been over-regulated, that certain public protections really mask an attitude of “anti-competition”. ACRA, the National Court Reporters Association, its state affiliates, and hundreds of members of the Arizona State Bar disagree. Contracts for court reporting services have resulted in a host of complaints from the Arizona Bar and have undermined the perception of the reporting profession as dependably impartial and neutral. All other officers of the court have ethical and professional regulations with which they must comply. Why would Arizona’s court reporting profession be treated any differently? As stated by Lt. General Russel L. Honoree, *“Of course, there are a lot of folks who say regulation prevents job growth and that the law pokes its nose into what is, or should be, a matter of business ethics. Everyone with good sense knows there isn't enough law to prevent people from doing stupid or unethical things. But when they do, they need to pay for it. That's one of the points of regulation: to hold violators accountable. Free markets can't survive when no one is held accountable for what he or she does.”*

We offer these comments in addition to those previously offered in writing, and consistent with those that have been discussed in the public comment periods of the task force, the Arizona Board of Certified Reporters and the Committee on Superior Court. We remain ready to continue offering constructive suggestions and comments throughout, and perhaps after, consideration by the Arizona Judicial Council.

Respectfully,

Marty Herder
President
Arizona Court Reporters Association

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
March 20, 2014	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	ACJA § 7-206: Certified Reporter

FROM:

Certification and Licensing Division, Administrative Office of the Courts

PRESENTER:

Mr. Mark Wilson, Certification and Licensing Division Director

DISCUSSION:

For a number of years, contracting within the court reporting profession has been an area of debate. The debate has focused on the business operations of court reporting firms and freelance certified reporters who accept deposition assignments through reporting firms. Concern has been raised that certified reporters accepting certain reporting firm assignments are compromised by the reporting firm's relationships with law firms and insurance companies. Alleged misconduct has included lack of impartiality, transcript fee inequity, and prospective releases of confidential information during the production of the transcript and billing process.

The debate has been predominantly centered on means/methods surrounding the production of the transcript and whether the resulting transcript is accurate, complete, and timely produced or that there was equity in the transcript costs billed to each party. The production, distribution, and invoicing of transcripts appears to be performed consistently throughout the reporting community, regardless of the nature of the case or the type of firm(s) involved.

The proposed amendments create a registration and regulatory process for reporting firms providing reporting services, modify certain of the contracting related provisions of ACJA § 7-206 and clarify the responsibilities of certified reporters and reporting firms with regards to the accuracy of a transcript, professional ethics, confidentiality, impartiality, equity in services and billing/invoicing, and professionalism. The proposed amendments seek to recognize the existing production, distribution, and billing practices which are customary throughout the profession.

A Task Force was created to review regulatory needs of the profession, staff's proposed code revisions, and industry and interested party comments concerning staff's proposed code revisions. After a series of meetings and deliberation, the Task Force modified staff's proposal and endorsed the modified proposed code changes. The Task Force's modified proposed code changes are the proposed code changes which have been presented to AJC.

RECOMMENDED COUNCIL ACTION:

The Arizona Judicial Council recommends the Arizona Supreme Court adopt the proposed amendments to ACJA § 7-206: Certified Reporter.

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 7: Administrative Office of the Courts

Chapter 2: Certification and Licensing Programs

Section 7-206: Certified Reporter

A. Definitions. In addition to the definitions in ACJA § 7-201(A), the following definitions apply:

“Affiliate” means an individual or entity which directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the individual or entity specified.

“Board” means “the board of certified reporters” as provided in A.R.S. § 32-4002(1).

“Certify” means “board authorization to engage in activities regulated by the board” as provided in A.R.S. § 32-4002(4).

“Certification” means “a standard certificate that is issued by the board to a person who meets the requirements of §§ 32-4021 and 32-4022 and does not include a temporary certificate” as provided in A.R.S. § 32-4002(2).

“Certified reporter” means “a person who is certified by the board and who records and transcribes a verbatim record in any sworn proceeding by means of written symbols or abbreviations in shorthand, machine writing or voice writing” as provided in A.R.S. § 32-4002(3).

“Chapter” means Title 32, Chapter 40, Board of Certified Reporters, Arizona Revised Statutes.

“Registered reporting firm” means an individual or entity that is registered pursuant to this section and for compensation offers to provide or provides reporting services or related services but does not personally provide the service as a certified reporter.

“Report” means “to stenographically or by voice writing record and transcribe sworn proceedings” as provided in A.R.S. § 32-4002(5).

“Temporary certificate” means a certificate that has been extended pursuant to Laws 1999, Ch. 335, § 3; Laws 2000, Ch. 41, § 13 and subsection G(4)(a).

“Voice writing” means “the making of a verbatim record of the spoken word by means of repeating words of the speaker into a device that is capable of digital translation into text” as provided in A.R.S. § 32-4002(6).

B. – E. [No Changes]

F. Role and Responsibilities of Certified Reporters. In addition to the requirements of ACJA § 7-201(F), the following requirements apply:

1. Code of Conduct. Each certified reporter shall adhere to the code of conduct adopted pursuant to A.R.S. § 32-4005 and subsection (J).
2. Identification. A.R.S. § 32-4003(C) provides “A certified reporter shall include the title ‘certified reporter’ or the abbreviation ‘CR’ and the reporter’s certificate number on the title or cover page of any transcript, on any business card, advertisement or letterhead and on the certificate of any transcript.”
3. Certification of Transcripts, Billings and Business Terms. ~~A.R.S. § 32-4003(B) provides~~ “A certified reporter and registered reporting firm (if the certified reporter is engaged by a registered reporting firm) shall sign and certify each transcript that the certified reporter prepares before the transcript may be used in court, except for transcripts that the reporter prepares for proceedings that occurred before July 1, 2000.” Certification shall provide that the certified reporter and registered reporting firm, if applicable, have complied with the ethical obligations set forth in (J)(1)(g)(1) and (2). A certified reporter or registered reporting firm shall also certify each bill or invoice and said certification shall provide that all aspects of the bill and invoice and other business terms comply with the ethical obligations set forth in (J)(1)(g)(3) through (6).
4. [No Changes]

G. – I. [No Changes]

J. Code of Conduct. The following code of conduct is adopted by the supreme court to apply to all certified reporters pursuant to Title 32, Chapter 40, Arizona Revised Statutes. The purpose of this code of conduct is to establish minimum standards for performance by certified reporters and registered reporting firms.

1. Ethics.
 - a. A certified reporter and registered reporting firm shall avoid impropriety and the appearance of impropriety in all professional activities, shall respect and comply with the laws and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judicial system.
 - b. A certified reporter and registered reporting firm shall exercise fairness and impartiality toward each participant in all aspects of reported proceedings and always offer to provide comparable service to all parties in a proceeding.
 - c. A certified reporter and registered reporting firm shall have no personal or financial self-interest in the reporting of a proceeding and shall exercise caution to avoid any appearance of self-interest.

- d. A certified reporter and registered reporting firm shall be alert to situations that are conflicts of interest that may give the appearance of a conflict of interest or create an appearance of partiality.
- e. A certified reporter and registered reporting firm shall promptly make full disclosure to all parties or their representatives of any relationships which may give the appearance of a conflict of interest or partiality.
- f. A certified reporter shall refrain from knowingly making misleading, deceptive, untrue or fraudulent representations while in the practice of reporting. A certified reporter shall not engage in unethical or unprofessional conduct that is harmful or detrimental to the public in the practice of reporting. Proof of actual injury is not required.
- g. A certified reporter or registered reporting firm's certification as required by (F)(3) means the certified reporter or registered reporting firm affirms the following:
 - (1) The transcript is a full true and accurate record of the proceeding;
 - (2) The preparation, production and distribution of the transcript and copies of the transcript comply with the Arizona Revised Statutes and ACJA;
 - (3) All billings and invoicing to all the parties related in any manner to the reporting of the proceedings or cases and the production of the transcript and any products or services ancillary thereto comply with the Arizona Revised Statutes and the ACJA;
 - (4) All financial terms and other services have been offered on the same terms to all parties to the litigation;
 - (5) Each party was able to purchase the transcript and such ancillary services as requested by that party without regard to the ancillary services purchased by any party;
 - (6) No economic or other benefit was given by the certified reporter to any party or their attorney, representative, agent, or insurer or insured that was not provided to the other parties, attorneys or insureds in the same case.

~~A person holding a certificate under this section shall not enter into an employment, independent contractor, or agency relationship, which requires the certificate holder to:~~

- ~~(1) Relinquish control in a manner that prevents the certificate holder's monitoring, oversight and review of the preparation, production and distribution of the transcript and copies of the transcript before it is certified and delivered to the custodial attorney;~~
- ~~(2) Relinquish control in a manner that prevents the certificate holder's inspection and copying of records of charges, billings, and invoicing to all parties relating in any way to the reporting of the proceedings or cases and production of the transcript provided by the certificate holder and any products or services ancillary thereto;~~

- ~~(3) Provide special financial terms or other services that are not offered at the same time and on the same terms to all other parties in the litigation;~~
- ~~(4) Give any economic or other advantage to any party, or their attorney, representative, agent, or insurer; or~~
- ~~(5) Expressly or impliedly requires the certificate holder reporting any proceeding or case to perform court reporting services in any other proceeding or case at a specific rate of compensation or compels, guarantees, regulates, or controls the use of particular court reporting services in other proceedings or cases.~~

This subsection shall not apply to contracts for certified reporting services for the courts, agencies, or instrumentalities of the United States or of the State of Arizona.

- h. A reporter shall not take a deposition if either the certified reporter or the registered reporting firm is:
 - (1) A party to the action;
 - (2) A relative, employee, or attorney of one of the parties;
 - (3) Someone with a financial interest in the action or its outcome; or,
 - (4) A relative, employee, or attorney of someone with a financial interest in the action or the outcome. ~~For the purposes of this subparagraph, “employee” or “relative” shall not include an employee or relative of the attorney or one of the parties.~~
 - (5) Retained by an individual or entity other than a party, a party’s attorney or a registered reporting firm. ~~An “employee” includes a person who has a continuing contractual relationship, express or implied, with a person or entity interested in the outcome of the litigation, including anyone who may have ultimate responsibility for payment to provide reporting or other court services, and a person who is employed part time or full time under contract or otherwise by a person who has a contractual relationship with a party to provide reporting or other court services.~~
- i. A judicial officer may declare a deposition void if a certified reporter with an association to a matter, as described in this subsection, takes a deposition.
- j. Except as expressly set forth in this section, ~~the~~ provisions of section 7-206 may not be waived by disclosure, agreement, stipulation, or otherwise.
- k. A certified reporter, registered reporting firm, or their affiliates shall not provide to any individual or entity additional advocacy or litigation support services, including but not limited to claim investigation assistance, trial preparation assistance, and deposition summaries. Nothing in this subparagraph (k) should be interpreted to prevent a certified reporter, registered reporting firm or the their affiliates from providing non advocacy or non litigation services (i.e. conference rooms, photocopying and teleconferencing) so long as such non advocacy or non litigation services are offered to all parties on the same terms.

1. A certified reporter or registered reporting firm that has a continuing contractual relationship with any party, attorney or entity with a financial interest in a case may not provide reporting services for a case involving those individuals or entities unless after disclosure of the contractual relationship all parties or their attorneys agree the certified reporter or registered firm may take the deposition.

2. Professionalism.

a. A certified reporter and registered reporting firm shall ensure ~~preserve~~ the confidentiality and ~~ensure~~ the security of information, verbal or written, entrusted to the certified reporter by the court or any of the parties in the proceeding is preserved. If the certified reporter or registered reporting firm uses a third party for any aspect of the preparation, production, distribution or storage of a transcript, the certified reporter or registered reporting firm, as appropriate, shall ensure that the third party maintains the confidentiality and security of the information. Unless authorized by court order or upon agreement of the parties, a certified reporter and registered reporting firm may release the transcript only to the witness, a party and the witness' or party's attorneys. A certified reporter and registered reporting firm shall not violate or knowingly aid, assist or facilitate a third party's violation of a court order regarding confidentiality. A registered reporting firm shall have in place procedures to ensure its awareness of court orders regarding confidentiality.

b. A certified reporter and registered reporting firm shall be truthful and accurate when advertising or representing the certified reporter's qualifications, skills, abilities, or the services provided.

c. A certified reporter and registered reporting firm shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.

d. A certified reporter shall keep abreast of current literature, technological advances and developments and shall fulfill ongoing training requirements to maintain professionalism.

e. As part of the judicial department's commitment to the principle of access to justice for all and the integral role of certified reporters, certified reporters are encouraged to provide pro bono services, when requested through qualified legal assistance organizations providing free legal services to the indigent. Certified reporters providing pro bono services pursuant to this subsection shall disclose the pro bono services to all parties in the case.

3. Fees and Services.

a. Except as provided in subsection (J)(2)(e), a certified reporter shall charge all parties or their attorneys in the same action the same price for an initial copy of a transcript. Additional copies purchased by the same ordering party may be charged at a reduced rate provided disclosure is made to all parties involved in the case and the same reduced rate for additional copies is provided to all parties involved in the case. Each

party shall be treated as an individual party to the action and is required to purchase an initial copy at the same rate provided to all parties requesting a copy in the same action before they may obtain additional copies at a reduced rate. A certified reporter's and registered reporting firm's obligation to charge each party equally, includes but is not limited to complementary services, volume discounts, rebates, waivers or fee reductions to any party because of the individual or cumulative effect of performing reporting services in said action. A certified reporter may provide services on a pro bono basis as provided in this section.

- b. A certified reporter and a registered reporting firm shall provide in writing an itemized list of rates and charges to the witness, the parties, or the witness' and parties' attorney. The list shall be provided before the commencement of the deposition.
- ~~bc.~~ A certified reporter shall, upon request at any time, disclose in writing an itemization of all rates and charges to all parties or their attorneys, or to division staff, by a party or party's attorney or division staff, promptly provide in writing to the party, attorney, or division staff an itemized list of all rates and charges billed or applicable to any party or witness or their attorney(s). A certified reporter shall maintain an accurate account of services rendered and provide copies of invoices to any requesting party involved in the case or upon the request of the board or division staff.
- ~~ed.~~ A certified reporter and registered reporting firm shall not enter into an agreement concerning fees that is unlawful or inconsistent with this section. determine fees independently, except when established by statute or court order, entering into no unlawful agreements with other reporters on the fees to any user.
- ~~de.~~ A certified reporter and registered reporting firm must charge at least 60 percent more for the original transcript than is charged for any copy. shall charge no less than 60 percent more for an original transcript than what is charged for copies in all cases. The charge for the original transcript includes the per diem paid for the reporter's appearance.
- ~~ef.~~ A certified reporter and registered reporting firm shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to:
 - (1) Establishing contingent fees as a basis of compensation;
 - (2) Directly or indirectly receiving of any gift, incentive, reward, or anything of value as a condition of the performance of professional services;
 - (3) Directly or indirectly offering to pay any commission or other consideration in order to secure professional assignments;
 - (4) Directly or indirectly giving, for the benefit of employment, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing, except for:

- (a) Nominal items that do not exceed \$25.00 per transaction and \$100.00 in the aggregate per recipient each year; and
- (b) Pro bono services; and
- (5) Entering into any written or verbal financial relationship with counsel, parties of interest or their intermediaries that: would require a certified reporter to violate any provision of this section.
 - ~~(a) Undermines the actual or perceived impartiality of the certified reporter; or~~
 - ~~(b) Does not provide or offer any private party of interest comparable reporting services in the same proceedings.~~

g. Notwithstanding any other provision of this section, the certified reporter or registered firm may establish such individual payment terms for each party as the certified reporter or registered firm deems commercially reasonable.

4. Skills and Practice.

- a. A certified reporter shall take full and accurate stenographic or voice written notes of any proceeding and shall not wilfully alter the notes.
- b. A certified reporter shall accurately transcribe verbatim any stenographic or voice written notes taken at any proceeding and shall not wilfully alter the transcript.
- c. A certified reporter shall provide a transcript to a client or court in a timely manner. The certified reporter shall meet promised delivery dates and make timely delivery of transcripts when no date is specified. A certified reporter shall meet transcript preparation deadlines in accordance with rules, statutes, court orders, or agreements with the parties. A certified reporter shall provide immediate notification of delays.
- d. A certified reporter shall not go “*off the record*” during a deposition or court proceeding unless agreed to by all parties or their attorneys or ordered by the court.
- e. A certified reporter shall accept only those assignments for which the reporter’s level of competence will result in the preparation of an accurate transcript. The certified reporter shall decline an assignment when the reporter’s abilities are inadequate.
- f. A certified reporter shall prepare the record in accordance with applicable laws, rules or court order.
- g. A certified reporter shall preserve the stenographic or voice written notes in accordance with Arizona laws, federal laws and the Arizona Rules of Court.

5. Official Reporters.

- a. An official reporter may engage in freelance reporting duties only if the following criteria are met:

- (1) The presiding superior court judge or designee has given express authorization; the reporter’s official work is up to date and there are no transcripts the reporter is preparing in which a court has granted an extension of time; and
 - (2) The presiding superior court judge or designee has authorized the reporter to take annual leave during the time the freelance work is scheduled unless:
 - (a) The freelance work is scheduled during hours the court is not open for business; or
 - (b) The presiding superior court judge or designee has granted the reporter time off in compensation for overtime previously worked.
- b. A certified reporter shall never purport to speak or act for a judge regarding judicial matters.
 - c. A certified reporter shall not express an opinion as to how a case should be decided or what verdict a jury will return.
6. Performance in Accordance with Law.
- a. A certified reporter shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders.
 - b. A certified reporter shall perform the duties of the profession using only the method of reporting the applicant used to obtain certification.

K. Fee Schedule. Pursuant to A.R.S. § 32-4008, the supreme court shall set and collect fees necessary to carry out the provisions of Title 32, Chapter 40, Arizona Revised Statutes pertaining to the certification of certified reporters.

1. Initial Certification Fees.

- a. Initial Certification for Two Year Certification Period \$450.00
 - (1) For certification expiring more than one year after application date \$450.00
 - (2) For certification expiring less than one year after application date \$225.00
- b. Fingerprint Processing
(Rate as set by Arizona law and subject to change)

2. Examination Fee for the Arizona Written Test

- a. Applicants for Initial Certification \$ 50.00
- b. Reexaminations \$ 50.00

(For any applicant who did not pass the examination on the first attempt. The \$50.00 fee applies to each reexamination.)

- c. Reregistration for Examination \$ 50.00

(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)

3. Renewal Certification Fees.

- a. Certification Renewal \$400.00
- b. Inactive Status \$100.00
- c. Late Renewal \$ 50.00
- d. Delinquent Continuing Education \$100.00

4. Miscellaneous Fees

- a. Replacement of Certificate or Name Change \$ 25.00
- b. Public Record Request per Page Copy \$.50
- c. Certificate of Correctness of Copy of Record \$ 18.00
- d. Reinstatement Application \$100.00

(Application for reinstatement to certification after suspension or revocation of certification.)

5. Registered Reporting Firm Registration Fees

- a. Initial Registration \$100.00
- b. Renewal Registration \$ 50.00

L. [No Changes]

M. Transcript Format Standards. Transcripts filed by certified reporters in courts in the state of Arizona shall conform to the following standards:

- 1. Applicability. Each transcript prepared by a certified reporter shall consist of the following pages:

- a. Title page;
 - b. Table of contents and index page;
 - c. Appearance page; and
 - d. Certificate page.
2. Title Page.
- a. Court Proceedings. The title page shall contain:
 - (1) Case caption;
 - (2) The type of proceedings: grand jury, jury trial, type of motion, etc.;
 - (3) The date of proceedings;
 - (4) The city and state where the proceedings were held;
 - (5) The name of the judicial officer;
 - (6) The name of the certified reporter, title (“certified reporter” or “CR”) and certificate number;
 - (7) A clear indication that a transcript is a partial transcript or excerpt; and
 - (8) Other applicable information.
 - b. Depositions and Other Non-court Proceedings. The title page shall contain:
 - (1) Case caption;
 - (2) The type of proceedings: deposition, sworn statement, unsworn statement, etc.;
 - (3) The date of the proceedings;
 - (4) The city and state where the proceedings were held;
 - (5) The name of the certified reporter, title (“certified reporter” or “CR”) and certificate number; and
 - (6) Other applicable information: excerpts, volume number.
 - c. Index Page.
 - (1) Court Proceedings. The index page, if applicable shall:
 - (a) Begin on a separate page;
 - (b) Show each witness name typed on the index page as it appears in the transcript: middle initial, no middle initial, full name, Jr., etc.;
 - (c) Indicate for each witness the page numbers of direct, cross, and redirect examination, etc.;
 - (d) Show other important events and the page number they occur: jury selection, opening statements, closing arguments, verdict, etc.; and
 - (e) Identify when exhibits are marked or introduced, admitted or excluded.
 - (2) Depositions and Other Non-court Proceedings. The index page shall:
 - (a) Begin on a separate page;

- (b) Show the witness name typed on the index page as it appears in the transcript: middle initial, no middle initial, full name, Jr., etc.;
- (c) Indicate for each witness the page numbers of examination by each attorney or party;
- (d) Show other important events and the page number they occur; and
- (e) Identify when exhibits are marked or identified.

d. Appearance Page.

- (1) Court Proceedings. The appearance page shall:
 - (a) Begin on a separate page;
 - (b) Indicate the name of the attorneys and which party they represent. Attorney addresses may be included;
 - (c) Indicate parties appearing in propria persona; and
 - (d) Indicate the names of the grand jurors present.
- (2) Depositions and Other Non-Court Proceedings. The appearance page shall:
 - (a) Begin on a separate page;
 - (b) Identify the location where proceedings took place;
 - (c) Indicate the time the proceedings began;
 - (d) Indicate the name and address of the attorneys and which party they represent;
 - (e) Indicate parties appearing in propria persona; and
 - (f) Indicate all other individuals present in the room during the proceedings: videographers, interpreters, etc.

e. Certificate Page.

- (1) Court Proceedings. The certificate page shall:
 - (a) Begin on a separate page;
 - (b) Contain language indicating the transcript is a full, true and accurate record of the proceeding;
 - (c) Be signed and dated by the certified reporter; and
 - (d) Include the reporter's certificate number.
- (2) Depositions and Other Non-Court Proceedings. The certificate page shall:
 - (a) Begin on a separate page;
 - (b) Contain language indicating the transcript is a full, true and accurate record of the proceeding and the preparation, production and distribution of the transcript and copies comply with law and code as required by (F)(3);
 - (c) Contain language indicating the reporter administered an oath or affirmation to each witness whose testimony appears in the transcript pursuant to A.R.S. § 41-324(B);
 - (d) Be signed and dated by the certified reporter and the registered reporting firm, if any;
 - (e) Include the reporter's certificate number; and
 - (f) Indicate whether the witness has requested signature, not requested signature or waived signature.

- f. Transcript Formatting. All transcripts shall:
- (1) Contain 25 numbered lines of text on each page of the body of the transcript text with the exception of the last page. One blank line may be left before transitional events or headings, for example, a witness set-up paragraph or “examination,” to ensure readability;
 - (2) Contain page numbers at the upper right-hand corner. The page number does not count as a line;
 - (3) Unless otherwise requested, begin at page one for each day of proceedings, even in multiple-day proceedings;
 - (4) Contain total combined margins of text not to exceed 2 and 1/8 inches. The left-hand margin is measured from the left edge of the paper to the first character of text. The right-hand margin is measured from the right edge of the paper to the last character of text;
 - (5) Use letter character size of no fewer than nine or ten characters to the inch;
 - (6) Be double spaced in the body of the transcript;
 - (7) Begin Question and Answer (“Q and A”) designations no more than five spaces from the left-hand margin;
 - (8) Begin text following Q and A designations at no more than ten spaces from the left-hand margin, with carryover Q and A lines beginning at the left-hand margin;
 - (9) Begin speaker identification for colloquy at no more than fifteen spaces from the left-hand margin, with carryover colloquy beginning at the left-hand margin;
 - (10) Begin quoted material no more than fifteen spaces from the left-hand margin, with carryover lines beginning no more than ten spaces from the left-hand margin;
 - (11) Begin parentheticals and exhibit markings no more than fifteen spaces from the left-hand margin, with carryover lines beginning at the left-hand margin; and
 - (12) Be bound in a professional manner.
- g. Rough Drafts. An uncertified rough draft transcript shall not include a title page, appearance page, certificate page, any mention of the swearing in of a witness, footer with firm name or reporter name or CR number, index page, page numbers, line numbers, borders around the text on each page, or time stamping.
- (1) An uncertified rough draft transcript shall include a header or footer on each page stating “UNCERTIFIED UNEDITED ROUGH DRAFT TRANSCRIPT.” The phrase “UNCERTIFIED UNEDITED ROUGH DRAFT TRANSCRIPT” shall be included in the body of the text occasionally.
 - (2) In lieu of a title page, each rough draft shall begin with a disclaimer stating the uncertified rough draft transcript cannot be quoted in any pleading or for any other purpose and may not be filed with any court. The disclaimer shall contain a brief identification of the contents, for example, John Smith deposition, 6/17/06. The certified reporter should keep a copy of the disclaimer.

N. Registered Reporting Firm. A reporting firm that employs or contracts with a certified reporter to provide services regulated pursuant to A.R.S. § 32-4001 et. seq.

or this section must be registered with the division in accordance with the provisions of this section.

1. A reporting firm shall register with the division by providing to the division on a form approved by the division the following information:
 - a. Full legal name;
 - b. Address;
 - c. Telephone number;
 - d. Email address;
 - e. Contact individual, including name address, telephone number and email address.
2. Before the registration is effective:
 - a. The reporting firm shall certify, on a form acceptable to the division director, that the firm agrees to comply with the provisions of ACJA § 7-201 and this section in the same manner in which it would need to comply if it were a certified reporter;
 - b. The reporting firm shall agree to submit to the jurisdiction of the Supreme Court to the extent it has performed activities that if performed by a certified reporter would be regulated by this section;
 - c. The reporting firm shall pay the fee set forth in paragraph K.
3. A registered reporting firm registration expires on January 31st following the fifth anniversary of its issuance and may be renewed by filing a renewal application on a form acceptable to the division director that provides the information and certifications set forth in subparagraphs 1 and 2 of this paragraph.
4. A registered reporting firm that contracts with or employs a certified reporter to perform services regulated by this section shall ensure that in the performance of those duties the certified reporter and registered reporting firm adhere to the provisions of this section.
5. A registered reporting firm that fails to comply with its obligations as set forth in this section may have its registration revoked, suspended or the registered reporting firm may receive such other discipline as a certified reporter may receive upon finding by the Board that the registered reporting firm violated the provisions of this section. Any disciplinary action imposed upon a registered reporting firm is also imposed upon the registered reporting firm's affiliates. If

the registered reporting firm's registration is revoked the firm may not reapply for registration for twelve months and before being re-registered the Board must determine that the conduct resulting in the revocation is unlikely to reoccur.

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
March 20, 2014	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Branch Update

FROM:

Jerry Landau, Government Affairs Director
Amy Love, Legislative Liaison

DISCUSSION:

Mr. Landau and Ms. Love will update members on the 2014 Legislative Session.

RECOMMENDED COUNCIL ACTION:

Update and action on legislature.

ARIZONA JUDICIAL COUNCIL

LEGISLATIVE UPDATE

MARCH 2014

AJC Proposals

HB2310: criminal justice info; court reporting (Rep. Pierce)

Authorizes the Director of the Department of Public Safety to exchange criminal justice information with the superior courts via the central state repository or through the Arizona criminal justice information system for purposes of determining an individual's eligibility for substance abuse and treatment courts in a family or juvenile case.

Title affected: 41

HB2457: mental health; veterans courts; establishment (Rep. Farnsworth)

Permits the presiding judge of a superior court to establish a veterans' court or mental health court and to create eligibility criteria for referral to either court.

Allows a justice of the peace or municipal court judge to refer a case to the veterans' court or mental health court.

Authorizes any judicial officer in the county where the offense occurred to adjudicate a case referred to veterans' court or mental health court. The originating court maintains jurisdiction and is required to notify the prosecutor of the case's referral.

Title affected: 22

HB2461: probation officers; authority (Rep. Farnsworth)

Allows probation officers to serve warrants, make arrests, and bring a person before the court if the person is alleged to have violated a condition of pretrial release. Probation officers enforcing pretrial release conditions are granted the authority of a peace officer in the performance of their duties. Current law applies only to Maricopa County.

Title affected: 12

SB1248: jury service; lengthy trial fund (Sen. Driggs)

Extends the repeal date of the Arizona lengthy jury trial fund from June 30, 2014 to July 1, 2019. Reinstates the authority that repealed December 31, 2013 for the Supreme Court to impose a filing fee to fund the lengthy trial fund with the identical language and a repeal date of January 1, 2019. Allows the court to defer or waive the fee.

Authorizes a physician assistant to provide a prospective juror with a medical excuse request.

Contains an emergency clause.

Title affected: 12

SB1309: dependency cases; court programs (Sen. Barto)

Allows the court to order services supplemental to those provided through the Department of Economic Security if available at no cost to the state and upon agreement of the service provider.

Permits the court to employ community coordinators to ensure that services are provided in a timely manner, authorizes these employees to access information necessary to ensure service delivery. Requires all parties in a case to provide records to the court appointed individual upon request.

Allows the presiding superior court judge to enter into an agreement with a provider of juvenile treatment or shelter services if appropriate facilities are available.

Title affected: 8

Other Bills

HB2322: national instant criminal background checks (Rep. Pierce)

The Clerk of Court is required to transmit case information to the Supreme Court of persons found incompetent per to Rule 11, Rules of Criminal Procedure and persons found guilty except insane. The Supreme Court is required to transmit the information to the Department of Public Safety (DPS) and DPS must transmit the information to NICS. The

finding of competency is also transmitted to the National Instant Criminal Background Check System (NICS).

A person found incompetent pursuant to Rule 11, Rules of Criminal Procedure and not subsequently found competent and a person found guilty except insane is added to the definition of "prohibited possessor" in §13-3101.

The Clerk of Court is required to notify the Supreme Court of an order granting a petition for restoration of the right to possess a firearm filed by a person found to be in need of treatment pursuant to Title 36 (danger to self or others, or persistently, acutely, or gravely disabled as the result of a mental disorder). The Supreme Court is required to update, correct, modify or remove the person's record in any database that the Supreme Court maintains and make available to NICS as soon as possible.

A court appointing a guardian is required to make a specific finding as to whether the appointment is due solely to the ward's physical incapacity. Unless that finding is made the Clerk of Court is required to transmit the case information to the Supreme Court. The Supreme Court is required to transmit the information to DPS and DPS is required to transmit the information to NICS. The order terminating the guardianship is also transmitted to NICS.

If a court enters an order for treatment for a person who has been found to be a danger to self or others, or persistently, acutely, or gravely disabled as the result of a mental disorder, the court is required to transmit the case information to the Supreme Court. The Supreme Court is required to transmit the information to DPS and DPS is required to transmit the information to NICS. The order terminating treatment is also transmitted to NICS.

Upon request, the Clerk of Court is required to provide certified copies of a commitment order to a law enforcement or prosecuting agency that is investigating or prosecuting a prohibited possessor.

Titles affected: 13, 14, 32, 36

~~HB2327: settlement of claims of minor (Rep. Livingston)~~

~~Reverses established case law requiring the appointment of a guardian ad litem to settle a claim on behalf of a minor and instead permits a married minor, a person having care~~

~~and custody of a minor with whom the minor resides, or the guardian of a minor to settle a claim or lawsuit on behalf of the minor if the net amount of the settlement is \$10,000 or less, excluding attorney fees, court costs, and other expenses, including medical. The court may appoint a guardian ad litem if the net amount of the settlement exceeds \$10,000 or if the court believes there is a conflict between the interest of the minor and that of the parent or legal guardian in connection with any settlement.~~

~~Title affected: 14~~

~~SB1063: misconduct involving weapons; firearm storage (Sen. Murphy)~~

~~Current law requires a person to surrender a weapon upon entering a public establishment or public event at the request of the operator or sponsor of the building or event if proper storage for the firearm is provided. This bill exempts an individual from the misconduct involving weapons statute if the individual is lawfully carrying a firearm, enters a public establishment or public event that does not provide proper storage and the individual does not surrender the weapon.~~

~~Title affected: 13~~

~~SB1176: change of venue; guardianship (Sen. Crandell)~~

~~Eliminates concurrent jurisdiction currently in place between a county court that appoints a guardian and the county in which the ward resides. Requires the court in the county where the ward resides for a period of six months (two years in a companion House bill) to assume jurisdiction of the guardianship but provides no mechanism for the subsequent court to be notified of the ward's residence. Presumes the transfer of jurisdiction is in the best interest of the ward.~~

~~If a public fiduciary is appointed, transfers the authority of the original fiduciary to the county where the ward resides. No related change to the conservatorship statutes is included in the bill. Versions of the bill have contained an emergency clause, but the sponsor has agreed to remove it.~~

~~Title affected: 14~~

SB1365: accountability boards; CPS practices (Sen. Murphy)

~~Requires the State Foster Care Review Board (FCRB) to establish at least one accountability board to review complaints concerning the failure of the Department of Economic Security to comply with applicable statutes or rules. Mandates the Board forward any complaint to a Superior Court Judge for review if the Board finds there is a reasonable basis for the complaint.~~

~~Authorizes the judge to set an emergency hearing to accept additional evidence and hear testimony if the judge feels it is necessary. If the judge finds by a preponderance of the evidence that the department has not followed a statute or rule, the judge shall order the department to comply immediately with the statute or rule.~~

~~Failure by the department to obey the order constitutes contempt of court. An employee of the department who fails to comply with the court order is subject to discipline by suspension or termination as well as civil damages caused to any person aggrieved by the failure to comply with the court order.~~

~~Permits the court's determination that the department failed to comply with a statute or rule to be admitted as evidence of bad faith by the department in any action that examines the merits of the specific case. If possible, directs that the judge reviewing the complaint not be assigned to a juvenile calendar.~~

Title affected: 8

Additional Bills

HB2339: firearms; permit holders; public places (Rep. Barton)

Permits a person holding a concealed weapons permit to carry a deadly weapon into a public establishment or public event unless the establishment or event has security personnel and electronic weapons screening devices at each entrance or security personnel electronically screen each person who enters at each entrance to determine if the person is carrying a deadly weapon and the security personnel require each person carrying a deadly weapon to leave it in possession of the security personnel.

Exceptions include community colleges, universities, educational institutions as defined in statute and the licensed premises of any public establishment or a public event with a license issued pursuant to the alcoholic beverages statute.

The exemptions to some of the provisions of the Misconduct involving weapons statute for a warden, deputy warden, community correctional officer, detention officer, special investigator or correctional officer of the state department of corrections or the department of juvenile corrections only apply while in the performance of their official duties.

This bill does not relieve or limit an operator of a public establishment or a sponsor of a public event from the requirements of the Storage of deadly weapons statute nor does it restrict or prohibit the existing rights of a private property owner, private tenant, private employer or private business entity.

Title affected: 13.

HB 2717: Firearms; state preemption; penalties (Rep. Smith)

A court shall declare invalid, any improper act, ordinance, regulation, tax or rule that violates state law concerning firearms regulated by the state and issue an injunction against the political subdivision from continuing the act or enforcing the ordinance, regulation, tax or rule. It is not a defense that a political subdivision was acting in good faith or on the advice of counsel.

Mandates a civil penalty of up to \$5,000 for any government official or political subdivision who knowingly or willfully commits a violation. Public monies may not be used to defend or reimburse a person who knowingly or willfully commits a violation. Any person who knowingly and willfully commits this violation while performing official duties is subject to termination.

Any person or organization that is adversely affected by an ordinance, rule, regulation, tax, measure, directive, order or policy that is in violation may file a civil action in any court having jurisdiction for declaratory relief (the drafters mean to say Superior Court, but do not say it) for declaratory relief and actual damages against the guilty political subdivision.

Directs the court to award reasonable attorney fees, costs and actual damages up to \$100,000.

Title Affected: 13

SB1266: misconduct involving weapons; judicial officers (Sen. Pierce)

Current law requires a person to surrender a weapon upon entering a public establishment or public event at the request of the operator or sponsor of the building or event if proper storage for the firearm is provided. This bill exempts an elected or appointed judicial officer from this portion of the Misconduct involving weapons statute if the officer carries a deadly weapon in the court facility where the judicial officer works. The elected or appointed judicial officer must comply with rules or policies of the presiding judge of the superior court while in the court facility. Excludes hearing officers and part-time judicial officer pro-tempore from the definition of *judicial officer*.

Title affected: 13

SB1284: public safety officers; omnibus (Sen. Crandell)

In pertinent part, a peace officer may request the clerk of the superior court to prevent the general public from accessing records containing the peace officers personal identifying information. The peace officer may file a petition with the superior court for each case that contains personal identifying information, petition to include: officers personal identifying information, the case name, documents titles and filing dates containing the information, current position held by the officer and officers duties, and the reason as to why the officer believes the life of the officer or another person is in danger and restricting access to the information will serve to reduce the danger. The court shall grant the position if the requirements are met and the court believes sealing the record will reduce the danger.

The Superior Court may restore public access to the documents if the court concludes prohibited access was done in error, the cause for the original petition no longer exists or access to the document is needed.

Defines *personal identifying information* to include the officer's name, residential address, and telephone number as stated in the records

Delayed effective date of January 1, 2015.

Title Affected: 12

3/17/2014

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
March 20, 2014	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Human Trafficking

FROM:

Mr. Chad Campbell, Director, Juvenile Justice Services Division, AOC

DISCUSSION:

Mr. Campbell will present a plan outlining how the courts are responding to the human and sex trafficking problem.

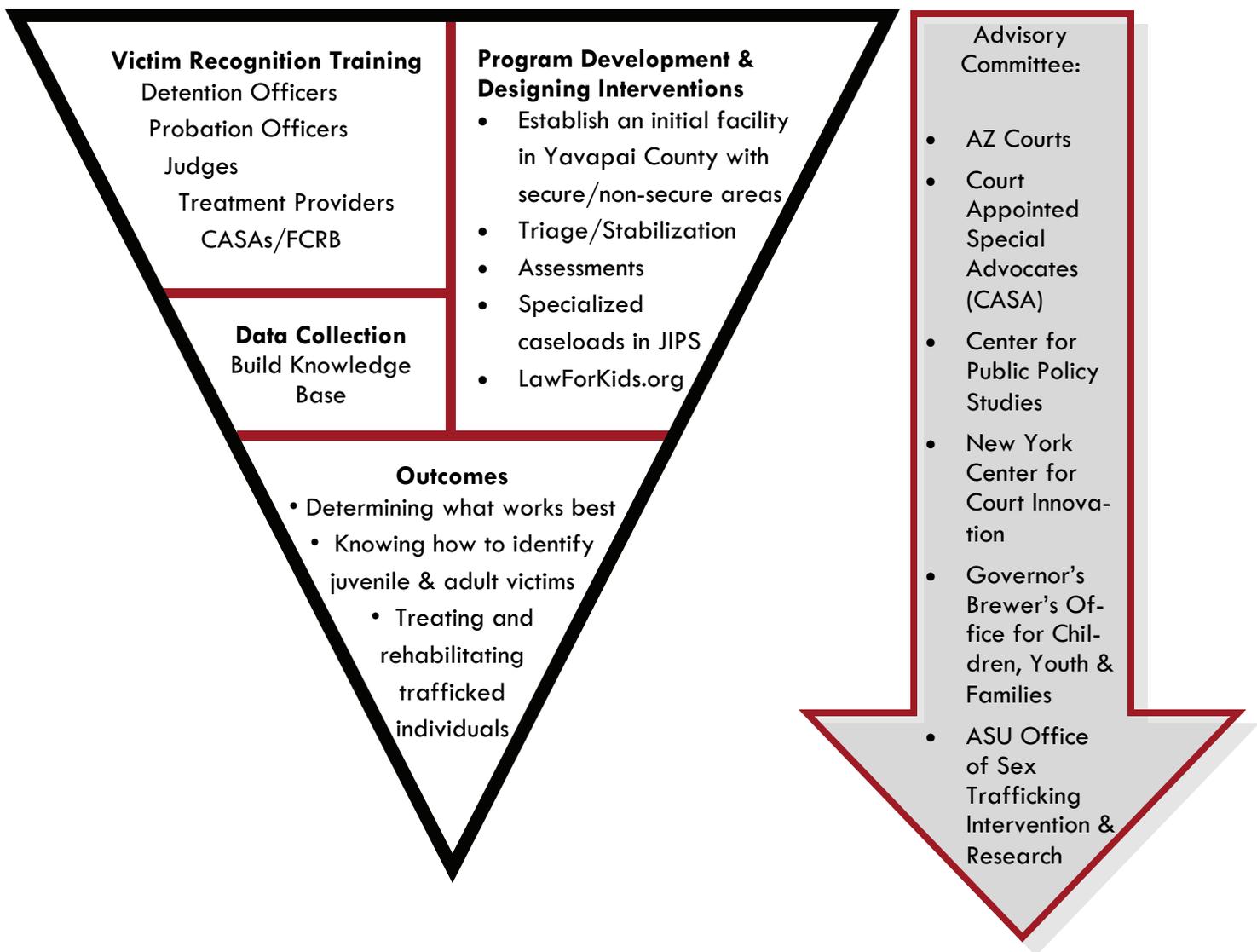
RECOMMENDED COUNCIL ACTION:

N/A

Sex & Human Trafficking

An Integrated Approach by the Arizona Courts

Sex and human trafficking is modern day slavery. Victims of trafficking may encounter courts, detention or probation without the justice community being aware that the victim is under the control of a trafficker. Gathering reliable data on the size and scope of the human and sex trafficking problem has been difficult to date. Cases often come in as drug, delinquency, vagrancy, shoplifting or other offenses that may be committed by trafficked individuals. This plan outlines how the courts are responding to the human and sex trafficking problem.



How is Human & Sex Trafficking Defined?

Human Trafficking is the act of recruiting, harboring, transporting, providing or obtaining a person for labor, services, or commercial sex acts by means of force, fraud or coercion for the purpose of exploitation, involuntary servitude, peonage, debt bondage or slavery, or any commercial sex act involving a minor.

Victim Recognition & Training

The Arizona Supreme Court and ASU are collaborating to enlist the help of treatment providers in gathering data. Over time, this will yield valuable data for the justice community to assist in providing better outcomes for adults and juveniles needing treatment and behavioral support.

Court personnel, including juvenile and adult probation officers, will receive training to assist in understanding risk factors, indentifying specific indicators and recognizing individuals who may have been trafficked or may be at risk of being trafficked in the future. Specific goals include:

- Establishing approaches that meet the needs of victims
- Holding offenders accountable for the harm they have done
- Addressing the damage to society and communities from trafficking activities

Data Collection

The Juvenile On-Line Tracking System (JOLTS) and Adult Probation Enterprise System (APETS) are the two systems that are used by probation officers. Users will be shown how to better utilize these systems to capture risk indicators and other factors to help identify interventions for current or potential victims. These systems will be modified to capture or 'flag' certain individuals who have experienced sex or human trafficking.

Program Development

The courts are working to establish an initial treatment facility in Yavapai County where victims of sex trafficking can receive appropriate interventions and services, which could include medical and/or behavioral health treatment. Other initiatives include:

- Specialized case loads
- Victim groups
- Specialty courts
- Victim-centered treatment

Additional Resources for More Information

www.azcourts.gov — Information pertaining to sex and human trafficking will be added to this site.

www.LawForKids.org — Information pertaining to sex and human trafficking will be added to this site.

www.AzGovernor.gov/HTTF — Arizona Governor Jan Brewer's Human Trafficking Task Force website.

www.HTcourts.org — Website sponsored by the Human Trafficking and the State Courts Collaborative (HTC), founded in early 2013. The HTC is being coordinated by the following partner agencies: the Center for Public Policy Studies (CPPS), the Center for Court Innovation (CCI), the National Judicial College (NJC), Legal Momentum, and the National Association for Women Judges (NAWJ).