

**AGENDA**

**ARIZONA JUDICIAL COUNCIL**

Arizona Golf Resort  
425 S. Power Road  
Mesa, AZ 85206

**October 17, 2013**

**Room: Fairway 5**

9:00 a.m. Welcome ..... Chief Justice Rebecca White Berch

Tab No.

(1) Approval of Minutes ..... Chief Justice Rebecca White Berch

(2) Approval of 2014 Meeting ..... Chief Justice Rebecca White Berch  
Dates

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

9:05 a.m. (3) 2014-2019 Strategic Agenda ..... Vice Chief Justice Scott Bales  
..... Mr. Mike Baumstark  
- Review of Key Points

9:35 a.m. (4) Steering Committee on Arizona Case ..... Justice Robert Brutinel  
Processing Standards

**Action Items:**

9:50 a.m. (5) Judicial Branch Legislative Package ..... Mr. Jerry Landau

11:00 a.m. Break

11:15 a.m. (6) Arizona Code of Judicial Administration  
- 1-402: Procurement (Amendment) ..... Mr. David Withey

..... Mr. Chad Campbell

- 6-105.01: Powers and Duties of Officers Evidence-Based Practices (Amendment)

- 6-106: Personnel Practices (Amendment)

- 6-202.01: Adult Intensive Probation Evidence-Based Practices (Amendment)

- 6-301.01: Juvenile Standard Probation Evidence-Based Practices (New)

- 6-302.01: Juvenile Intensive Probation Evidence-Based Practices (New)

- 11:30 a.m. (7) Elected Officials Salary Increase .....Mr. Jerry Landau
- 11:45 a.m. (8) Mental Health Courts ..... Mr. Marcus Reinkensmeyer
- 12:00 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:**

October 17, 2013

**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 June 24, 2013, meeting of the Arizona Judicial Council are attached for your review.

**RECOMMENDED COUNCIL ACTION:**

Approve the minutes as written.

## **ARIZONA JUDICIAL COUNCIL**

Camelback Inn  
5402 E. Lincoln Drive  
**Town Hall Meeting Room**  
Scottsdale, AZ 85253

June 24, 2013

### **DRAFT Meeting Minutes**

#### **Council Members Present:**

Chief Justice Rebecca White Berch  
David Byers  
Judge Peter Cahill  
José A. Cárdenas, J.D.  
Judge Rachel Torres Carrillo  
Whitney Cunningham, J.D.  
Judge Norman Davis  
Athia Hardt  
Mike Hellon  
Judge Joseph Howard  
Yvonne R. Hunter, J.D.  
Michael Jeanes  
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.  
Marilyn Seymann, Ph.D.  
Judge Sally Simmons  
Judge Roxanne Song Ong  
George Weisz  
Judge David Widmaier  
Judge Lawrence Winthrop

#### **Council Members Absent (excused):**

Jim Bruner

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

Mike Baumstark  
Stewart Bruner  
Eric Ciminski  
Bert Cisneros  
Karl Heckart  
Kevin Kluge  
Jerry Landau  
Jennifer Liewer

Amy Love  
Alicia Moffatt  
Marcus Reinkensmeyer  
Lorraine Smith  
Kathy Waters  
David Withey  
Amy Wood

#### **Presenters and Guests Present:**

Vice Chief Justice Scott Bales  
Anthony Coulson  
John Furlong

Judge Diane Johnsen  
Jodi Rogers

Chief Justice Rebecca White Berch, Chair, called the meeting to order at 1:00 p.m. in the Town Hall meeting room at the Camelback Inn, 5402 E. Lincoln Drive, Scottsdale, Arizona. The Chair welcomed those in attendance and recognized the newest Council members: Mr. Whitney Cunningham, State Bar President, and Dr. Marilyn Seymann, public member. The Chair also welcomed Judge Diane Johnsen, who will become the Chief Judge of the Court of Appeals, Division One on July 1, and so will replace Judge Lawrence Winthrop as the Division 1 representative.

### **Approval of Minutes**

The Chair called for any omissions or corrections to the minutes from the March 28, 2013, meeting of the Arizona Judicial Council. Judge Olson asked that he be marked as excused for the March meeting. There were no other substantive changes.

**MOTION: To approve the minutes from the March 28, 2013, meeting of the Arizona Judicial Council with Judge Olson being marked as excused.** The motion was seconded and passed. AJC 2013-10.

### **eAccess**

Mr. Marcus Reinkensmeyer, Director and Eric Ciminski, Project Director of eCourt Services, Court Services Division of the AOC, presented information on the eAccess project, a statewide public access web portal. Mr. Reinkensmeyer presented policy considerations in planning the direction for Phase 1 of eAccess to include a recommendation of a user fee schedule for online document access, per rule 123(g) and ACJA 1-604, and adoption of guiding program policies, e.g., certified copies and user authentication.

Mr. Reinkensmeyer explained that an administrative order would be needed to implement the project and noted there are issues with certified copies and user authentication and access. He asked that policy direction regarding these issues be addressed and included in the administrative order.

Discussion took place regarding sealed documents. Mr. Byers noted there is a difference between sealed documents and sensitive data that needs to be handled separately.

Mr. Whitney Cunningham noted this will be a tremendous service from a practitioner's standpoint, but raised concern that the fees are higher than the Federal PACER system. He noted this will impact small practitioners who may not be able to afford the fees. Mr. Cunningham suggested an additional tier in the \$100 range.

Judge Davis noted that his staff attorneys looked at this project and concluded a statute is needed to authorize the fees. He questioned how we would accomplish this without a legislative statute. Mr. David Withey, Chief Legal Counsel for the AOC, explained that a legislative statute would not be needed, as Rule 123 and particular provisions place us on solid ground.

Judge Carter Olson stated the proposed fees are way too high and will keep people from using the system. Mr. Byers noted that the proposed costs do not show fixed costs, and revenue needs to be coming in to pay for the system. Ms. Athia Hardt shared concern over not offering lower tiers. Judge Davis suggested doing a court analysis on what the court will save moving forward with this project. Mr. Mike Hellon asked if the schedule takes into account changing monthly needs for documents.

The Chair stated the need to approve moving forward without approving specific fees at this time. Judge Simmons noted she was not opposed to trying this and seeing how it goes. Mr. Byers suggested we could consider charging for name searches and then lower the other fees. Mr. Weisz added that a lot of good work went into this, but more tier(s) would provide a better balance.

Mr. Mike Hellon moved to proceed and authorize a fee structure. The motion was not seconded. A motion was made and seconded to approve the fee structure as proposed, subject to further discussion and additional amendments. Mr. Cunningham offered an amendment to the motion to ask that staff investigate offering a \$50-\$75 subscription level for solo and small practitioners. It was noted this would be taken into account with the existing motion. The amendment to the motion was withdrawn.

**MOTION: To approve the fee structure and direct staff to take a look at whether an additional tier below \$200 is appropriate subject to further discussion and additional amendments.** The motion was seconded and passed. AJC 2013-11 (3 opposed).

### **Commission on Technology (COT) Update**

Vice Chief Justice Bales provided a brief update on the Commission on Technology.

Mr. Karl Heckart, CIO of the AOC, talked about the project priorities for 2013. He provided COT recommended priorities for FY 2014.

Mr. Kevin Kluge, Director of the Administrative Services Division and Chief Financial Officer for the AOC, provided information on funding, updates on revenues and expenses, Legislative fund sweeps, fund balances, and JCEF allocations for FY 2014. He asked for the Council's approval of the budget requests, as presented.

**MOTION: To approve the FY 2014 JCEF budget request and probation budget, including spending on previously-approved technology projects, as recommended by the Commission on Technology, as presented.** The motion was seconded and passed. AJC 2013-12.

Vice Chief Justice Bales noted the eBench contract has been awarded to Mentis Technologies. He reported that representatives from Mentis Technologies and the AOC will be on site at the Judicial Conference to demo this dynamic new tool.

## **National Instant Criminal Background Check System (NICS) Presentation**

Mr. Anthony J. Coulson, Consultant with NTH Consulting, Inc., presented information on the current NICS system and the 7 federally prohibited possessor categories, along with recommendations. He reported on the NICS Task Force that was formed in January 2011 to improve reporting on prohibited possessors. He explained that if a person is currently a federally prohibited possessor, they still may be able to purchase a weapon in Arizona.

Mr. Karl Heckart presented information on the Mental Health Repository. He explained that the goal is to provide access to mental health adjudications and orders, which will pave a path to deal with the issue of prohibited possessors. Mr. Heckart reported the repository is targeted to “go live” in 2014.

Mr. Jerry Landau, AOC Director of Government Affairs, explained his role in drafting statutes coming out of the Task Force beginning with the mental health category. He stated the goals regarding Title 36 commitments, Title 14 guardianships, and Rule 11 are to allow (a) DPS to enter the required case information into NICS; (b) the Clerk of Court to forward to DPS the case information; (c) the Court to enter data into the Mental Health Repository; (d) law enforcement to access the Repository only for enforcing a court order, investigating a case, or returning property; (e) the Court to provide certified copies of guardianship and commitment orders to law enforcement and prosecution in order to investigate the violations; (f) the purging of information in the database if the right to possess firearms is returned, pursuant to statute; and (g) revisions of the prohibited possessor, concealed weapon, and security guard statutes to comply with the state statutes.

Mr. Byers explained that information is currently not going into NICS that needs to be, and we must act quickly to get the information into NICS. He noted that staff will be gathering data and will come back to the Council with a proposed policy change in October.

## **Budget Update**

Mr. Kevin Kluge provided a budget update that included the baseline general fund budgets; budget requests; fund sweeps; and the lack of funding for current-year health, dental, and retirement deficits.

## **Judicial Branch Legislative Update**

Mr. Jerry Landau, AOC Director of Government Affairs, and Legislative Liaison Amy Love, presented an overview on the past 151-day legislative session. Mr. Landau and Ms. Love provided updates on the status of bills presented to the Council over session.

## **Veteran’s Court Initiative**

Retired General Richard “Gregg” Maxon, AOC staff member, talked about Veteran’s treatment courts. He addressed the growing number of veteran courts in the Arizona judicial system and opportunities to expand these promising projects. General Maxon noted that, as a newly hired, part-time AOC staff member, he is available to assist with the development of veteran courts and coordination with the Department of Veterans

Affairs.

### **Case Filing Trends/Budget**

Mr. Bert Cisneros, Senior Statistical Analyst for the Court Services Division of the AOC, provided an update on case filing trends in general and limited jurisdiction courts, including trends in the following case categories: civil, mental health, juvenile dependency, justice court civil, and civil traffic. He also reported on statewide revenue trends.

### **Evidence-Based Pre-Trial Services**

Ms. Kathy Waters, Director of the Adult Probation Services Division of the AOC, presented information on evidence-based pre-trial services. She explained the mission is to promote the use of evidence-based assessments and professional judgment to determine pre-trial release conditions and, as a result, protecting public safety, reducing failures to appear, and avoiding unnecessary jails costs. Ms. Waters stated the project will advance the fair administration of justice by helping assure that individuals are not detained pre-trial merely because they cannot afford a monetary bond or appearance surety.

The Chair stated the need to obtain the authority to move forward with this project. Ms. Yvonne Hunter suggested partnering with an interested entity to add credibility to the messaging. She also suggested providing cost information by county and legislative district. Judge Simmons suggested the County Board of Supervisors as a possible partner.

### **Call to the Public, Acknowledgements of Service, and Adjournment**

The Chair made a call to the public; there was none.

The Chair noted that the terms for Council members Jose Cárdenas and Judge Lawrence Winthrop have ended. She thanked them for their service and presented a certificate of appreciation to each of them.

A motion was made to adjourn the meeting at 4:35 p.m.

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

---

<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 17, 2013	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Approval of Arizona Judicial Council Meeting Dates for the Year 2014

---

#### FROM:

Lorraine Smith, Staff

#### DISCUSSION:

The following are proposed meeting dates for the Arizona Judicial Council in 2014. The Council will be asked to approve the meeting schedule for the months of March, June, October, and December, as follows:

- Thursday, March 20, 2014      State Courts Building, Phoenix, Ste. 119
- Monday, June 23, 2014      Marriott Starr Pass Resort – in conjunction with the Judicial Conference in Tucson
- Thursday, October 23, 2014      Phoenix – location to be determined
- Thursday, December 11, 2014      State Courts Building, Phoenix, Ste. 119

#### RECOMMENDED COUNCIL ACTION:

Approve the proposed Arizona Judicial Council meeting dates for the year 2014.

ARIZONA JUDICIAL COUNCIL

Request for Council Action

---

**Date Action Requested:**

October 17, 2013

**Type of Action Requested:**

Formal Action/Request  
 Information Only  
 Other

**Subject:**

2014-2019  
Strategic Agenda

---

**FROM:**

Mike Baumstark, Deputy Director, Executive Office  
Cindy Trimble, Executive Office

**DISCUSSION:**

AOC staff will present an update on the 2014-2019 strategic agenda draft and request additional input from the Council.

**RECOMMENDED COUNCIL ACTION:** None

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

## **Justice for All Arizona: Courts Serving Communities**

[Introduction to Agenda]

### **Goal #1: Promoting Access to Justice**

Arizonans look to our courts to protect their rights and to resolve disputes fairly and efficiently. To serve these ends, Arizona's judicial branch must work to ensure that all Arizonans have effective access to justice. Access to justice initiatives not only include identifying and implementing new methods of assisting modest to low-income and unrepresented litigants but also include initiatives to enhance and evaluate ongoing planning, training, resource development, coordination among justice system partners, and technology-based delivery systems designed to promote and enhance access to justice.

#### **1. Access to Justice**

Initiatives within this strategic agenda seek to identify the legal needs of modest to low-income individuals at all levels of the judicial system, developing strategies to meet those needs, and ensuring the legal assistance delivery system works as intended.

- A. Create a "blue-ribbon commission," including members of the public, to study access to justice issues and recommend ways to promote access to justice.
- B. Identify ways to promote participation by lawyers in access to justice initiatives and recognize them for their professional and financial contributions.
- C. Identify ways to enhance and improve funding for the judicial branch to ensure the courts' ongoing ability to provide access to courts and court services for all Arizona citizens.

#### **2. Services for Unrepresented Litigants**

Many of our citizens do not have the financial means or choose not to obtain legal representation to help them navigate the judicial system and its many and varied processes. Consequently, the courts must be prepared to assist those individuals in understanding court processes and legal procedures. To that end, courts need to review and revise forms, instructions, and other informative tools in a way that is understandable to all citizens. Courts also need to explore other ways to provide assistance to those who need it to access courts.

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

- A. Provide access to more web-based forms, e-filing, and information on court procedures, court terms, and navigating the court system.
- B. Ensure court forms and other information provided to the public, whether in electronic or paper form, is provided in easy to understand terms.
- C. Using evidenced-based research, expand self-represented services and identify and experiment with other specialized services and support for litigants without lawyers.
- D. Collaborate with legal services agencies to develop strategies to expand legal and other self-help services for modest to low income litigants.
- E. Provide front-end triage and referral services to assist unrepresented litigants in identifying and obtaining the appropriate services.
- F. Explore availability of programs like JusticeCorps to assist courts in meeting the needs of self-represented litigants by recruiting and training college students to work in legal self-help centers to:
  - Assist with legal workshops,
  - Help complete legal forms, and
  - Provide information and referrals.
- G. Explore the potential use of technology-based solutions being developed or experimented with in other courts.

### **3. Services for Limited English Proficient Litigants, Defendants, and Other Court Participants**

Lacking proficiency in the English language should not be a barrier to access justice. Arizona's courts have made significant strides in improving access to court interpreters and interpreter services, and translated forms, instructions and information about courts. But more work is needed to enable those individuals with limited English proficiency the same level of access and service as their English speaking counterparts.

- A. Develop strategies for increasing availability and quality of court interpreters and interpreter services, including:
  - Expanding remote Video Interpreting Project, and
  - Identifying other opportunities to use technology in the provision of language assistance services to litigants, witnesses, and others requiring such services to access Arizona's courts.

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

- B. Develop strategies for providing alternative language court forms, instructions, and court information either at the courthouse or online.

## **4. Access to Courts and Court Information Using Technology**

Ongoing advancements in technology provide similar ongoing opportunities for the court system to enhance and increase access to courts, court proceedings and court information. Prior strategic agendas have set Arizona courts on a path to increased electronic access for the public and court community alike. This agenda continues those efforts and seeks to further advance the ability for court users to locate the information they need, file documents and receive court notifications electronically, and remotely participate in court proceedings.

- A. Increase public access to court information by expanding electronic access to court documents and data while maintaining the balance of security, privacy, and recoverability.
- B. Expand e-filing statewide.
- C. Establish web-based online payment system for drivers wanting to plead responsible and pay civil traffic tickets and minor misdemeanor charges as allowed by Supreme Court rules.
- D. Create electronic noticing system to remind parties, probationers, and other court participants of an upcoming court date.
- E. Identify other opportunities for using video/audio conference capability for video hearings and other remote electronic court appearances.

## **Goal #2: Protecting Children, Families, and Communities**

The Arizona Judiciary for many years has made it a priority to protect our state's most vulnerable populations. We have reformed our juvenile courts to provide timely hearings and due process in child neglect and dependency cases. We have reformed our probate rules and laws to ensure our elderly citizens have adequate protections against exploitation and abuse. And, every day we protect our communities by holding juvenile and adult probationers accountable and providing the treatment and rehabilitative services they need to once again become productive and law-abiding citizens within their community.

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

Traditional court processes don't always solve today's cases and problems. While continuing our commitment to protecting the young and elderly, it is important that we also focus on developing and expanding the use of problem solving courts to better serve individuals who may have specialized needs. Courts have become a place where our communities want problems solved, not just cases decided.

Problem-solving courts must follow evidence-based practices, known as EBP, to succeed. The research on and experimentation with evidence-based problem solving court programs continues all around the nation. It is important that Arizona's courts stay current with this research and, where feasible to do so, lead the way by implementing that which works. The Arizona Center for Evidence Based Practices will provide the focus needed to continue these efforts. The Center will bring together judicial leaders, researchers, and practitioners to design the best programs possible that result in juvenile and adult offender accountability, rehabilitation, crime reduction, and community protection.

## 1. **Center for Evidence-Based Practices**

In recent years, the Arizona judiciary has successfully incorporated the use of evidence-based practices in its probation supervision programs; these inroads are just the beginning steps to finding ways to ensure individuals involved with court programs receive the services that most match their needs and are founded upon research that is evidence based. Many other opportunities exist to research and implement effective population specific evidence based programs and Arizona's judiciary has the talent and the experience to establish a research center to identify and implement the most effective and promising programs.

- A. Improve and expand the use of evidence-based practices to determine pre-trial release conditions for low-risk offenders.
- B. Evaluate and, as determined appropriate, implement new or expanded evidence-based programs for Arizona's Adult and Juvenile Probation Services. Programs to evaluate include, but are not limited to:
  - Supervision of the seriously mentally ill, consistent with the most recent research and best practices,
  - Positive adult mentoring of juvenile probationers.
  - Effective practices and programs to reduce the risk of violence, especially gun violence involving probationers,
  - Effective re-entry and transition of adults and youth from secure custody/care back into their communities,
  - "Family Inclusive" probation supervision and services, and
  - Effective programs such as community supervision programs to reduce adult and juvenile recidivism.

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

- C. Encourage and support the use of evidence-based services and interventions for children and families for reunification and permanency in dependency cases.

## 2. **Problem Solving Courts**

While some courts around the state have implemented problem solving courts, there is a continuing need to create courts which are designed to serve the unique needs of certain individuals, such as homeless courts, drug courts, veterans' courts and mental health courts.

- A. Collaborate with justice partners, treatment providers, and other community services entities to expand problem solving courts including drug, homeless, veterans, mental health, and domestic violence courts.
- B. Develop evidence-based practices bench books, training, and other information for judges assigned to problem solving courts.
- C. Identify strategies, including statutory changes, allowing multi-court collaboration and use of technology to establish and expand problem solving courts across jurisdictional boundaries.

## 3. **Regulating the Practice of Law to Protect the Public**

The Supreme Court has unique responsibilities to protect the public through the regulation of the practice of law. This is accomplished by establishing and enforcing standards of competency and ethical conduct for those who are licensed to practice law in this state and by taking disciplinary action against those who violate these standards. Litigants who access the court system with the assistance of legal representation expect and deserve competency and professionalism from their lawyer. The following initiatives are intended to advance these important purposes.

- A. Review attorney admission requirements and protocols to determine if changes are needed to promote higher standards of lawyer competency and professionalism to protect the public.
- B. Review the current Supreme Court Rules establishing the State Bar to assess how well the current governance structure allows the State Bar to fulfill its mission of protecting the public and improving the profession of law.
- C. Review rule changes proposed by the ABA's "Commission on Ethics 20/20" to determine if changes to the ethical rules of conduct for Arizona attorneys are desirable.

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

- D. Continue to evaluate the State Bar examination requirements to ensure the exam is evidence-based, tests lawyer competency, protects the public, and improves the profession of law.
- E. Develop training for best practices/guidelines for parents' counsel in juvenile dependency cases.
- F. Explore ways to enhance mentoring for new attorneys.

#### 4. **Human Trafficking**

Commonly referred to as modern-day slavery, states and state courts across the country are turning increased attention to identifying the scope and impact human trafficking has on some of our most vulnerable citizens. Often, it is our youth, and more specifically, those who have been involved in the foster care system or juvenile courts who become the targets for this type of criminal behavior. Human trafficking raises a variety of issues and challenges for state courts. Now is the time to begin the process of identifying and obtaining a better understanding of the types of human trafficking crimes and victims, develop strategies so our courts can be better prepared to handle such cases, provide assistance to the individuals victimized, and protect those at particular risk from becoming victims of such crimes.

- A. Collect and analyze information on the scope and impact of human trafficking-related cases filed in Arizona courts and develop recommendations on the appropriate role of the state court system in addressing this issue.

### **Goal #3: Improving Court Processes to Better Serve the Public**

Providing access to justice for all Arizona citizens requires our courts to continually strive to maintain and improve upon existing processes and systems which ensure effective and efficient case management and use of information and resources. Judges and court staff need the appropriate resources and training to ensure cases of all types are heard in a timely manner and processed efficiently. Also, our justice system partners and the public should be able to access the courts and court information in the most efficient ways possible. Much of the improvements will come from ongoing and planned technology improvements, but we must also find ways to improve existing operational practices, processes and policies to further ensure that public resources are used effectively, efficiently, and accountably.

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

## 1. Judicial System Process Improvement

With a limited ability to increase staff resources to handle the increase in case filings and the number of people who pass through court doors and interact with the courts on a daily basis, the court system must continue to identify ways to improve judicial system processes. Key to this effort is to ensure judges, clerks, court administrators and their staff have the tools needed to ensure the timely and efficient processing of cases.

- A. Improve timeliness and efficiency of civil, criminal, juvenile, family, and probate case processing in Arizona courts by:
  - Adopting case processing time standards,
  - Revitalizing caseload management efforts statewide, including principles of differentiated case management, early and continuous court control over the pace of litigation, and compliance with rules governing case processing time requirements,
  - Providing case management system enhancements including report capabilities needed by judges and court management to process cases timely,
  - Providing judges with e-bench tools to allow them to access and adjudicate cases in a digital environment,
  - Providing judicial workload tools to assist presiding judges when making case assignments, and
  - Implementing relevant performance, customer service, and case management measures.
- B. Identify and implement ways to improve the process of jury selection and service for participants in our justice system.

## 2. Courthouse Facilities and Security

Courtrooms and courthouses are places where people go to have their disputes resolved, their rights protected, or crimes prosecuted. Emotions run high, uncertainty about outcome causes great stress, and sometimes violence occurs. Courthouses need to be a safe place for litigants, lawyers, jurors, witnesses, court employees, and judicial officers.

- A. Conduct a needs assessment for courthouse security infrastructure.
- B. Establish standards for new, remodeled, and updated courthouses, including minimum standards for courthouse and courtroom safety.
- C. Develop training standards and skill development opportunities for court security officers.

# **Strategic Agenda**

July 2014 – June 2019

**DRAFT**

September 30, 2013

## **3. Next Generation Case Management Systems**

Case management systems (CMS) are essential to conducting the business of the courts and probation. Many of these systems have been operational for more than a decade and require updating or replacement. This effort will take time and considerable investment of human and financial capital.

- A. Modernize limited jurisdiction court automation by deploying the AJACS case management system in limited jurisdiction courts.
- B. Modernize juvenile courts by completing JOLTSaz implementation.
- C. Continue to integrate APETS functionality with AJACS to increase efficiencies in adult probation case management.
- D. Enhance or replace appellate case management system.

## **4. Court Data Repositories and Justice System Data Exchanges**

Technology has enabled the court system to vastly improve court processes and provide quick access to court information. As new technologies and data exchange protocols are made available, new opportunities materialize for data sharing among and between justice system entities. The objective of these initiatives is for the criminal justice system participants to have access to accurate and complete data as required for each to perform their duties.

- A. Implement the Central Case Index (CCI) system to enable the flow of critical court data to and from federal, state and local justice system entities.
- B. Collaborate with other justice system entities to develop and implement data collection and exchange strategies that leverage technology, including:
  - Expanding e-warrants project to other justice system entities,
  - Modernizing state's warrant repository system,
  - Making mental health court orders available to appropriate criminal justice and treatment officials,
  - Making condition of release information available to appropriate criminal justice officials, and
  - Improving accuracy and completeness of the state's criminal history repository and National Instant Criminal Background Check System (NICS).

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

## **Goal #4: Enhancing Professionalism Within Arizona's Courts**

Judicial excellence, staff competency and professionalism and the resources necessary to do the work of the court are foundational to maintaining Arizona's national reputation of innovation and leadership. From the judges on the bench, to judicial and executive management leadership, to the many staff in the courts and out in the field, it is essential to continue the level of service excellence and professionalism exhibited each and every day in courts across the state.

### **1. Judicial Excellence**

A highly respected judiciary is at the core of judicial excellence. The Judicial Branch must continue the professional development of new and veteran judges to ensure they adhere to the highest standards of competence, conduct, integrity, professionalism, and accountability.

- A. Examine the current systems for ensuring new and veteran judges are well-prepared for the courtroom, including but not limited to:
  - a. Assessing new judge training and orientation,
  - b. Establishing a skill enhancement program for experienced judges based on mentoring and education services, and
  - c. Ensuring an efficient and effective judicial oversight process is in place to monitor judges' performance and to address complaints received about judges from the public.
- B. Expand education opportunities for appellate judges.
- C. Collaborate with the State Bar on educational programs of mutual interest to judges and lawyers.
- D. Conduct a judicial education needs assessment to identify new or enhanced training for judges including, but not limited to:
  - Cultural competency and implicit bias,
  - Procedural fairness,
  - Forensic science,
  - Delinquency case processing, and
  - Effective use of technology on the bench, in chambers and remotely
- E. Develop web-based training on best judicial practices for protective order procedures and criminal case proceedings involving child victims.

# **Strategic Agenda**

July 2014 – June 2019

**DRAFT**

September 30, 2013

## **2. Judicial Branch Leadership**

It is important to maintaining a high level of professionalism and competency within the Judicial Branch by ensuring our current and prospective judicial and court leadership is prepared to meet the challenges the judiciary is sure to face in the coming decade.

- A. Develop judicial leadership and leadership team programs.
- B. Prepare court leadership for next generation case management systems and technology.
- C. Promote continuity of effective judicial branch leadership through succession planning.

## **3. Workforce Development**

As with our judicial leaders, we must continue to develop judicial branch employees so they have the tools and skills they need to properly and timely process cases, maintain the court records accurately, and properly supervise juvenile and adult offenders in the community. Our workforce development plans must include training methods which are convenient and topics which are timely and relevant to the changing technology and population of citizens who encounter our courts.

- A. Enhance use of web-based video/audio conference capability to train court employees.
- B. Develop guidelines on the use of social media by court employees in the workplace.
- C. Continue efforts to recruit and retain a culturally diverse workforce at all levels within the judicial branch.

## **Goal #5: Improving Communications and Community Participation**

Awareness and understanding of the roles and responsibilities of the Judicial Branch and what courts do on a daily basis is essential to ensuring the public's trust and confidence in a judicial system that is designed to provide fair and impartial access to all Arizona citizens. With so many multimedia and social networking choices available today, there is a multitude of ways for the courts to enhance and improve the level and frequency with which the public is informed about court programs, proceedings, events, decisions, and opportunities for the public to serve as volunteers.

# Strategic Agenda

July 2014 – June 2019

**DRAFT**

September 30, 2013

## 1. Volunteerism

Arizona's courts at all levels depend a great deal on volunteers to assist in fulfilling the judiciary's many functions and responsibilities – from judicial selection and performance review, to foster care review boards and CASA volunteers, to providing and increasing community outreach. While each component of the judiciary continually seeks out a talented and diverse volunteer base, the judicial branch as a whole can do more to enhance the importance and reward of serving as a volunteer in court programs.

- A. Establish public service recruitment and recognition programs to further engage citizen participation in our judicial system.
- B. Identify ways to enlist the help of retired judges and lawyers to provide community outreach and to act as “ambassadors” for the Judiciary.
- C. Continue efforts to seek a diverse volunteer base that represents the cultural make-up of the communities they serve.

## 2. Communications with the Public and Education Communities

In a world of oftentimes instantaneous access to information, Arizona courts must position themselves to be proactive in communication with the general public, community and elected officials, stakeholders and other government entities, to ensure the information available is accurate and clear, relevant and meaningful, and timely and accessible.

- A. Engage in more proactive communication with the public explaining why courts are important to a free society, the important role courts play in every community of the state, and significant accomplishments towards achieving the goals of this agenda.
- B. Continue to promote civic education about the role of courts through our partnership with the education communities across the state and by supporting programs such as “We the People” and Mock Trial, participating in Moot Court competitions, and conducting hearings and oral arguments in local schools and other community locations.
- C. Use juror “downtime” to provide prospective jurors with information about the role of courts and public involvement in the justice system.
- D. Update “Speaker’s Toolkit” for judges and other court leadership to use when making presentations.

# **Strategic Agenda**

July 2014 – June 2019

**DRAFT**

September 30, 2013

E. Increase use of social media to improve communications with the public.

### **3. Communications within the Branch and with Other Branches of State and Local Government**

The Judicial Branch is comprised of many parts in many places throughout the state, and while increased integration and technology have improved communication throughout the branch, Arizona courts should strive to further enhance communications across programs, jurisdictions, and branches of government.

- A. Reinststitute the “View from the Bench” program for Superior Court and limited jurisdiction courts and invite local and state policy makers to participate.
- B. Publish an electronic newsletter and identify other ways to improve communication within the branch regarding projects and other important events.
- C. Identify ways to improve communication among and between the branches at the county and city level of government.

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

---

<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 17, 2013	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Arizona Case Processing Standards

---

#### **FROM:**

Justice Robert M. Brutinel, Chair of the Arizona Case Processing Standards Steering Committee

#### **DISCUSSION:**

Model case processing time standards provide a reasonable set of expectations for courts, lawyers and the public. The Arizona Supreme Court's Case Processing Standards Steering Committee has gathered input and feedback from all key justice partners regarding the establishment of case processing standards for Arizona courts. The Committee has completed a review of the national time standards, Arizona rules and statutes. An interim report and executive summary that outlines the recommendations for case processing standards will be the focus of the discussion.

#### **RECOMMENDED COUNCIL ACTION:**

X Motion: to recommend that the term of the Committee be extended and that the provisional set of standards as well as the measurements and excludable time outlined in the Committee's interim report be used to develop case management reports.



## EXECUTIVE SUMMARY

Excerpt from the Interim Report and Recommendations of the Arizona Case Processing Standards Steering Committee

### INTRODUCTION

The National Center for State Courts (NCSC) published the *Model Time Standards for State Trial Courts* in 2011. These standards for the disposition of cases in the state courts were developed and adopted by the Conference of State Court Administrators, the Conference of Chief Justices, the American Bar Association House of Delegates, and the National Association for Court Managers. The model standards were designed as a tool “for use by the judicial branch of each state as a basis for establishing its own time standards . . . in communications and consultation with all key justice partners. State time standards should take into account state procedures, statutory time periods, jurisdictional conditions, demographic and geographic factors, and resources.”<sup>1</sup>

Recognizing that the *Model Time Standards* fit well within the vision of its *Justice 20/20* strategic agenda, the Arizona Judicial Branch embraced their concepts and set out to adapt them for Arizona. The Arizona case processing standards will set forth achievable goals for the courts, establish an expected timeframe within which lawyers should conduct their fact gathering, preparation and advocacy activities, and define for members of the public what can be expected of their courts.<sup>2</sup> The establishment of case processing time standards in Arizona will help the courts move toward timely justice. Implementation of time standards emphasizes the need for judicial officers and court personnel to renew focus on the movement of cases from the time of filing through disposition. The supervision of cases and maintenance of a current docket are essential if the courts want to effectively manage their cases.

On October 17, 2012, the Steering Committee on Arizona Case Processing Standards was established by Administrative Order 2012-80. The committee was charged with reviewing the national model time standards for processing all major case types in the limited and general jurisdiction courts and developing case processing standards for Arizona. The committee focused its discussions on the specific attributes of Arizona’s courts, statutes, and court rules when developing recommendations for case processing standards.

One challenge for implementing time standards in Arizona is the diverse nature of the jurisdictions the courts serve. Arizona has large urban, mid-sized, and small rural general jurisdiction (superior) and limited jurisdiction (justice and municipal) courts. Typically, the justice and municipal courts have less complex cases but a higher volume. Fewer, but more complex cases are filed in the superior courts.

The courts have no control over the number of cases filed. A larger caseload for each judge may result in cases being scheduled farther into the future, with time-to-disposition inevitably increasing. The large urban and mid-sized courts experience a higher volume of filings that require more resources. To handle the increased workload, these courts have created specialty courts (e.g., drug court) or have dedicated personnel for processing certain types of cases. On the other side of the equation, the smaller

---

<sup>1</sup> *Model Time Standards for State Trial Courts*, p. 2, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, adopted August 2011. <http://ncsc.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1836>

<sup>2</sup> *Id.*

rural courts may have a lower volume of cases, but they also have fewer resources and face the challenge of handling a wide variety of cases without specialty courts or dedicated personnel.

Another challenge in meeting time standards is the way cases are distributed among judicial officers. Arizona's courts may use a combination of judges, judges *pro tempore*, commissioners, magistrates, and hearing officers. Judges generally retain the more complex cases that result in a longer time-to-disposition. Judges managing complex cases may find it more difficult to meet time standards, while other judicial officers handle the less-complicated, quickly resolved cases. Standards may work well at a court-wide level but not when applied to individual judges.

The final challenge the committee faced in the development of case processing standards was that case management systems do not have fully developed reports well-suited to the measures. Unable to rely on statistical data, the committee instead studied the rules, statutes, and business processes of the courts to try to develop realistic case processing standards for Arizona courts. The committee recognizes that courts will be unable to measure their progress and that a final determination of whether the proposed standards are realistic cannot be made until accurate time-to-disposition reports are developed.

Given the resources, caseloads and the diverse nature of courts statewide, the committee has developed standards it believes are realistic and reasonable, rather than idealistic case processing standards that are so aspirational as to be unattainable.

## **GUIDING PRINCIPLES**

As the dialogue about case processing standards evolved, the following principles emerged:

- Case processing standards should complement, rather than supplant, due process considerations. Waiting periods are deliberately built into some court procedures and processes in order to preserve parties' rights (e.g., to provide adequate notice, to conduct discovery, or to receive service of process). Case processing standards should not override such protections but should guide the courts in the fair and timely disposition of cases.
- The case processing standards should encourage courts to move cases forward expeditiously, reflecting the actual timeframes required for certain events statutorily mandated, existing resource limitations, and limitations contained in court rules for due process reasons. The committee is striving for incremental improvements to allow for changes in the legal culture and careful refinement of processes.
- Case processing standards are separate and distinct from statutory time limits imposed by the Arizona statutes, rules, or case law. Statutory time limits create rights for individual litigants. For example, the "speedy trial rule" in criminal cases establishes the right to a trial within a specified time, unless the time is waived.
- Case processing standards should enable courts to report the total time it takes cases to move from filing to disposition, as well as the amount of time the court has active control of the cases. Periods of time during which the court cannot move the case forward will be excluded in calculating the court's compliance with time standards.

- The case processing standards are being developed as aspirational goals and as a management tool for the courts to determine how efficiently cases are being processed through the system as a whole and to identify where improvements can be made. The committee strongly emphasizes that it would be misleading and unfair to evaluate the performance of any individual judge on the basis of these case processing standards. This is true for many reasons, including the fact that time-to-disposition reports used for case processing standards do not reflect whether a case has been assigned serially to multiple judges or how long a case has been assigned to the current judge. Likewise, in considering individual cases, the standards do not account for the complexity of the case assigned, external factors such as the availability of the parties, or other matters beyond the control of the court.
- Case processing standards definitions and measures may differ from other mechanisms in place for statistical measures. In particular, these standards have no bearing whatsoever on the counting and calculation of judicial productivity credits that are defined by statute.
- Within each case type, a case processing standard of less than 100 percent is used. The committee recognizes that one to four percent of the cases will require more time to resolve (e.g., capital murder cases or highly complex multi-party civil cases requiring a trial). However, these cases should be monitored closely to ensure they proceed to disposition without unnecessary delay.
- Achievement of time standards requires cooperation, communication, and commitment from multiple parties and agencies involved in the justice process. The courts should seek an ongoing dialogue with stakeholders to achieve a smooth implementation of case processing standards and should strongly encourage stakeholders to examine and refine current practices to achieve timely case resolution.

## SUMMARY OF PROVISIONAL STANDARDS:

<u>CASE TYPE</u>	<u>ARIZONA STANDARD</u>
Superior Court Civil Cases	60% within 180 days 90% within 365 days 96% within 540 days
Justice Court Civil Cases	75% within 180 days 90% within 270 days 98% within 365 days
Justice Court Eviction Actions	98% within 10 days
Small Claims	75% within 90 days 90% within 120 days 98% within 180 days
Civil Local Ordinances	75% within 60 days 90% within 90 days 98% within 180 days
Civil Traffic	75% within 30 days 90% within 60 days 98% within 90 days
Protection Orders	<u>Ex Parte Hearing:</u> 99% within 24 hours. <u>Contested Hearing:</u> 90% within 10 days 98% within 30 days
Criminal Misdemeanor	75% within 60 days 90% within 90 days 98% within 180 days
Criminal DUI Misdemeanor	85% within 120 days 93% within 180 days
Criminal Felony	65% within 90 days 85% within 180 days 96% within 365 days
Superior Court Criminal Post Conviction Relief	94% within 180 days
Family Law Dissolution	75% within 180 days 90% within 270 days 98% within 365 days
Family Law Post-Judgment Motions	50% within 180 days 90% within 270 days 98% within 365 days

<b>CASE TYPE</b>	<b>ARIZONA STANDARD</b>
Probate Administration of Estates	50% within 360 days 75% within 540 days 95% within 720 days
Probate Guardianship/ Conservatorship	80% within 90 days 98% within 365 days
Probate Mental Health Cases	98% within 15 days
Juvenile Delinquency and Status Offense	<u>Youth in detention:</u> 75% within 30 days 90% within 45 days 98% within 75 days <u>Youth not in detention:</u> 75% within 60 days 90% within 90 days 98% within 135 days
Juvenile Neglect and Abuse	<u>Adjudication Hearing:</u> 98% within 90 days of service <u>Permanency Hearing:</u> 98% of children under 3 years of age within 180 days of removal. 98% of all other cases within 360 days of removal
Juvenile Termination of Parental Rights	90% within 120 days 98% within 180 days

## DEFINITIONS:

- **MEASUREMENT** – The number of days that will be counted during the pendency of a case to determine if the case processing standard has been met. For most case types, this is based on the time between the date on which the case is filed through the entry of the final dispositional order (e.g., a dismissal, judgment, and sentence).
- **EXCLUDED TIME** – Certain occurrences may happen that require the suspension of time and exclusion of days from the measurement. These occurrences disrupt the court’s control of the case and its ability to move the case forward. Occurrences that result in excluded time are:
  - Stay for special action/appeal
  - Bankruptcy stay
  - Participation in court-ordered diversion programs
  - Warrants
  - Rule 11 mental competency proceedings
  - Stay for Servicemembers Civil Relief Act
  - Stay for conciliation (petition for 60-day stay must be filed)
  - Pending juvenile cases in family law cases
- **INTERMEDIATE TIME STANDARDS** – Standards for completing critical decision points during the life of a case but not the final disposition (e.g., temporary order for child support in a dissolution case).
- **THREE-TIER MODEL** – The case processing standards are based on a three-tier model for a majority of case types. The first tier consists of cases that are disposed of with little court involvement and typically represents a large proportion of the cases. The second tier consists of cases that are disposed of after resolution of one or two issues. The first two tiers are intended as points of measurement for effective management of pending cases. The third tier is the key to establishing a backlog measure and setting the expectation of the maximum time within which a case should be resolved. This typically includes the small percentage of cases that proceed to trial for a final resolution.

## **FUTURE CONSIDERATIONS:**

The committee recommends that the Administrative Office of the Courts (AOC) develop data collection procedures and statistical reports for the automated collection of data in the case management systems. In order for the courts to meet the case processing standards and make improvements where necessary, the following reports will need to be generated from the case management systems:

- Time-to-Disposition Report – CourTools Measure 3 is the number of days that will be counted during the pendency of a case to determine if the case processing standard has been met.
- Age-of-Active Pending Case Report – CourTools Measure 4 is a measure of the age of cases currently pending and awaiting disposition.

The courts do not currently have the necessary tools to retrieve all the data that will be necessary to monitor compliance with the case processing standards. The development of an accurate time-to-disposition report will enable Arizona courts to define the concept of backlog and to identify a case “in backlog” as any case older than the case processing standard. Once these cases are identified, the court can take the appropriate steps to move the case to disposition. The courts can also use these standards as a tool to manage and monitor active pending cases.

The first step in the development of statistical reports will be the establishment of case processing or business requirements for all the case types. These business requirements will be used by the courts to create the time-to-disposition and age-of-active pending case reports for all the case management systems. This will ensure that all the courts are including the same information and measuring the cases the same way. Once the business requirements are finalized, the requirements will be provided to all non-ACAP courts and the AOC can establish a time frame for implementation of reports for those courts which are supported by the AOC.

Additional steps will include the development, programming, and testing of reports and then the pilot phase of implementation. When the preliminary case management reports are released, the courts will need to validate that the data on the report is correct. If the report does not reflect the correct information the reports may need to be modified or the courts may need to enter additional codes or clean-up the data in the case management systems for the reports to display the correct information. Training on the correct entry of data into the case management system will be provided if deemed necessary.

## **CONCLUSION:**

The committee recommends the following steps in the development of case processing standards for Arizona: **First**, the committee is requesting an extension of its term. **Second**, the provisional set of case processing standards, measurements and excluded time included in this report will be used to develop case management reports. **Third**, the courts will validate that the reports are accurate and enter additional codes or missing data in the case management systems so the reports display the correct information. **Fourth**, the provisional set of standards will be reviewed, along with the actual data from the case management systems, so the committee can determine whether the standards are realistic. **Fifth**, based on this review, the committee will propose realistic and reasonable case processing

standards, rather than aspirational standards. *Finally*, the revised case processing standards will be presented to the Arizona Judicial Council for adoption.

The committee recommends that the provisional set of standards be valid for one year. Following the one year the committee will adopt in whole or in part these standards or extend the provisional standards in whole or in part. The committee will be provided updates on the implementation of case management reports, integrity of the data and the status of the Consolidated Case Index (CCI) throughout the year. The schedule for updates to the committee will be determined by the chair.

The committee further recommends that the preliminary case management reports remain inaccessible to the public until the data has been validated and the standards have been revisited.

The *Model Time Standards for State Trial Courts* states:

Courts that adopt model time standards, measure compliance, take steps to promote compliance, and take steps to effectively govern, organize administer and manage their court system are well positioned to request and justify the resources needed to enable the courts to hear and dispose of cases in a timely manner.<sup>3</sup>

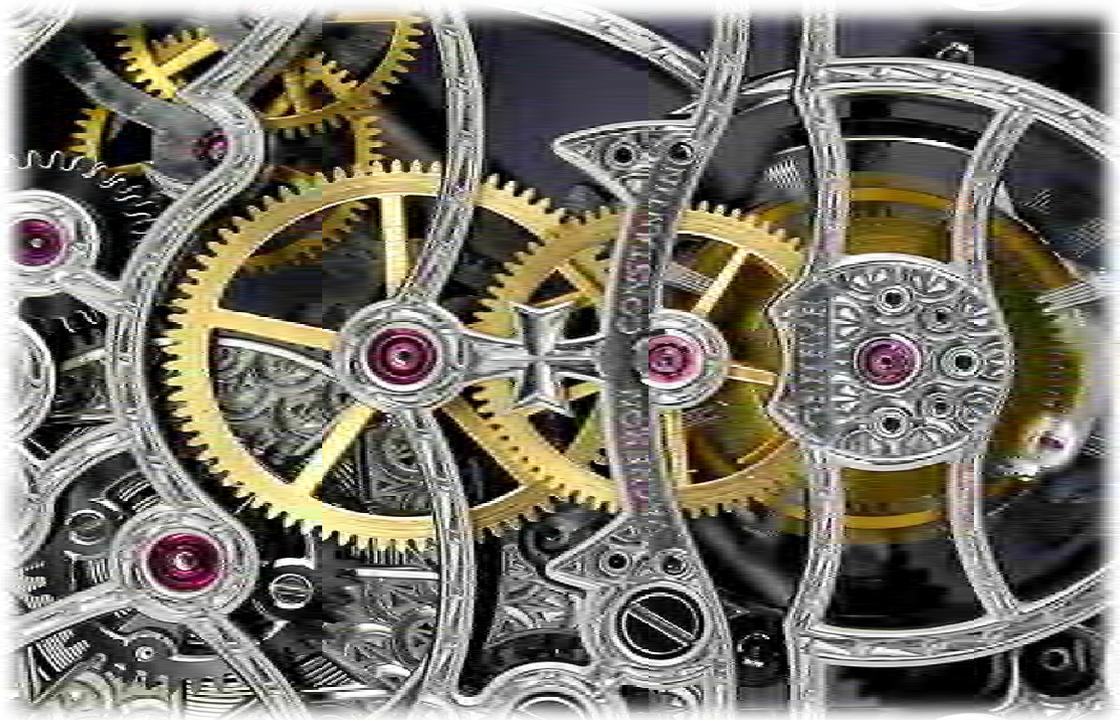
The adoption of case processing standards is the first step toward the more efficient handling of cases by the courts. The implementation of standards in Arizona should result in the more effective use of time by judges, clerks, lawyers, public defenders, prosecutors, jail personnel and all other administrative personnel involved in the judicial system. The challenge for the Arizona judicial system is to respond constructively to them, in order to reduce costs and delay for the public. With that in mind, the standards were drafted so the system could be implemented without additional or non-judicial resources. The effective management of cases can reduce the pressure for more resources. For those courts that are processing cases in a timely and efficient manner but have reached a saturation point where additional resources are needed, the standards may be used as a justification for requesting additional state and local funding.

See the Final Report for more details on the development of case processing standards for Arizona.

---

<sup>3</sup> *Model Time Standards for State Trial Courts*, p. 51, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, adopted August 2011.

*INTERIM REPORT AND  
RECOMMENDATIONS OF THE  
ARIZONA CASE PROCESSING  
STANDARDS STEERING COMMITTEE*



*Submitted to the  
Arizona Judicial Council  
October 2013*



## TABLE OF CONTENTS

ACKNOWLEDGMENTS .....	3
INTRODUCTION .....	4
FORMATION AND COMPOSITION OF THE COMMITTEE .....	5
WORK OF THE COMMITTEE.....	5
GUIDING PRINCIPLES .....	6
SUMMARY OF PROVISIONAL STANDARDS .....	8
DEFINITIONS.....	10
FINDINGS AND RECOMMENDATION.....	11
1. CIVIL CASE CATEGORY .....	15
2. CRIMINAL CASE CATEGORY.....	21
3. FAMILY LAW CASE CATEGORY .....	25
4. PROBATE CASE CATEGORY .....	30
5. JUVENILE CASE CATEGORY.....	33
FUTURE CONSIDERATIONS .....	36
CONCLUSION.....	36
APPENDIX A Arizona Case Processing Standards Committee Administrative Order .....	38

## **ACKNOWLEDGMENTS**

I want to extend my sincere appreciation to the Arizona Case Processing Standards Steering Committee members for their considerable efforts in successfully addressing this challenge in a short amount of time. As a result of everyone's dedication, flexibility, and collective input, I am pleased to present this interim report and recommendations for case processing standards in Arizona.

Additionally, I want to extend my appreciation to Judge Ron Reinstein, Judge Mark Armstrong, Donna Hallam, Paul Julien, Kathy Sekardi, Kay Radwanski, Nancy Swetnam, Caroline Lutt-Owens, Chad Campbell, David Redpath, Nina Preston, Mark Meltzer, Jerry Landau and Cindy Cook, all of whom assisted in the preparation of the preliminary analysis of the rules and statutes.

We also want to remember the Honorable Sherry Geisler, Presiding Justice of the Peace, Apache County who died December 7, 2012. She was instrumental in the development of case processing standards in the Justice Civil Case Types. Judge Geisler was known for her hard work and dedication to the judiciary and was viewed as a mentor and leader in the legal community.

Justice Robert Brutinel  
Committee Chair

## INTRODUCTION

The National Center for State Courts (NCSC) published the *Model Time Standards for State Trial Courts* in 2011. These standards for the disposition of cases in the state courts were developed and adopted by the Conference of State Court Administrators, the Conference of Chief Justices, the American Bar Association House of Delegates, and the National Association for Court Managers. The model standards were designed as a tool “for use by the judicial branch of each state as a basis for establishing its own time standards . . . in communications and consultation with all key justice partners. State time standards should take into account state procedures, statutory time periods, jurisdictional conditions, demographic and geographic factors, and resources.”<sup>1</sup>

Recognizing that the *Model Time Standards* fit well within the vision of its *Justice 20/20* strategic agenda, the Arizona Judicial Branch embraced their concepts and set out to adapt them for Arizona. The Arizona case processing standards will set forth achievable goals for the courts, establish an expected timeframe within which lawyers should conduct their fact gathering, preparation and advocacy activities, and define for members of the public what can be expected of their courts.<sup>2</sup> The establishment of case processing time standards in Arizona will help the courts move toward timely justice. Implementation of time standards emphasizes the need for judicial officers and court personnel to renew focus on the movement of cases from the time of filing through disposition. The supervision of cases and maintenance of a current docket are essential if the courts want to effectively manage their cases.

On October 17, 2012, the Steering Committee on Arizona Case Processing Standards was established by Administrative Order 2012-80. The committee was charged with reviewing the national model time standards for processing all major case types in the limited and general jurisdiction courts and developing case processing standards for Arizona. The committee focused its discussions on the specific attributes of Arizona’s courts, statutes, and court rules when developing recommendations for case processing standards.

One challenge for implementing time standards in Arizona is the diverse nature of the jurisdictions the courts serve. Arizona has large urban, mid-sized, and small rural general jurisdiction (superior) and limited jurisdiction (justice and municipal) courts. Typically, the justice and municipal courts have less complex cases but a higher volume. Fewer, but more complex cases are filed in the superior courts.

The courts have no control over the number of cases filed. A larger caseload for each judge may result in cases being scheduled farther into the future, with time-to-disposition inevitably increasing. The large urban and mid-sized courts experience a higher volume of filings that require more resources. To handle the increased workload, these courts have created specialty courts (e.g., drug court) or have dedicated personnel for processing certain types of cases. On the other side of the equation, the smaller rural courts may have a lower volume of cases, but they also have fewer resources and face the challenge of handling a wide variety of cases without specialty courts or dedicated personnel.

---

<sup>1</sup> *Model Time Standards for State Trial Courts*, p. 2, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, adopted August 2011. <http://ncsc.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1836>

<sup>2</sup> *Id.*

Another challenge in meeting time standards is the way cases are distributed among judicial officers. Arizona's courts may use a combination of judges, judges *pro tempore*, commissioners, magistrates, and hearing officers. Judges generally retain the more complex cases that result in a longer time-to-disposition. Judges managing complex cases may find it more difficult to meet time standards, while other judicial officers handle the less-complicated, quickly resolved cases. Standards may work well at a court-wide level but not when applied to individual judges.

The final challenge the committee faced in the development of case processing standards was that case management systems do not have fully developed reports well-suited to the measures. Unable to rely on statistical data, the committee instead studied the rules, statutes, and business processes of the courts to try to develop realistic case processing standards for Arizona courts. The committee recognizes that courts will be unable to measure their progress and that a final determination of whether the proposed standards are realistic cannot be made until accurate time-to-disposition reports are developed.

Given the resources, caseloads and the diverse nature of courts statewide, the committee has developed standards it believes are realistic and reasonable, rather than idealistic case processing standards that are so aspirational as to be unattainable.

## **FORMATION AND COMPOSITION OF THE COMMITTEE**

Chief Justice Rebecca White Berch established the Arizona Case Processing Standards Steering Committee on October 17, 2012. The committee is comprised of leaders from the superior, municipal, and justice judiciary, a court clerk, court administrators, attorneys, and a public member.

## **WORK OF THE COMMITTEE**

The committee was charged with reviewing the national model time standards for processing all major case types in limited and general jurisdiction courts and developing case processing standards for Arizona. The committee took into account statutory requirements, court rules, court jurisdiction, and any other relevant factors when recommending state case processing standards.

To address the 19 case types the committee divided into seven workgroups based on their expertise in each case type. Each workgroup was assigned a chair, and each workgroup held meetings or exchanged e-mails on the case processing standard that was appropriate for Arizona. The workgroups focused on the rules and statutes, business practices, and statistical data that was available for some of the courts. Many of the members researched and gathered statistical data or information from their courts so a determination could be made as to how quickly cases are currently being processed. The chair of the workgroup or a member of the committee presented the preliminary recommendations to the following standing committees: Committee on Superior Court, Limited Jurisdiction Committee, Committee on Juvenile Courts, Commission on Victims in the Courts, and Committee on the Impact of Domestic Violence in the Courts.

In order to gather input and feedback from all key justice partners regarding the establishment of case processing standards for Arizona courts, the preliminary recommendations were posted on a website. A link to the website was sent to Clerks of Court, court administrators, judges, the State Bar of Arizona, and other members of the legal community with an invitation to post comments regarding the proposed case processing standards.

The workgroups reviewed the comments posted on the website and made appropriate revisions to the proposed case processing standards prior to final approval by the whole steering committee. A second draft of the proposed case processing standards was presented to the following standing committees for recommendation to the Arizona Judicial Council: Committee on Superior Court, Limited Jurisdiction Committee, Committee on Juvenile Courts, Commission on Victims in the Courts, and Committee on the Impact of Domestic Violence in the Courts. Feedback from the standing committees was incorporated into the final draft of the provisional case processing standards.

## **GUIDING PRINCIPLES**

As the dialogue about case processing standards evolved, the following principles emerged:

- Case processing standards should complement, rather than supplant, due process considerations. Waiting periods are deliberately built into some court procedures and processes in order to preserve parties' rights (e.g., to provide adequate notice, to conduct discovery, or to receive service of process). Case processing standards should not override such protections but should guide the courts in the fair and timely disposition of cases.
- The case processing standards should encourage courts to move cases forward expeditiously, reflecting the actual timeframes required for certain events statutorily mandated, existing resource limitations, and limitations contained in court rules for due process reasons. The committee is striving for incremental improvements to allow for changes in the legal culture and careful refinement of processes.
- Case processing standards are separate and distinct from statutory time limits imposed by the Arizona statutes, rules, or case law. Statutory time limits create rights for individual litigants. For example, the "speedy trial rule" in criminal cases establishes the right to a trial within a specified time, unless the time is waived.
- Case processing standards should enable courts to report the total time it takes cases to move from filing to disposition, as well as the amount of time the court has active control of the cases. Periods of time during which the court cannot move the case forward will be excluded in calculating the court's compliance with time standards.
- The case processing standards are being developed as aspirational goals and as a management tool for the courts to determine how efficiently cases are being processed through the system as a whole and to identify where improvements can be made. The committee strongly emphasizes that it would be misleading and unfair to evaluate the performance of any individual judge on the basis of these case processing standards. This is true for many reasons, including the fact that time-to-disposition reports used for case processing standards do not reflect whether a case has been assigned serially to multiple judges or how long a case has been assigned to the current judge. Likewise, in considering individual cases, the standards do not account for the complexity of the case

assigned, external factors such as the availability of the parties, or other matters beyond the control of the court.

- Case processing standards definitions and measures may differ from other mechanisms in place for statistical measures. In particular, these standards have no bearing whatsoever on the counting and calculation of judicial productivity credits that are defined by statute.
- Within each case type, a case processing standard of less than 100 percent is used. The committee recognizes that one to four percent of the cases will require more time to resolve (e.g., capital murder cases or highly complex multi-party civil cases requiring a trial). However, these cases should be monitored closely to ensure they proceed to disposition without unnecessary delay.
- Achievement of time standards requires cooperation, communication, and commitment from multiple parties and agencies involved in the justice process. The courts should seek an on-going dialogue with stakeholders to achieve a smooth implementation of case processing standards and should strongly encourage stakeholders to examine and refine current practices to achieve timely case resolution.

## SUMMARY OF PROVISIONAL STANDARDS

<u>CASE TYPE</u>	<u>ARIZONA STANDARD</u>
Superior Court Civil Cases	60% within 180 days 90% within 365 days 96% within 540 days
Justice Court Civil Cases	75% within 180 days 90% within 270 days 98% within 365 days
Justice Court Eviction Actions	98% within 10 days
Small Claims	75% within 90 days 90% within 120 days 98% within 180 days
Civil Local Ordinances	75% within 60 days 90% within 90 days 98% within 180 days
Civil Traffic	75% within 30 days 90% within 60 days 98% within 90 days
Protection Orders	<u>Ex Parte Hearing:</u> 99% within 24 hours. <u>Contested Hearing:</u> 90% within 10 days 98% within 30 days
Criminal Misdemeanor	75% within 60 days 90% within 90 days 98% within 180 days
Criminal DUI Misdemeanor	85% within 120 days 93% within 180 days
Criminal Felony	65% within 90 days 85% within 180 days 96% within 365 days
Superior Court Criminal Post Conviction Relief	94% within 180 days
Family Law Dissolution	75% within 180 days 90% within 270 days 98% within 365 days
Family Law Post-Judgment Motions	50% within 180 days 90% within 270 days 98% within 365 days

<b>CASE TYPE</b>	<b>ARIZONA STANDARD</b>
Probate Administration of Estates	50% within 360 days 75% within 540 days 95% within 720 days
Probate Guardianship/ Conservatorship	80% within 90 days 98% within 365 days
Probate Mental Health Cases	98% within 15 days
Juvenile Delinquency and Status Offense	<u>Youth in detention:</u> 75% within 30 days 90% within 45 days 98% within 75 days <u>Youth not in detention:</u> 75% within 60 days 90% within 90 days 98% within 135 days
Juvenile Neglect and Abuse	<u>Adjudication Hearing:</u> 98% within 90 days of service <u>Permanency Hearing:</u> 98% of children under 3 years of age within 180 days of removal. 98% of all other cases within 360 days of removal
Juvenile Termination of Parental Rights	90% within 120 days 98% within 180 days

## DEFINITIONS:

- **MEASUREMENT** – The number of days that will be counted during the pendency of a case to determine if the case processing standard has been met. For most case types, this is based on the time between the date on which the case is filed through the entry of the final dispositional order (e.g., a dismissal, judgment, and sentence).
  
- **EXCLUDED TIME** – Certain occurrences may happen that require the suspension of time and exclusion of days from the measurement. These occurrences disrupt the court’s control of the case and its ability to move the case forward. Occurrences that result in excluded time are:
  - ✓ Stay for special action/appeal
  - ✓ Bankruptcy stay
  - ✓ Participation in court-ordered diversion programs
  - ✓ Warrants
  - ✓ Rule 11 mental competency proceedings
  - ✓ Stay for Servicemembers Civil Relief Act
  - ✓ Stay for conciliation (petition for 60-day stay must be filed)
  - ✓ Pending juvenile cases in family law cases
  
- **INTERMEDIATE TIME STANDARDS** – Standards for completing critical decision points during the life of a case but not the final disposition (e.g., temporary order for child support in a dissolution case).
  
- **THREE-TIER MODEL** – The case processing standards are based on a three-tier model for a majority of case types. The first tier consists of cases that are disposed of with little court involvement and typically represents a large proportion of the cases. The second tier consists of cases that are disposed of after resolution of one or two issues. The first two tiers are intended as points of measurement for effective management of pending cases. The third tier is the key to establishing a backlog measure and setting the expectation of the maximum time within which a case should be resolved. This typically includes the small percentage of cases that proceed to trial for a final resolution.

## **FINDINGS AND RECOMMENDATIONS:**

- The committee found this collaborative project to be beneficial in understanding the different processes and procedures at each court level that will affect the timely disposition of cases. Although the courts have a similar purpose, each has uniquely different operations and procedures relating to technology and case processing. Despite the independent roles of each court, an integrated global approach to addressing the implementation of case processing standards may prove to be valuable and should be continued as these recommendations are implemented and future improvement opportunities are identified.
- The NCSC developed model time standards for 15 case types in the general and limited jurisdiction courts. The case types were divided into five case categories: civil, criminal, family law, juvenile, and probate. The committee found that Arizona should develop case processing standards for 19 case types. The additional case types include justice court civil cases with a \$10,000 or lower dollar amount; justice court eviction actions; civil local ordinance cases, and driving under the influence (DUI) misdemeanor cases.
- The committee agreed that the five case categories are appropriate for Arizona, but in analyzing the cases, Arizona must also consider the jurisdictions in which cases are filed. In Arizona, a case can be filed in justice, municipal or superior court, depending on case type. The various jurisdictional levels shaped the case processing standards that were developed.
- The committee recommends that the measurement for time standards in civil and family law cases start at the time of filing, consistent with the national standards and not at the time of service on the defendant/respondent. The committee ultimately agreed that the time of filing is the most easily identifiable starting point. In Arizona, a case will be dismissed if a petition is not served within 120 days. This time was included in the count when determining the appropriate standards for Arizona.
  - Writing accurate reports for time-to-disposition and age-of-active pending cases will be difficult if the measurement starts on the date of service instead of the date of filing. The date of service is not an easily identifiable field in the case management systems. The data would have to be pulled when service returns are entered as case events.
  - Starting the measurement with date of service would result in the added complexity of cases with multiple defendants and service by publication. The case management reports currently available are written so that measurement begins at the date of filing. The date of filing is an easily identifiable field that is consistently entered by the courts.
  - It is important for the courts to control cases at the earliest stages, including the service of process step. Courts should monitor their cases to ensure that dissolution cases do not fall prey to party-caused delay in the early stages, especially when children are involved.
  - Trial courts should monitor cases to determine whether responsive pleadings have been filed within a reasonable amount of time after case initiation. In family law cases, the failure of a properly served party to respond to the petition is an indication that there are no contested issues and a default judgment should be entered.

- The national model suggests that to avoid cases lying fallow for months or even years in civil and family law cases an intermediate standard be set by each court for the filing of a responsive pleading by the defendant/respondent or the request for default judgment by the plaintiff/petitioner. This encourages courts to monitor the performance of this critical procedural step and to take action as needed. A court can take action by setting an early hearing for self-represented litigants who have not filed a return of service or sending the plaintiff/petitioner a notice that the case will be dismissed for failure to prosecute. The exercise of early court control in this fashion has been found to have a statistically significant correlation with shorter times to disposition in civil cases.
- The committee recommends that for criminal felony cases, the measurement for case processing standards start when the first charging document is filed in superior court, rather than the arraignment date.
- In some jurisdictions, a felony case may be initiated in the justice court and then transferred to the superior court. The superior court does not have control of the case until the case has been transferred and a charging document has been filed. The justice courts have different case management systems than the superior courts, and it would be difficult to run reports and track a case between the different levels of court.
  - The national model importantly notes that the time standard for felony cases is not a “speedy trial rule” requiring dismissal of the case if the standard is not met. These standards are intended as measures of the overall time-to-disposition in a jurisdiction, not as a rule governing individual cases or creating rights for individual criminal defendants. Moreover, speedy trial rules generally run from the date of arrest or arraignment to the start of the trial. Time standards are based on the period between the date on which the case is first filed with the court to the entry of the dispositional order (e.g., a dismissal, acquittal or judgment, and sentencing).
  - In many jurisdictions, achievement of the goals set by these time standards involves more than one level of court, and the performance of an individual court must be measured against the events controlled by that court.
  - The date the charging document is filed in superior court is the simplest date to track in the case management systems. Justice courts rarely dispose of felony cases, so developing a standard for the justice courts is not crucial; however, the committee does believe the data for the felony cases that start in justice court should be collected. The AGAVE<sup>3</sup> and ICIS<sup>4</sup> case management systems track arraignment date, which is more significant in relation to speedy trial rules and the rights of the individual defendant.
- The committee recommends that for criminal misdemeanor cases, the measurement for case processing standards start with the filing of the complaint and end with disposition (e.g., dismissal, acquittal or judgment, and sentencing).

---

<sup>3</sup> AGAVE is the Pima County case management system

<sup>4</sup> ICIS is the Maricopa County case management system

- The committee recommends that the case management reports developed for the criminal case processing standards track time-to-disposition based on the most severe offense listed on the first charging document filed in justice, municipal, or superior court and not the most serious offense at the time of disposition. If the most severe offense listed on the charging document is a felony, then the felony case processing standards would be apply (e.g., if a defendant is initially charged with one count of felony trafficking and two counts of misdemeanor possession and the felony charge is dismissed or reduced to a misdemeanor when disposed, the felony case processing standard would still apply).
- The committee recommends that in Arizona, for the case type of juvenile neglect and abuse, the measurement for the adjudication hearing will start on the date of “service on a parent or guardian” instead of the date of removal to keep the standards consistent with Arizona rules and statutes.
  - The national model time standards for juvenile neglect and abuse cases start the count from the date of removal on the adjudication hearing.
  - The case management systems used by Arizona’s superior courts do not currently track cases from the date of service. However, this information is captured or can be captured through event codes in the case management systems. Both parents do not have to be served for the court to proceed with the case. The reports written for the case management systems will track and start measuring on the date the first service return is filed with the court.
- The committee recommends that for the case type of juvenile neglect and abuse, the measurement for the permanency hearing will start on the date of removal to maintain consistency with Arizona rules and statutes.
  - The national model time standards for juvenile neglect and abuse cases start the count from the date of removal on the permanency hearing.
  - The case management systems used by Arizona’s superior courts do not currently track cases from the date of removal. However, this information is captured in JOLTS<sup>5</sup> or can be captured in the case management systems.
- The committee recommends that the following time be excluded from case processing time if the court does not have control of the case and must wait for some other court, agency, attorney, or person to complete an act before the court can proceed.

Excluded time includes:

- ✓ Stay for special action/appeal
- ✓ Bankruptcy stay
- ✓ Diversion programs
- ✓ Warrant

---

<sup>5</sup> JOLTS is the Juvenile Online Tracking System, a statewide juvenile probation and dependency management system developed by Maricopa County Juvenile Court in 1979. It is currently installed in every juvenile court and detention center in Arizona.

- ✓ Rule 11 mental competency proceedings
- ✓ Stay granted pursuant to the Servicemembers Civil Relief Act
- ✓ Stay for conciliation (petition for 60-day stay must be filed)
- ✓ Pending juvenile cases in family law cases

- The committee recommends that the following time, having been taken into account when establishing case processing standards for Arizona, NOT be excluded from the count.

Time that is NOT excluded:

- ✓ 60-day waiting period in dissolution of marriage and legal separation cases
  - ✓ Mediation/arbitration
  - ✓ Alternative dispute resolution
  - ✓ Conciliation Court (not excluded unless 60-day stay is filed)
  - ✓ Parent education classes
- The national model for family law dissolution cases does not exclude waiting periods. The existence of a waiting period generally between 30 to 90 days should not deter a court from moving a case as far along in the process as expeditiously as possible before the waiting period concludes. However, waiting periods should be taken into account when establishing a time standard.
  - Requirements for mediation, arbitration, or parenting classes as preconditions to trial or issuance of judgment were taken into account for the model time standards.

## ***CIVIL CASE CATEGORY***

### ***1. Superior Court Civil Cases***

- A. The committee recommends that Arizona adopt a different standard from the national general civil model time standard:
- 60% within 180 days**, instead of 75%
  - 90% within 365 days**
  - 96% within 540 days**, instead of 98%
- ✓ Complex cases such as medical malpractice will be included as part of the 4 percent of cases disposed after 540 days.
- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
- C. **Excluded Time:** The following may result in a stay of proceedings and the time elapsed will be excluded from measurement: special actions/appeals, bankruptcy, and stays granted pursuant to the Servicemembers Civil Relief Act.
- D. **Reasons for Different Standard:**
- The percentage was lowered by 15 percent on the first tier based on the following findings:
    - The national model combined superior court cases and justice court cases under \$10,000 in the General Civil case type standard. Arizona has various levels of court, with the superior courts run independently from the justice courts. The superior courts have different case management systems and have no control over events that occur in the justice courts.
    - The number of uncomplicated and easily resolved cases were greatly reduced with the removal of the justice court civil cases from the superior court civil case type.
    - In FY11, 59 percent of the total statewide civil cases were filed in justice court. In Arizona, a separate case processing standard is being developed for the justice court civil cases. Seventy-five percent of the cases in justice court are disposed of within 180 days.
    - Seventy-five percent of the total statewide 59 percent would be resolved in 180 days based on the justice court standard. This equates to 53 percent of the total statewide civil filings for justice and superior courts. Statewide, 47 percent of the remaining cases would require a longer disposition time. (Statewide, FY11 total civil filings equal 400,476<sup>6</sup>. Justice court civil cases were 236,184 or 59 percent. Justice court will dispose of 75 percent of the civil filings (212,566) within 180 days.

---

<sup>6</sup> Arizona Annual Data Report

- Based on the FY11 example: Justice courts dispose of 212,566 or 75 percent of their cases within 180 days; superior courts dispose of 98,575 or 60 percent of their cases within 180 days. The total for the state would be 311,141 resolved within 180 days, which is 78 percent of the statewide civil caseload as compared to the 75 percent national model time standard for general civil cases.
- The percentage was lowered by two percent on the third tier based on the following findings:
  - The workgroup members stated that more than two percent of the civil cases require a trial or involve complicated evidentiary issues and four percent is a more accurate representation of the percentage of cases.

**E. Other Findings:**

- A separate case processing standard for medical malpractice cases was not developed. Timelines are included in the Arizona rules and statutes, and separate standards are unnecessary.
- Eviction actions filed in superior court are included with all other civil cases. The justice courts developed a separate case processing standard for eviction actions and this standard will not be applied to the superior court. The majority of eviction actions are handled in the justice courts and the rules and statutes for eviction actions in superior court are different.
- Rule changes were not addressed at this time but the committee recognizes that some changes may be necessary in the future
  - Rule 4 (i), ARCP,<sup>7</sup> allows the court to dismiss the complaint after 120 days for lack of service on the defendant. If the courts want to shorten the time-to-disposition, this rule may need to be amended to allow less time for service.
  - R-13-0017 Petition to Amend Arizona Rules of Civil Procedure 16, 16.1, 26, 37, 38, 38.1,72,73,74 and 77 was filed this year to amend Rule 38.1, ARCP on the inactive calendar and motion to set. This amendment may affect the case processing standards.

**2. Justice Court Civil Cases**

- A. The committee recommends that Arizona adopt a faster standard than the national general civil model time standard:

**75% within 180 days**  
**90% within 270 days**, instead of 365 days  
**98% within 365 days**, instead of 540 days

- ✓ Justice court civil cases under \$10,000 will be included.
- ✓ Superior court civil cases will be excluded and will have a different standard.

---

<sup>7</sup> Arizona Rules of Civil Procedure

- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
- C. **Excluded Time:** The following may result in a stay of proceedings, and the time elapsed will be excluded from measurement: special actions/appeals, bankruptcy, and stays granted pursuant to the Servicemembers Civil Relief Act.
- D. **Reasons for Lower Standard:**
- A separate and lower standard was developed for the justice courts based on the following findings:
    - The national model combined superior court cases and justice court cases under \$10,000 in the General Civil case type standard. Arizona has various levels of court, with the superior courts run independently from the justice courts. The justice courts have different case management systems and have no control over events that occur in the superior courts.
    - Based on comments received from the judiciary, the committee recommends that 75 percent of the civil cases filed in justice courts be adjudicated within 180 days because no action can be taken by the court until the 120<sup>th</sup> day. Rule 113(i), JCRCP<sup>8</sup>, states “the action will be dismissed without prejudice if summons and complaint not served within 120 days of filing of complaint.”
    - The committee determined that 60 days is a realistic estimate of the time needed for service. The time allowed for service on the defendant is out of the court’s control, and this delay should be included in the case processing standards developed for Arizona courts.
    - If the standard remains at 75 percent within 180 days, a court will be able to grant an extension for service when it is requested and still meet the case processing standards. Many litigants are self-represented, and the courts do not want to make the parties re-file in order to meet the standard.
    - Large collection law firms are not timely filing their applications for default judgment because of their own backlog, and a 180-day standard will accommodate that delay.
    - The change made to the first tier resulted in a 90-day increase to both the second and third tiers. Even with this increase, these two tiers are still lower than the national model. The standards are reduced because the cases in justice courts rarely have any discovery issues.
- E. **Other Findings:**
- The statistical data for smaller counties may be skewed if only a couple of cases are filed and one case falls outside the standards.

---

<sup>8</sup> Justice Court Rules of Civil Procedure

- If the standard for justice courts is to be lowered in the future, Rule 113(i), JCRCP, will need to be amended. The time allowed for service on the defendant is the same in both the superior and justice courts. Justice court cases are less complex and usually involve fewer defendants, so the number of days needed for service could be reduced.

### 3. *Justice Court Eviction Actions:*

- A. The committee recommends that Arizona adopt a new standard pursuant to Arizona rules and statutes. The national model time standards include evictions in summary civil matters:

**98% within 10 days**

- ✓ Residential rental of a dwelling unit, Chapter 10: A.R.S. §33-1304; Mobile Home, Chapter 11: A.R.S. §33-1402; Rental of RV in RV Park >180 days Chapter 19: A.R.S. §33-2101; and General Landlord Tenant Chapter 3: A.R.S. §33-381 are included.
  - ✓ Commercial evictions are included.
- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
  - C. **Excluded Time:** The following may result in a stay of proceedings, and the time elapsed will be excluded from the measurement: special action/appeals, bankruptcy, and stays granted pursuant to the Servicemembers Civil Relief Act.
  - D. **Recommendation for New Standard:**
    - The above standards apply to eviction actions in justice court only. The rules and statutes for eviction actions in superior court are different, and a small number of cases are filed in superior court.
    - The superior court will not develop a different standard. The eviction actions will be included with all other civil cases in superior court.
  - E. **Other Findings:**
    - Commercial evictions will be included in the standard. In the AJACS case management system, which is used in 13 Arizona superior courts, there are no special designations for a commercial eviction versus a residential eviction.
    - The committee noted that pursuant to 50 USC § 531, an eviction action may be stayed for a period of 90 days under the Servicemembers Civil Relief Act.

### 4. *Small Claims Cases*

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for summary civil matters:

**75% within 90 days**, instead of 60 days  
**90% within 120 days**, instead of 90 days  
**98% within 180 days**

- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
- C. **Excluded Time:** The following may result in a stay of proceedings, and the time elapsed will be excluded from measurement: bankruptcy and stays granted pursuant to the Servicemembers Civil Relief Act.
- D. **Reasons for Different Standard:**
- An additional 30 days was added to the first two tiers based upon the following findings:
    - Service by mail is allowed in justice court cases, and this will add approximately two weeks to the timeline.
    - In some counties, these cases are sent to mediation, which will add 30 days to the timeline. Approximately 50 percent settle in mediation.
    - Seventy-five percent of the cases do not end in default. The national model includes evictions and civil local ordinances in this case category, and they have faster dispositions.
- E. **Other Findings:**
- Special actions/appeals were removed from excluded time. See A.R.S. § 22-504(B), which states that no appeal can be filed on a small claims case.
  - The date of filing will be used for the starting measurement instead of date of service. This encourages courts to monitor the performance of this critical procedural step and to take action, such as setting a hearing for self-represented litigants or dismissing the case after 120 days for lack of service.

## 5. *Civil Local Ordinances*

- A. The committee recommends that Arizona adopt the same standard as the national model time standards for summary civil matters:
- 75% within 60 days**  
**90% within 90 days**  
**98% within 180 days**
- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
- C. **Excluded Time:** The following may result in a stay of proceedings and the time elapsed will be excluded from measurement: special actions/appeals, bankruptcy, and stays granted pursuant to the Servicemembers Civil Relief Act.

**D. Other Findings:**

- Civil Local Ordinance cases will adopt their own standard and not adopt the same standard as the Civil Traffic or Small Claims case types.
- A case with zoning issues can be disposed of within the six-month timeframe. In most instances, the city or county has worked with the individuals for years before filing a lawsuit. Compliance hearings would occur after disposition and not affect the standards.

**6. Civil Traffic**

- A. The committee recommends that Arizona adopt the same standard as the national model time standard for criminal traffic and local ordinances:

**75% within 30 days**

**90% within 60 days**

**98% within 90 days**

- ✓ Civil local ordinance cases are excluded.
- ✓ Photo-radar tickets are excluded.
- ✓ Parking tickets are excluded.

- B. **Measurement:** Filing of Arizona Traffic Ticket and Complaint (ATTC) or by long-form complaint through disposition (e.g., dismissal, judgment)

- C. **Excluded Time:** The following may result in a stay of proceedings, and the time elapsed will be excluded from measurement: diversion, special actions or appeals, and stays granted pursuant to the Servicemembers Civil Relief Act.

**D. Other Findings:**

- Parking tickets are excluded from the standard because a statewide designation would be difficult. Every city or county can designate a parking ticket as something different (e.g., petty offense, civil local ordinance violation, or civil traffic).
- Photo radar tickets are excluded from the standard. There is a small percentage of photo radar cases filed and they may require additional service time.
- The committee noted the following on the civil traffic case type:
  - Civil traffic tickets are the largest category of cases in the state and 60 to 65 percent of the tickets are paid electronically.
  - There are no inherent delays in the volume of cases being processed.
  - The courts can shorten the time-to-disposition by authorizing the county clerk to provide 15, 30, or 45-day extensions to the defendant. This practice will cut down on the number of motions filed so that the defendant is allowed to complete traffic school, obtain proof of insurance, or travel from out of town.

- The courts can shorten the time-to-disposition on traffic cases by assigning some of the traffic tickets to civil hearing officers.
- Some of the counties do experience spikes in the number of filings based on holidays, tourism traffic, first snowfall, and enforcement efforts by the police department.

## ***CRIMINAL CASE CATEGORY***

### **7. *Criminal Misdemeanor***

- A. The committee recommends that Arizona adopt the same standard as the national model time standard for criminal misdemeanor:

**75% within 60 days**  
**90% within 90 days**  
**98% within 180 days**

- ✓ Criminal traffic cases are included.
  - ✓ Criminal local ordinance cases are included.
  - ✓ DUI cases are excluded; these cases have separate case processing goals.
- B. **Measurement:** Filing of complaint through disposition (e.g., dismissal, acquittal, or judgment and sentencing)
- C. **Excluded Time:** The following time will be excluded from the measurement: warrant time, Rule 11 competency issues, diversion, and special action/appeals.
- D. **Other Findings:**
- The following comment was added to the standard:  
**COMMENT:** These standards are based on the assumption that most of these cases are resolved without an attorney. These standards should be revisited if penalties on misdemeanor cases continue to become more stringent and attorney involvement increases.
  - Diversions are excluded from the measurement. To exclude the time a defendant is on diversion, the codes in the case management systems will have to be identified or created.
  - Reports developed for the case management systems will apply the case processing standards when the case is initiated, not at the time of disposition. The case processing standard for the most severe offense listed on the charging document will be applied. (e.g., if the defendant was initially charged with one count of misdemeanor possession and one count of speeding, and the misdemeanor charge is dismissed at sentencing, the misdemeanor case processing standard would still apply.) If a misdemeanor DUI is included in the original complaint, then the case processing standard for Misdemeanor DUI cases will apply.

### **8. *Criminal Misdemeanor Driving Under the Influence “DUI” Cases***

- A. The committee recommends that Arizona continue to use the existing case processing standards as follows:

**85% within 120 days**

**93% within 180 days**

- ✓ Criminal misdemeanor cases are excluded
- ✓ Criminal traffic cases are excluded.
- ✓ Criminal local ordinance cases are excluded.

- B. **Measurement:** Filing of complaint through disposition (e.g., dismissal, acquittal, or judgment and sentencing)

- C. **Excluded Time:** The following time will be excluded from the measurement: warrant time, Rule 11 competency issues, diversion, and special action/appeals.

D. **Reasons for Different Standard:**

- Arizona will adopt the existing DUI case processing standards and not include DUI cases with the misdemeanor case type as proposed in the national model time standards.
- The Arizona courts put time and effort into developing a case processing standard that is aspirational but still realistic for Arizona. The DUI misdemeanor case processing standard in Arizona exceeds the national standard for several reasons:
  - There are substantial penalties involved, and a large number of these cases go to trial.
  - The discovery process is lengthy because of expert testimony and the required technical testing and re-testing of blood and breath by the crime labs.
  - The number of offenses for driving under the influence of prescription drugs has increased, and physician testimony must be included in the discovery process.

E. **Background:**

- The DUI Case Processing Program started in Summer 2005. Former Chief Justice Ruth V. McGregor established the DUI Case Processing Committee which conducted a detailed review of how courts throughout Arizona process DUI cases. The committee examined the entire Arizona criminal justice system as it relates to DUI cases and recommended specific improvements to court processes, rules, and statutes. The newly developed case processing standards and other recommendations designed to improve DUI case processing were successfully piloted in 11 courts. This included development of business requirements and statistical reports for the case management systems so the courts could determine where improvements needed to be made. The standards were further refined during the pilot, and in 2007, Phase II was implemented through Administrative Order

2007-94. By May 2008, all justice and municipal courts in Arizona were participating in the DUI Program, and it is still in place today.

## 9. *Criminal Felony*

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for criminal felony:

**65% within 90 days**, instead of 75%

**85% within 180 days**, instead of 90%

**96% within 365 days**, instead of 98%

- ✓ Death penalty cases will be included as part of the four percent disposed after 365 days.

- B. **Measurement:** Filing of first charging document (e.g., information, indictment, or complaint) in superior court through disposition (e.g., dismissal, acquittal, or judgment and sentencing.)

- C. **Excluded Time:** The following time will be excluded from the measurement: warrant time, Rule 11 competency issues, diversion and special action/appeals.

D. **Reasons for Different Standard:**

- The percentage on the first tier was lowered by 10 percent based upon the following findings:
  - Based on local historical data, the percentage of uncomplicated and easily resolved cases in superior court is lower than the national standard suggests. In Arizona, counties have two levels of court. If the measurement starts with the date the first document is filed in superior court, this will eliminate all the case dispositions (e.g., dismissals or pleas) in justice court. As a result, a lower disposition rate in the first tier of cases will exist.
- The percentage on the second tier was lowered by five percent based upon the following findings:
  - Based on historical local data, 15 percent of the cases in the courts have one or two issues that require a longer timeline.
- The percentage on the third tier was lowered by two percent based upon the following findings:
  - The workgroup found that more than two percent of the felony cases are death penalty or complex cases, and four percent is a more accurate representation of the percentage of such cases.

- The workgroup determined that if the time standards are set too high, the court community will largely disregard the standards as unreasonable and make no attempt to achieve these standards.

#### E. **Other Findings:**

- If the first charging document or complaint is filed in a justice court for the determination of probable cause or waiver of a preliminary hearing, the measurement shall not begin until the case is transferred to superior court and the first charging document or information is filed in superior court.
- A report should be written that will track the number of felony cases filed in justice court prior to transfer to superior court.
- If the first charging document (e.g., complaint, information, or indictment) is filed directly into superior court, the measurement shall begin when the charging document is filed. If a warrant is issued, this time will be excluded from the count.
- The National Model Time Standards discourage the use of the arraignment date for establishing time standards. The national model critically notes that the time standard for felony cases is not a “speedy trial rule” requiring dismissal of the case if the standard is not met. These standards are intended as measures of the overall time-to-disposition in a jurisdiction, not as a rule governing individual cases or creating rights for individual criminal defendants. Moreover speedy trial rules generally run from the date of arrest or arraignment to the start of the trial. In many jurisdictions, achievement of the goals set by these time standards involves more than one level of court, and the performance of an individual court must be measured against the events that court controls.
- The reports written for the AJACS<sup>9</sup> case management system only contemplate tracking the filing of the first document in superior court.
- The reports developed for the case management systems should apply the case processing standard when the case is initiated, not at the time of disposition. This would be the most serious offense listed on the first charging document filed in justice, municipal, or superior court. (e.g., if the defendant was initially charged with one count felony trafficking and two counts misdemeanor possession, and the felony charge is dismissed or reduced to a misdemeanor at sentencing, the felony case processing standard would still apply).

### 10. ***Criminal Post-Conviction Relief***

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for criminal post-conviction relief:

**94% within 180 days**, instead of 98%

- ✓ Capital cases will be included as part of the six percent disposed after 180 days.

---

<sup>9</sup> AJACS is the case management system for 13 of the 15 Superior Courts in Arizona

- B. **Measurement:** Filing of petition for post-conviction relief through disposition (e.g., dismissed or denied or relief granted)
- C. **Excluded Time:** No excluded time
- D. **Reasons for Different Standard:**
- The percentage was lowered by four percent based upon the following findings:
    - In many counties, four to five percent of the cases go to trial. Capital cases will be included as part of the six percent of cases disposed after 180 days.
    - The motion for post-conviction relief following a trial takes longer to dispose of than those based on plea agreements, it requires more preparation and more testimony and evidence to be reviewed.
    - Disposition will be delayed if an evidentiary hearing is required.
    - Disposition will be delayed if there is a claim for ineffective assistance of counsel because the court must appoint counsel under Rule 32.5, Ariz.R.Crim.P.<sup>10</sup>
  - This standard will not be applied to justice and municipal courts. There are a small number of petitions filed in the justice and municipal courts, and the number of petitions that may be filed is unpredictable. The case type was re-titled “Superior Court Criminal Post-Conviction Relief.”
  - It was noted that based on the timeline created by the court rules, 180 days would not be long enough if extensions for good cause are routinely granted by the courts.
  - There is no statistical data available for the post-conviction relief case type. A new report will have to be created in the case management systems. In order to write the report, the courts will need to identify or create codes to track when the petition or motion is filed and disposed in an existing case.
  - This standard should be revisited when more data is available.

## ***FAMILY LAW CASE CATEGORY***

### ***11. Family Law Dissolution/Divorce/Allocation of Parental Responsibility Cases***

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for dissolution cases:

**75% within 180 days**, instead of 120 days  
**90% within 270 days**, instead of 180 days  
**98% within 365 days**

- ✓ Includes legal separation and annulment cases.
- ✓ Excludes adoption cases.

---

<sup>10</sup> Arizona Rules of Criminal Procedure

- B. **Measurement:** The date of filing to the date of disposition by entry of judgment/decreed or order.
- C. **Excluded Time:** The following may result in a stay of proceedings and the time elapsed will be excluded from measurement: special actions /appeals, bankruptcy, conciliation court, pending juvenile cases, and stays granted pursuant to the Servicemembers Civil Relief Act.
- D. **Reasons for Different Standard:**
- An additional 60 days was added to the first tier based upon the following findings:
    - The national standards were established on the premise that many cases are disposed of quickly (i.e., within 120 days) with minimal court involvement. However, due to Arizona specific rules, early disposition, by the Court, due to lack of service and/or lack of prosecution occurs after expiration of the 120-day time frame set forth in the national standards.
    - **Dismissal for lack of service.** Based on Rule 40(I), ARFLP <sup>11</sup> the court cannot dismiss the cases for lack of service until after 120 days. Moreover, the court may grant the petitioning party additional time for service. Depending on the method of service, the respondent may have up to 60 days to file an answer.
    - **Dismissal for lack of prosecution.** Based on Rule 46(B), ARFLP the court cannot dismiss the case for lack of prosecution for 180 days.
    - **Self- represented litigants.** A large proportion of dissolution cases are filed by self-represented litigants. Consequently, many parties require additional time to effectuate proper service and file the appropriate paperwork for a default judgment if service is obtained.
  - An additional 90 days was added to the second tier based upon the following findings:
    - **Conciliation, mediation and ADR referrals.** 10 to 15 percent of the cases statewide are referred to conciliation, mediation and alternative dispute resolution (ADR) programs. If a petition is promptly served, the respondent files a timely answer, and the Court sets the matter for a resolution management conference, the Court will assess the value of referring the parties to ADR, setting trial approximately 30 to 45 days after completion of the ADR. ADRs may occur 120 days or more from the date of the resolution management conference. These cases fall into the second tier and will rarely be disposed of within 180 days.
    - **Disputed Issues.** The second tier of cases will mostly include cases with strongly contested issues regarding custody/legal decision making, domestic support orders and/or division of assets and debts. Business valuations, custody evaluations, additional services such as substance abuse monitoring require additional time. Consequently, the court is unable to dispose of the cases in 180

---

<sup>11</sup> Arizona Rules of Family Law Procedure

days. In addition, the second tier of cases includes a large percentage of self-represented litigants in dissolution cases and the court process is occasionally delayed when these individuals are not prepared and the required paperwork has not been completed.

- **Parent education programs.** In dissolution cases with children the timeline is extended because the parties have 45 days from the date of service to attend a parenting education class.

E. **Intermediate Standard:**

- The committee recommends that Arizona adopt an Intermediate Standard for Temporary Orders. The Arizona standard is different from the national model intermediate standard:

**90% within 60 days,**  
**98% within 120 days,** instead of 60 days

- ✓ Only pre-decree temporary orders are included.

F. **Intermediate Measurement:** The date the motion for temporary order is filed to the date of disposition by entry of a temporary order.

G. **Intermediate Excluded Time:** No excluded time

H. **Other Findings:**

- The issuance of a temporary order is the most important pre-trial step because it will stabilize the financial and parenting situation pending final judgment. It is important for the safety, security and well-being of the spouses and children that an order be established early on to address child support, spousal support, legal decision-making (custody) and parenting time.
- Time-to-disposition was increased in these cases but the committee still has some reservations as to whether these standards will be achievable by the courts. The findings in family law cases are often complex and lengthy.
- Because there are a large number of self-represented litigants in family court, the committee would not revise Rule 40(I), ARFLP to shorten the time when a case can be dismissed for lack of service.
- There is very little statistical data available. The reports available in AJACS and the other case management systems for dissolution cases will have to be modified and the data will need to be verified and cleaned-up.
- A new report will have to be written in the case management systems for temporary orders. In order to write the report the courts will need to identify or create codes to track when the motion is filed and disposed in an existing case.
- The standards should be revisited when more data is available.

## 12. *Family Law Post-Judgment Motions*

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for family law post-judgment motions:

**50% within 180 days**, instead of 98%

**90% within 270 days**

**98% within 365 days**

- B. **Measurement:** The date of filing a post-decree or post-judgment petition to the date of disposition by entry of judgment or order.

- C. **Excluded Time:** The following may result in a stay of proceedings and the time elapsed will be excluded from measurement: pending juvenile cases and stays granted pursuant to the Servicemembers Civil Relief Act.

- D. **Reasons for Different Standard:**

- The percentage was lowered and two tiers were added based upon the following findings:

- **Child support post-judgment petitions (single-issue) versus custody post-judgment petitions (multi-issue).** A significant percentage of post-decree petitions involve more than one issue. Single-issue petitions to modify child support or spousal maintenance will likely be resolved in 180 days. However, under Arizona rules, parties must obtain and serve the orders to appear for all post-decree petitions other than petitions to modify legal decision making. Under Arizona Rules, a party must comply with the requirements for Rule 91D, ARFLP for all post-decree petitions to modify legal decision-making. Due to Arizona specific service requirements, the court cannot dispose of cases for lack of service and/or lack of prosecution until after 120 days or 180 days respectively. Moreover, custody post-judgment cases take more time as various evaluations and pretrial services may be ordered.

- **Statistical data.** There was very little statistical information available on the number of post-decree motions that involve child support only versus custody. In one county 33 percent of the post-decree motions were custody and the committee believes that the percentage is more like 40 or 50 percent in the larger counties.

- **Custody Modifications.** Many of the cases that are filed as child support petitions will evolve into custody modifications. Custody modifications will take longer and will fall into the second tier for case processing standards.

- A new report will have to be written in the case management systems for post-judgment motions. In order to write the report the courts will need to identify or create codes to track when the motion is filed and disposed in an existing case.

- The standards should be revisited when more data is available.

### 13. *Protection Orders*

- A. The committee recommends that Arizona adopt a different standard for the Ex Parte Hearing (Intermediate Standard) but that Arizona adopts the same standard as the national model time standards for family law protection orders for contested hearing.

Ex Parte Hearing: (Intermediate Standard)

**99% within 24 hours**, instead of 100%

Contested Hearing:

**90% within 10 days**

**98% within 30 days**

- ✓ Injunctions Against Harassment and Injunctions Against Workplace Harassment are included.

#### B. **Measurement:**

Ex Parte Hearing: The date the petition for protective order is filed to the date the protective order is issued or denied.

Contested Hearing: The date the request for hearing is filed to the date the protective order is affirmed, modified or quashed.

#### C. **Excluded Time:** No excluded time

#### D. **Reasons for Standard:**

➤ 99 percent instead of 100 percent of ex parte hearings are to be held in compliance with state law based on the following findings:

- Rule 6(B), ARPOP<sup>12</sup> states that a judicial officer shall **expeditiously** schedule an ex parte hearing for a protective order involving a threat to personal safety... Expeditiously is not really a standard that can be measured.
- *Ex parte* hearings typically are conducted on the same day the plaintiff files the petition. At the close of the *ex parte* hearing, regardless of whether the request is granted or denied, the case is completed. However, the law allows the court to schedule a pre-issuance hearing in situations where the judge feels there is inadequate information on which to base the order and wants to hear from both parties. Statute requires pre-issuance hearings to be scheduled within 10 days with reasonable notice to the defendant.
- In some jurisdictions a case may not be resolved within 24 hours because the petitioner leaves the courthouse after filing the petition but before the hearing is held. The one percent will allow for these lapses in time. Some jurisdictions leave these cases open for a period of time so the petitioner can return and follow through.

---

<sup>12</sup> Arizona Rules of Protective Order Procedure

- An intermediate standard for pre-issuance hearings was not recommended at this time. The committee may want to re-visit this issue at a later date when more data is available. The pre-issuance hearing can be ordered by the judge at any time but is often used for neighbor and roommate disputes.
- Arizona adopted the same standard as the national model time standards for family law protection orders for contested hearings based on the following findings:
  - Arizona’s protective order laws are significantly different than those of most other states. First, Arizona law allows the plaintiff up to a year to have the order served on the defendant. Some orders are served immediately, others weeks or months later, and others never.
  - Second, in Arizona, there is no final hearing automatically scheduled at the time the initial order is issued. Most states require both parties to appear in court within a relatively short time (10-15 days) at which time testimony is taken and the court decides whether to keep the order in place for an extended time.
  - Under Arizona law, a second hearing occurs only if the defendant asks for one. The defendant can make this request at any time while the order is in effect. If the defendant does request a hearing, it must be conducted within 5 or 10 days, depending on whether exclusive use of the parties’ residence is at issue. With this statutory timetable, Arizona courts should be able to achieve disposition of 98% of its protective order cases within 30 days unless continuances are extended beyond this time period.

**E. Other Findings:**

- In Arizona order of protection cases may be filed in justice, municipal or superior court. The majority of the order of protection cases are filed in the justice and municipal courts. These courts would not place the order of protection cases in the family law category. In order to stay consistent with the national model time standards the committee has placed orders of protection in the family law category.

***PROBATE CASE CATEGORY***

***14. Probate Administration of Estates***

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for probate administration of estates:

**50% within 360 days**, instead of 75%  
**75% within 540 days**, instead of 90%  
**95% within 720 days**, instead of 98%

- ✓ Formal and informal probate cases are included.
- ✓ Affidavits of succession to real property cases are included.

- B. **Measurement:** Filing of an application or petition for appointment of personal representative or probate of a will through closing of the decedent’s

estate (e.g., filing of closing statement, complete settlement or order approving final distribution, or accounting.)

C. **Excluded Time:** The following time will be excluded from measurement: stay for special actions, appeals, and bankruptcy.

D. **Reasons for Different Standard:**

- The percentages on all three tiers were lowered based on the following findings:
  - **Contested cases.** There are a large number of contested cases that extend the processing time.
  - **Consolidated cases.** There are a number of civil cases filed in the probate court or consolidated into a probate case, such as contract disputes, medical malpractice, nursing home malpractice and wrongful death actions that take longer to resolve.
  - **Personal representatives.** The personal representative is responsible for closing the estate. The personal representative may have to deal with some time-consuming issues, such as selling businesses and real properties, finding heirs and assets, and dealing with tax issues. These issues adversely affect the timeline.
  - **Dismissal by court.** Based on Rule 15.2(A), ARPP,<sup>13</sup> the court must wait two years and 90 days after the initiation of a case to dismiss the case when no closing statement has been filed.
  - **Statistical data.** There was very little statistical information available, but based on a survey of the courts, the percentages were lowered accordingly.

E. **Other Findings:**

- The *affidavit of succession to real property* cases are handled by the probate registrar in one to three days. According to A.R.S. § 14-1307, the presiding judge of the county can designate the clerk of court, court commissioner, or a judge as probate registrar. In most counties, the probate registrar is the clerk of court or someone employed by the clerk of court.

#### 15. **Probate Guardianship/Conservatorship of Incapacitated Adults**

A. The committee recommends that Arizona adopt a different standard from the national model time standards for probate guardianship or conservatorship of incapacitated adults:

**80% within 90 days**, instead of 98%  
**98% within 365 days**

- ✓ Excludes guardianship or conservatorship of a minor and elder abuse cases.

---

<sup>13</sup> Arizona Rules of Probate Procedure

- B. **Measurement:** Filing of petition for appointment of guardian or conservator through denial of the petition or issuance of a court order appointing fiduciary on a non-temporary basis.
- C. **Excluded Time:** No excluded time
- D. **Reasons for Different Standard:**
  - The percentage was lowered and a second tier was added based on the following findings:
    - The appointment of the guardian can be accomplished within 90 days for uncontested cases. A second tier was added for contested cases.
    - Contested cases consist of cases where there is a disagreement as to whether a guardian or conservator should be appointed or a disagreement as to who should be appointed as guardian or conservator.
    - Many of the contested cases expand into issues of who is exploiting the ward.
    - There was very little statistical information. The time-to-disposition reports available in the AJACS case management system stop the measurement when the guardianship is terminated not when the order appointing fiduciary is signed. The standards were lowered based on a survey of the courts.
- E. **Other Findings:**
  - **Minor Guardianship or Conservatorship Cases:** No case processing standards for Title 14 minor guardianship or conservatorship cases were developed for Arizona. The timelines are set out by rule and statute in Arizona.

#### 16. *Probate Mental Health Cases*

- A. The committee recommends that Arizona adopt the same standard as the national model time standards for probate mental health cases:
  - 98% within 15 days**
  - ✓ Petitions for court ordered treatment are included
  - ✓ Petitions for court ordered evaluation are excluded
- B. **Measurement:** Filing of petition through disposition (e.g., patient released or issuance of a court order for treatment)
- C. **Excluded Time:** No excluded time
- D. **Other Findings:**
  - A.R.S. § 36-535(B) requires that a hearing must be held within six business days after a petition for court ordered treatment is filed. The hearing can be continued for a maximum of 30 days by the patient and a maximum of three business days by the petitioner. The committee noted that the hearings on the petitions for court-ordered treatment are rarely continued.

## ***JUVENILE CASE CATEGORY***

### ***17. Juvenile Delinquency and Status Offense***

- A. The committee recommends that Arizona adopt a different standard than the national model time standards for juvenile delinquency and status offense.

Youth in detention:

**75% within 30 days**

**90% within 45 days**

**98% within 75 days**, instead of 90 days

Youth not in detention:

**75% within 60 days**

**90% within 90 days**

**98% within 135 days**, instead of 150 days

- B. **Measurement:** Filing of petition through disposition
- C. **Excluded Time:** The following time will be excluded from measurement: diversion, warrant time, and competency proceedings.
- D. **Reasons for Different Standard:**
- The standard for Arizona is faster than the national model based on the following finding:
    - The legal culture in Arizona for juvenile cases has been structured so that cases are resolved in a timely manner. Originally the committee stopped the measurement for the standard at the adjudication hearing and followed the timelines found in Rule 29(B), ARJP<sup>14</sup> which states the adjudication hearing will be held within 45 days if the youth is detained and 60 days if the youth is not detained.
    - The national model measures through adjudication. In Arizona the adjudication of delinquency or incorrigibility is not the final disposition.
    - The Committee on Juvenile Courts (COJC) stated that the adjudication hearing in some courts is not the final disposition. Some courts will continue the case and schedule a disposition hearing at a later date. Based on these comments, the committee recommends that Arizona measure from the filing of petition through disposition.
    - Rule 28(B)(2), ARJP states that an advisory hearing shall be held within 30 days from the date of filing if the youth is not detained and within 24 hours if the youth is detained.
    - Rule 30(B)(1)(a) and (b) states a disposition hearing will be held within 30 days of adjudication of delinquency or incorrigibility if the youth has been detained

---

<sup>14</sup> Arizona Rules of Juvenile Procedure

and 45 days if the youth has not been detained. The standard is based on the above rules. The standards mirror the timelines set out in the rules.

### **18. Juvenile Neglect and Abuse**

- A. The committee recommends that Arizona adopt the national model for adjudication hearings in juvenile neglect and abuse cases but that the measurement begins on the date of service instead of the date of removal.

The committee also recommends that Arizona adopt a different standard based on the age of the child that is faster than the national model time standards for permanency hearings in juvenile neglect and abuse cases.

Adjudication Hearing:

**98% within 90 days of service**, instead of removal

Permanency Hearing:

**98% of children under 3 years of age within 180 days/6 months of removal**

**98% of all other cases within 360 days of removal**, instead of 75% within 270 days of removal and 98% within 360 days of removal

- B. **Measurement:**

Adjudication Hearing:

Date of service on a parent or guardian through a finding of dependency.

Permanency Hearing:

Date of removal through permanent plan determination.

- C. **Excluded Time:** No excluded time

- D. **Reasons for Different Measurement and Standard:**

- A different measurement was adopted for adjudication hearings based on Rule 55(B), ARJP which states the adjudication hearing shall be completed within 90 days of **service** of the petition.
- A different standard was adopted for permanency hearings based on the following findings:
  - The statutes and rules in Arizona are stricter than the national model and Arizona has carved out different timelines for children under three years of age.
  - Rule 60(C), ARJP sets out the timelines for the permanency hearing.

- E. **Other Findings:**

- Arizona will stay consistent with the rules and statutes and start measuring the adjudication hearing from the date one of the parents is served. Both parents do not have to be served for the courts to proceed with the case.
  - If only one parent has to be served to start the measurement this may be easier to track as the count may begin when the first service return is entered in the system.

- The national model time standards start the measurement for Juvenile Neglect and Abuse adjudication and permanency hearings with the date of removal. If we measure the case processing standards for the adjudication hearing from the date of removal, this would conflict with the rules and statutes in Arizona that base their timelines on the date of service.
- If a parent or guardian had to be served by publication the courts would not be able to meet the case processing standards if we start measuring from the date of removal.
- Arizona will stay consistent with the national model, the Arizona rules and statutes and start measuring the permanency hearing from the date of removal.
- The tracking of cases from the date of removal has also been identified as an issue for JOLTS<sup>15</sup> and the case management systems but, the date of removal is captured or can be captured in the case management systems.

#### ***19. Juvenile Termination of Parental Rights***

- A. The committee recommends that Arizona adopt the same standard as the national model time standards for juvenile termination of parental rights cases:

**90% within 120 days**

**98% within 180 days**

- B. **Measurement:** Filing of Motion/Petition for Termination of Parental Rights through entry of dismissal or order of termination
- C. **Excluded Time:** No excluded time
- D. **Other Findings and Recommendations:**
- **Adoption Cases:** No case processing standards are to be developed for adoption cases. There are so many variables in these cases that a standard for completion could cause many unintended consequences. There are several different types of adoptions – CPS adoptions, private adoptions, step parent adoptions, relative adoptions, foreign adoptions, etc.
  - **Minor Guardianship/Conservatorship Cases:** No case processing standards are to be developed for Title 8 minor guardianship/ conservatorship cases, the timelines are set out by rule and statute in Arizona.

---

<sup>15</sup> JOLTS is the Juvenile Online Tracking System, a statewide juvenile probation and dependency management system developed by Maricopa County Juvenile Court in 1979. It is currently installed in every juvenile court and detention center in Arizona.

## **FUTURE CONSIDERATIONS:**

The committee recommends that the Administrative Office of the Courts (AOC) develop data collection procedures and statistical reports for the automated collection of data in the case management systems. In order for the courts to meet the case processing standards and make improvements where necessary, the following reports will need to be generated from the case management systems:

- Time-to-Disposition Report – CourTools Measure 3 is the number of days that will be counted during the pendency of a case to determine if the case processing standard has been met.
- Age-of-Active Pending Case Report – CourTools Measure 4 is a measure of the age of cases currently pending and awaiting disposition.

The courts do not currently have the necessary tools to retrieve all the data that will be necessary to monitor compliance with the case processing standards. The development of an accurate time-to-disposition report will enable Arizona courts to define the concept of backlog and to identify a case “in backlog” as any case older than the case processing standard. Once these cases are identified, the court can take the appropriate steps to move the case to disposition. The courts can also use these standards as a tool to manage and monitor active pending cases.

The first step in the development of statistical reports will be the establishment of case processing or business requirements for all the case types. These business requirements will be used by the courts to create the time-to-disposition and age-of-active pending case reports for all the case management systems. This will ensure that all the courts are including the same information and measuring the cases the same way. Once the business requirements are finalized, the requirements will be provided to all non-ACAP courts and the AOC can establish a time frame for implementation of reports for those courts which are supported by the AOC.

Additional steps will include the development, programming, and testing of reports and then the pilot phase of implementation. When the preliminary case management reports are released, the courts will need to validate that the data on the report is correct. If the report does not reflect the correct information the reports may need to be modified or the courts may need to enter additional codes or clean-up the data in the case management systems for the reports to display the correct information. Training on the correct entry of data into the case management system will be provided if deemed necessary.

## **CONCLUSION:**

The committee recommends the following steps in the development of case processing standards for Arizona: **First**, the committee is requesting an extension of its term. **Second**, the provisional set of case processing standards, measurements and excluded time included in this report will be used to develop case management reports. **Third**, the courts will validate that the reports are accurate and enter additional codes or missing data in the case management systems so the reports display the correct information. **Fourth**, the provisional set of standards will be reviewed, along with the actual data from the case management systems, so the committee can determine whether the standards are realistic. **Fifth**, based on this review, the committee will propose

realistic and reasonable case processing standards, rather than aspirational standards. **Finally**, the revised case processing standards will be presented to the Arizona Judicial Council for adoption.

The committee recommends that the provisional set of standards be valid for one year. Following the one year the committee will adopt in whole or in part these standards or extend the provisional standards in whole or in part. The committee will be provided updates on the implementation of case management reports, integrity of the data and the status of the Consolidated Case Index (CCI) throughout the year. The schedule for updates to the committee will be determined by the chair.

The committee further recommends that the preliminary case management reports remain inaccessible to the public until the data has been validated and the standards have been revisited.

The *Model Time Standards for State Trial Courts* states:

Courts that adopt model time standards, measure compliance, take steps to promote compliance, and take steps to effectively govern, organize administer and manage their court system are well positioned to request and justify the resources needed to enable the courts to hear and dispose of cases in a timely manner.<sup>16</sup>

The adoption of case processing standards is the first step toward the more efficient handling of cases by the courts. The implementation of standards in Arizona should result in the more effective use of time by judges, clerks, lawyers, public defenders, prosecutors, jail personnel and all other administrative personnel involved in the judicial system. The challenge for the Arizona judicial system is to respond constructively to them, in order to reduce costs and delay for the public. With that in mind, the standards were drafted so the system could be implemented without additional or non-judicial resources. The effective management of cases can reduce the pressure for more resources. For those courts that are processing cases in a timely and efficient manner but have reached a saturation point where additional resources are needed, the standards may be used as a justification for requesting additional state and local funding.

---

<sup>16</sup> *Model Time Standards for State Trial Courts*, p. 51, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, adopted August 2011.

APPENDIX A

IN THE SUPREME COURT OF THE STATE OF ARIZONA

---

In the Matter of: )  
)  
ESTABLISHMENT OF THE ) Administrative Order  
STEERING COMMITTEE ON ) No. 2012-80  
ARIZONA CASE PROCESSING )  
STANDARDS )  
\_\_\_\_\_)

Part of the vision for Arizona’s Judicial Branch, as set forth in its Justice 2020 Strategic Agenda, is to strengthen the administration of justice. Timely justice promotes public trust and confidence in the courts. The establishment of case processing time standards emphasizes the need for judicial officers and court personnel to renew focus on this essential part of their work.

Development of case processing standards for Arizona will provide a reasonable set of expectations for courts, lawyers, and for the public. The time standards serve as benchmarks for determining whether the pace of court proceedings is achievable in Arizona courts.

In 2011, the National Center for State Courts published the “Model Time Standards for State Trial Courts.” These standards for the disposition of cases in the state courts were developed and adopted by the Conference of State Court Administrators, the Conference of Chief Justices, the American Bar Association House of Delegates, and the National Association for Court Managers.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED as follows:

1. The Steering Committee on Arizona Case Processing Standards is established.
2. **PURPOSE:** The Committee shall review the national time standards for processing all major case types in the limited and general jurisdiction courts and develop and recommend state case processing standards for Arizona. The Committee will take into account statutory requirements, court rules, court jurisdiction and any other relevant factors in recommending statewide case processing standards. The committee may also make high level recommendations for implementation of the case processing standards.
3. **MEMBERSHIP:** The membership of the Committee is attached as Appendix A. The Chief Justice may appoint additional members as may be necessary.

4. MEETINGS: All meetings shall comply with the Arizona Code of Judicial Administration § 1-202: Public Meetings. Committee meetings shall be scheduled at the discretion of the Committee Chair.
5. REPORTS: The Committee shall submit a report of its findings and recommendations to the Arizona Supreme Court for approval no later than December 2013.
6. STAFF: Under the general direction of its Administrative Director, the Administrative Office of the Courts shall provide staff to assist the Committee and, as feasible, to conduct or coordinate research and consult with external experts as requested by the Committee.

Dated this 17<sup>th</sup> day of October, 2012.

---

REBECCA WHITE BERCH  
Chief Justice

**APPENDIX A**  
**MEMBERSHIP LIST**  
**STEERING COMMITTEE ON ARIZONA CASE PROCESSING STANDARDS**

*Chair*

Hon. Robert M. Brutinel  
Arizona Supreme Court

*Justice and Municipal Courts*

*Superior Courts*

Hon. Jill Davis  
Mohave County, Presiding Justice of the Peace

Mr. Kent Batty  
Pima Superior Court, Administrator

Hon. Sherry Geisler  
Apache County, Presiding Justice of the Peace

Hon. Peter Cahill  
Gila County Superior Court, Presiding Judge

Mr. Don Jacobson  
Flagstaff Municipal Court, Administrator

Hon. Richard Fields  
Pima Superior Court, Judge

Hon. Eric Jeffery  
Phoenix Municipal Court, Assistant Presiding  
Judge

Hon. Pamela Frasher Gates  
Maricopa Superior Court, Judge

Hon. Steven McMurry  
Encanto Justice Court, Judge

Hon. Kenton Jones  
Yavapai Superior Court, Judge

Hon. Antonio Riojas  
Tucson City Court, Judge

Hon. Sandra Markham  
Yavapai Superior Court, Clerk of Court

*Public and Bar Members*

Mr. James Haas  
Maricopa County, Public Defender

Hon. Mark Moran  
Coconino Superior Court, Presiding Judge  
Hon. Rosa Mroz  
Maricopa Superior Court, Judge

Ms. Michelle Matiski  
Aetna Insurance, Head of Corporate Legal Group

Hon. John Rea  
Maricopa Superior Court, Judge

Ms. Jane Nicoletti-Jones  
Coconino County Attorney's Office, Senior  
Charging Attorney

Hon. Sally Simmons  
Pima Superior Court, Presiding Judge

Mr. John W. Rogers  
Perkins Coie LLP, Partner

Mr. William Verdini  
Arizona State University, Professor Emeritus

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

---

<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 17, 2013	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Proposals  45 minutes

---

**FROM:**

Jerry Landau and Amy Love

**DISCUSSION:**

Legislative Proposals – Cause/Effect and Implementations

**RECOMMENDED COUNCIL ACTION:**

Council may vote to include or not include in the Legislature a Judicial Branch proposal or to support, oppose or take no action on proposals from other entities presented to the Council.

**Arizona Judicial Council Legislative Proposals**  
**October 17, 2013**  
**Summary of Proposals – 2014 Session**

**2014-01 (AOC, Adult Services)**

**Probation officers; enforcement of pretrial release conditions**

Allows all 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. All probation officers enforcing pretrial release conditions are granted the authority of a peace officer in the performance of their duties. This section currently applied only to Maricopa County.

Section amended: § 12-256

**2014-02 (AOC, Court Services)**

**Veterans' court establishment; eligibility for referral**

Permits the presiding judge of a superior court to establish a veterans' court and create eligibility criteria for referral to the veterans' court. Allows a justice of the peace or municipal court judge to refer a case to the veterans' court. Authorizes any judicial officer in the county where the offense occurred to adjudicate a case referred to veterans' court. The originating court maintains jurisdiction and is required to notify the prosecutor of the case's referral to the veterans' court.

Sections amended: §§ 22-601, 22-602

**2014-03 (Yavapai County Adult Probation)**

**Prescription information; probation officers**

Allows the Arizona Board of Pharmacy to release the prescription information regarding a supervised probationer to the probation department supervising the probationer. The request must be in writing and specify that the information is necessary during the period of probation for the purposes of case management and supervision. A request is valid for one year.

Section amended: § 36-2604

**2014-04 (Pima County Jury Commissioner)**

**Physician assistants; excused jury service**

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

Section amended: § 21-202

**Arizona Judicial Council Legislative Proposals**  
**October 17, 2013**  
**Summary of Proposals – 2014 Session**

**2014-05 (Maricopa County Superior Court)**

**Issuance of warrants; authority**

Allows court staff to issue writs, processes, subpoenas and warrants, including fiduciary arrest warrants and child support arrest warrants. Currently only the clerk of the court has this authority.

Sections amended: §§ 12-202, 13-4142, 14-5701, 25-681

**2014-06 (Maricopa County Superior Court)**

**Access to background checks; superior court**

Permits the Director of the Department of Public Safety to authorize the exchange of criminal justice information with superior courts for the purposes of determining an individual's eligibility for problem solving courts and court programs.

Section amended: § 41-1750

**2014-07 (Maricopa County Superior Court)**

**Dependency cases; court programs**

Allows the court to order services be provided by other available resources if the Department of Economic Security is unable to provide them. Permits the court to appoint individuals to ensure that services are provided in a timely manner. Requires all parties to provide records to the court appointed individual if requested.

Sections amended: §§ 8-205, 8-846

**2014-08 (Supreme Court Government Affairs Group)**

**Lengthy jury trial fund**

Extends the repeal date of the Arizona lengthy trial fund from June 30, 2014 to July 1, 2024.

Reinstates the filing fee that terminates at the end of 2013 with a repeal date of January 1, 2024. Requires the court to impose an additional fee for each filing, appearance, and answer or response fee charged by a clerk of superior court. Directs the Supreme Court to deposit the funds into the Arizona Lengthy Trial Fund. Allows the court to defer or waive the fee.

Contains an emergency clause.

Sections amended: § 12-115, 21-222

**Arizona Judicial Council Legislative Proposals**  
**October 17, 2013**  
**Summary of Proposals – 2014 Session**

**2014-09 (Supreme Court Government Affairs Group)**

**EORP contributions; judges**

Caps employer and elected official (judge) contributions at twenty years for persons enrolled in the Elected Officials Retirement Fund

Section amended: § 38-810

**2014-10 (AOC, Court Services Division)**

**Court process; conforming changes**

Rounds criminal surcharges to the nearest whole dollar, currently they are rounded to the quarter.

Changes the term “police court” to “municipal court” wherever found in statute. Clarifies the law requiring the disposition of a violation of Title 28, Chapter 4, Article 3 (DUI) be reported to the Department of Public Safety.

Sections amended: §§ 12-116.01, 12-116.02, 12-1578.01, 12-1598.06, 36-2021, 41-1751

**2014-A (Arizona Criminal Justice Commission)**

**NICS**

The National Instant Criminal Background Check System (NICS) is a national system that checks available records for information on persons who may be disqualified from receiving firearms. Mandated by the Brady Handgun Violence Prevention Act (Brady Act) of 1993, Public Law 103-159, NICS allows federal firearms licensees to contact the Federal Bureau of Investigation for information on whether the transfer of a firearm would be in violation of Section 922 (g) or (n) of Title 18, United States Code, or state law. The bill includes a number of provisions including:

- Upon appointment of a guardian for an incapacitated person the court is required to transmit the person’s name, sex, date of birth, the last four digits of the person’s social security number, if available, court case number, court originating agency identification number and the date the guardian was appointed to the Department of Public Safety for inclusion in the NICS database. Not applicable to persons for which a guardianship is appointed due solely to physical illness or disability.
- Information regarding persons found to be incapacitated is retained in the mental health repository maintained by the Supreme Court. Access must be granted to a law enforcement agency through the Department of Public Safety for purposes of enforcing a court order, assisting in an investigation or returning property.

**Arizona Judicial Council Legislative Proposals**  
**October 17, 2013**  
**Summary of Proposals – 2014 Session**

- Upon request from a law enforcement or prosecuting agency investigating or prosecuting a prohibited possessor as defined in 13-3101, the court must provide certified copies of the finding of incapacitation and appointment of a guardian.
- If a person has been found, as a result of a mental disorder, to constitute a danger to self or others or to be persistently or acutely disabled or gravely disabled and the court enters an order for treatment court must transmit the person's name, sex, date of birth, last four number the person's social security number, if available and the date of the order of treatment to the Department of Public Safety for inclusion in the NICS data base.
- Information regarding persons ordered into treatment must be maintained in the Mental Health Repository maintained by the Supreme Court with access granted to law enforcement through the Department of Public Safety for purposes of enforcing an order, assisting in an investigation or return of property.
- Upon request from a law enforcement or prosecuting agency investigating or prosecuting a prohibited possessor as defined in 13-3101, the court that originally ordered the person into treatment shall provide certified copies of the commitment order.
- Expands the definition of *prohibited possessor* to include a person who has been placed under a guardianship pursuant to Title 14, Chapter 5, Article 3, a person who has been found incompetent pursuant to Rule 11, Arizona, Rules of Criminal Procedure and a person who is under an indictment or information. Guardianship solely due to physical illness or disability is excluded.
- Requires the court when hearing a petition to restore a person's right to possess a firearm, in addition to current criteria, to consider whether the person is under a guardianship or whether the person was found incompetent and not restorable in a criminal case before granting or denying the petition.
- States that a person is not a prohibited possessor if that person's rights have been restored pursuant to A.R.S. 13-925.
- Clarifies that a prohibited possessor is not qualified to hold a concealed weapon permit.
- Disqualifies an applicant for an agency license under Title 32, Chapter 26, Article 2 if the applicant is under a guardianship or has been found incompetent.
- Delayed effective date of January 1, 2015.

Sections amended: §§ 13-925, 13-3101, 13-3112, 14-5304, 32-2612, 36-509, 36-540

**Arizona Judicial Council Legislative Proposals**  
**October 17, 2013**  
**Summary of Proposals – 2014 Session**

**2014-B (Arizona State Bar)**

**Peace officer transport; mental health**

Permits a guardian with mental health treatment authority to petition the court for an order directing a peace officer to transport the ward to a level one behavioral health facility or hospital for inpatient treatment or evaluation. The petition must contain the ward's mental disorder, facts supporting the need for placement in a behavioral health facility, facts supporting the need for assistance from a peace officer in transporting the ward to a behavior health facility, the address of the facility, documentation confirming the facility or hospital will accept the ward, and a copy of the certified letters of guardianship. Requires a copy of the petition be sent to counsel for the ward.

Allows the court to enter any order that is necessary and appropriate in the interest of justice for the ward. If the court determines a hearing is necessary, notice must be provided to counsel for the ward. The hearing must be scheduled and conducted within two judicial days after the petition was filed.

After a hearing, an order to transport may be entered without notice to the ward or the ward's attorney if the petitioner or the petitioner's attorney submits to the court a record of efforts to give notice or the reasons why notice should not be given and further, it clearly appears that without immediate hospitalization the ward will suffer serious physical harm, serious illness, or will inflict serious physical harm upon himself or another person.

If the requirements and orders of the court are followed in good faith, the behavioral health facility, hospital, or peace officer cannot be held civilly liable for the transportation, detention, or care provided to the ward.

Section enacted: § 14-5312.03

**2014-C (Arizona State Bar)**

**Court ordered treatment; enforcement; jurisdiction**

Requires the superior court issuing an order of treatment for a mental disorder to grant the Arizona Supreme Court access to the patient's name, date of birth, social security number, and date of commitment. Currently only DPS is granted access to this information.

The superior court of the county in which the mental health patient resides will have concurrent jurisdiction with the ordering court to enforce or administer the order. The court of original entry and the court in which the patient resides are directed to consult with one another to determine which court will handle future proceedings.

Section amended: § 36-540

**Arizona Judicial Council Legislative Proposals**  
**October 17, 2013**  
**Summary of Proposals – 2014 Session**

**2014-D (Rep. Justin Pierce)**

**Peace officers bill of rights; probation officers**

Separates “Probation Officers” from “Law Enforcement Officers in what is commonly referred to the “Peace Officers Bill of Rights”. The probation officer provisions are placed in Title 12, Article 7.1. Reorganizes both the Probation Officer and Law Enforcement provisions.

Includes juvenile detention officers in all provisions that now cover probation and surveillance officers.

Titles amended: 12, 38

**2014-E (Maricopa County Clerk of Court)**

**Criminal restitution orders**

Removes the requirement that the court enter criminal restitution orders if the defendant absconds from probation or the defendant’s sentence.

Section amended: § 13-805

**2014-F (Homeowners Association)**

**Small claims; HOA**

Allows employees of a Homeowners Association or employees of a corporation providing management services to the Association to record a notice of lien or notice of claim of lien on behalf of the Association if the Association is the original party to the lien and the employee is authorized in writing by the Association to record notices of lien, the employee is a certified legal document preparer, and recordation of liens is not the primary duty of the employee.

Permits employees of a Homeowners Association or employees of a corporation providing management services to the Association to appear on behalf of the Association in a small claims action if the Association is an original party to the claim, the employee is authorized in writing by the association to appear on its behalf, and appearing in small claims actions is not the primary duty of the employee.

Section amended: § 22-512

**2014-G (Arizona Association of Counties)**

**Deferring acceptance of bond**

Removes language requiring the sheriff or keeper of a county or city jail to accept bond twenty-four hours a day and directs the jail to refer a person posting bond during normal court operating hours to post the bond with the court having jurisdiction over the criminal offense.

Section amended: § 13-3969

**Arizona Judicial Council Legislative Proposals**  
**October 17, 2013**  
**Summary of Proposals – 2014 Session**

**2014-H (Arizona Association of Counties)**

**Searching of probationers and parolees**

Requires 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 with or without cause or a warrant by a parole officer or other peace officer.  
Section amended: § 13-901

**2014-I (County Supervisors Association)**

**Indigent defense**

Directs each county to oversee the expenses for all indigent legal services where a party is legally entitled to the services. Permits the Board of Supervisors to designate an administrator to manage the expenses.

Requires administrative approval of all requests for expert witnesses, investigators, and other legal services. Allows an indigent party to appeal a denial of legal services to the court handling the matter. Authorizes the administrator to appear before the court on behalf of the county to address the request and provide the county's position on the request. The administrator will determine reasonable compensation for the legal services and may oversee the contracting of the services.

Section added: § 13-4015

10/02/13

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

---

<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 17, 2013	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Arizona Code of Judicial Administration

---

#### **FROM:**

AOC 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 six proposed code sections for consideration with their respective proposal cover sheets summarizing each of the proposals and comments received.

- 1-402: Procurement (Amend)
- 6-105.01: Powers and Duties of Officers Evidence-Based Practices (Amend)
- 6-106: Personnel Practices (Amend)
- 6-202.01: Adult Intensive Probation Evidence-Based Practices (Amend)
- 6-301.01: Juvenile Standard Probation Evidence-Based Practices (New)
- 6-302.01: Juvenile Intensive Probation Evidence-Based Practices (New)

David Withey, AOC Legal Services Chief Counsel, will present the proposed amendments to code section 1-402. Chad Campbell, AOC Juvenile Justice Division Director, will present the proposed amendments to code section 6-105.01. Chad Campbell will present the proposed new code sections 6-301.01 and 6-302.01. Kathy Waters will present the proposed amendments to code sections 6-106 and 6-202.01.

#### **RECOMMENDED COUNCIL ACTION:**

Recommend adoption of the proposed amendments to code sections 1-402, 6-105.01, 6-106, and 6-202.01.

Recommend adoption of new code sections 6-301.01 and 6-302.01.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Proposal Cover Sheet**  
**Part 1: Judicial Branch Administration**  
**Chapter 4: Financial Administration**  
**Section 1-402: Procurement Code for the Judicial Branch**

**1. Effect of the proposal:** ARS § 41-2501(E) directs the Judicial Branch to adopt rules prescribing procurement policies and procedures that are substantially equivalent to the Arizona Procurement Code. The Procurement Rules for the Judicial Branch were first enacted in 1984 (Admin. Order No. 84-15) and have been amended several times. In May 2013, the Chief Justice signed Administrative Order No. 2013-44, which adopted a revised version of the rules for use by the Administrative Office of the Courts. The proposal will codify this revised set of rules for use by the entire judicial branch as ACJA § 1-402: Procurement Code for the Judicial Branch.

The proposed changes include some reformatting of the procurement rules to conform to the Arizona Code of Judicial Administration, and update the rules to incorporate recent amendments to state procurement law. In addition, the proposed amendments address a perceived need for more specificity relating to the competitive bid process.

**2. Significant new or changed provisions:**

*Please Note: In superior and limited jurisdiction courts, this Code only applies if the presiding judge of the county adopts it for use by all courts in the county. Otherwise, these courts are expected to follow local procurement rules.*

- Adds definitions, including “emergency,” “impracticable,” “multi-step sealed bidding,” “negotiations,” “responsible bidder or offeror,” and “responsive bidder or offeror.”
- Revises definitions for “person,” “respective designee,” and “small business.”
- Removes the requirement that the Presiding Judge provide the AOC a copy of the procurement rules that each court in the county will follow in those counties that choose not to adopt the JBPR.
- Adds the State Bar to the list of contractors that are exempt from these rules.
- Clarifies the courts’ authority to participate in cooperative purchasing arrangements.
- Modifies the requirement that, before making a purchase using another federal, state, or local contract, the court must determine the contract resulted from “equivalent public bidding requirements” to require that the contract resulted from “a competitive procurement process.”
- Clarifies the courts’ authority to purchase off GSA contracts and incorporates State Procurement Office standards relating thereto.
- Revises surplus property rules and permits disposal of computer equipment through a salvage company.

- Removes the requirement that the court first determine in writing that use of competitive sealed bidding (IFB) is not practicable or not advantageous to the court before employing a competitive sealed proposal (RFP) or request for qualifications (RFQ) to purchase materials or services.
- Provides guidance on drafting RFP's and RFQ's, requesting and processing Best and Final Offers (BAFO), and conducting post-BAFO contract negotiations
- Authorizes a "continuing" qualification period for RFQ's that allows respondents to be qualified throughout the term of the contract rather than having to submit their response by a specified response deadline.
- Authorizes use of an alternative means of procurement when an open and continuous availability of offerors is needed.
- Allows use of a state or local procurement office for construction contracts
- Adds criteria for determining an offeror's responsibility and susceptibility for award.
- Increases the authorized contract term from one year to five years.
- Increases the threshold for IFB's, RFP's, and RFQ's from \$35,000 to \$100,000.
- Raises the ceiling for the requirement to contract with small businesses when practicable from \$35,000 to \$100,000.
- Adds provisions for issuing Requests for Information.
- Removes provisions relating to specifications, inspections, and auditing.
- Requires each Judicial Branch Unit to adopt procurement policies and procedures for handling bid protests, contract claims, and debarment or suspension of contractors.

**3. Committee actions and comments:** the proposal was circulated to court leadership -- presiding trial and appellate court judges, clerks of appellate and superior courts, superior court administrators, chief probation officers, juvenile court directors, and the Executive Director of the Commission on Judicial Conduct -- in early June, simultaneously posted to the Supreme Court's ACJA Web Forum, and presented to the Presiding Judges meeting in June. The Limited Jurisdiction Courts Committee and the Committee on Superior Court both voted to recommend approval as presented. Comments received via the Web Forum were incorporated as provided in the attached Comment and Responses Sheet.

**4. Controversial issues:** None.

**5. Recommendation:** Approve as proposed.

**Comments and Responses**  
**ACJA §1-402**  
**Proposed Amendment 2013**

<b>Subsection</b>	<b>Comment</b>	<b>Response</b>
<p>(C)(3) Page 3</p>	<p>In addition to the areas . . . to which these rules do not apply, we suggest adding a few additional items, including services to be performed by an individual, such as individuals who come into the judicial branch to conduct specific training or perform specialized services. These do not necessarily qualify as a sole source, since there could be other individuals out there who can perform similar trainings or services. As a result, the Court spends a significant amount of time searching for other sources to get quotes for the service. It might be a more prudent path to have the procurement officer, in these limited circumstances, be able to have a memo to the procurement file as to the special qualifications of the person and how the person, price, etc. are in the best interest of the state.</p> <p>One other area which we suggest adding an exempt category is for licensing fees, warranties, and maintenance cost and fees on computer programs/software currently being used, and products already owned by the court.</p>	<p>Rejected. Faculty and training services can be purchased on a case-by-case basis under subsection (K) Sole Source Procurement, or on an on-going basis under subsection (M) Alternative Means of Procurement. Either section will require the procurement officer to request and document the respective designee’s approval of the rationale for using the procurement process selected.</p> <p>For those situations where, e.g., the court is paying for a trainer’s travel expenses only, the procurement rules are not invoked.</p> <p>Rejected. These types of costs are already governed by subsection (K) Sole Source Procurement, which requires the procurement officer to request approval from the respective designee in a memo that explains the circumstances. Thereafter, subsequent purchases of maintenance services or licensing fees would be covered by the sole source memo for as long as the court is using the equipment or software.</p>

(C)(7) Page 4	For GSA contracts, suggest adding a subparagraph which requires that the contractor accept the court's standard terms and conditions, which include the standard insurance and indemnification terms from State Risk Management.	Agreed, language has been added to address this comment.
(D) Page 7	In the definition of "respective designee," you may want consider who to add for Justice of the Peace and Municipal Courts. Both are able to utilize these rules . . . if adopted, and they would need a respective designee.	Agreed, language has been added to address this comment.
(F) Page 9	This may be problematic for Superior Court relationships with their respective Boards of Supervisors. The provision deals with handling surplus property. Many counties believe they have an interest in the items because they were purchased with county funds and believe they have a say in the disposal of such items. In addition, counties may take issue with a Superior Court for which the county bought the items transferring the items to another court under [(F)(3)(b)], when a county agency may be able to use the items.	Rejected as already addressed. Subsection (F)(3) provides that surplus property should be disposed of through the "designated local government property disposition office," unless otherwise found to be more advantageous to the Judicial Branch Unit.
(G)(6) Page 10	This appears to be missing a word in the first line. We believe the word missing is "services."	Agreed, language has been added to address this comment.
(J)(3) Page 13	We do not understand the reference to subsections (P)(3) and (X)(2).	Agreed, internal references have been corrected.
(J)(6) Page 13	The majority of the RFQs from our court are for a fixed price as listed in the RFQ. In that case, we do not list price in the evaluation criteria. This rule would require us to include it, even though all the prices would be the same.	Agreed, language has been revised to remove any implication that this practice is prohibited.
(Q)(3)	This effectively closes some records, which	This subsection adopts ARS § 41-2540 and

Page 16	would otherwise be considered open and public under Rule 123. Does this provision trump Rule 123? Or should Rule 123 be amended to include this?	Az Admin. Code R2-7-B313(D). Supreme Court Rule 123(c)(1) recognizes that “other provisions of law” may trump the presumption of open records in Rule 123. Rule 123 does not need to be amended.
(Z)(2) Page 19	This includes architects. Many procurement codes have an alternative process for architects. See for example A.R.S. § 41-2578; Article 5 of the Maricopa County Procurement Code. You may want to consider whether an alternative process is appropriate, especially given that Superior Courts and Justice Courts are involved in constructing new court facilities at times.	Agreed; language has been modified and statutory references were added to address this comment.
(BB) (1)(a)&(b) Page 19	We request removing the phrase “selected by the purchaser” in case at some point the court has the ability to do online quoting.	Agreed, the language has been removed.
Other	We suggest also including a provision for demonstration projects, similar to the provision in Arizona Administrative Code R2-7-G302. This would include adding a definition of demonstration project in the definitions section	Agreed, language has been added to section (C)(8) (page 4) as well as a definition for “demonstration project” (page 6), that follow the state procurement code.
Other	We also request provisions which would allow for online bidding. See A.R.S. § 41-2672. Along the same lines, we request including authorization of electronic transactions, similar to Arizona Administrative Code R2-7-208.	Agreed, section (DD) (pages 20-21) has been added as well as a definition for “on-line bidding” (page 6) that follow the state procurement code.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 1: Judicial Branch Administration**  
**Chapter 4: Financial Administration**  
**Section 1-402: Procurement Code for the Judicial Branch**

**A. Contents.**

- A. Contents
- B. Purpose
- C. Applicability and Exceptions
- D. Definitions
- E. Administration
- F. Surplus Property
- G. Authority and Liability
- H. Competitive Sealed Bidding (Invitation for Bids (IFB))
- I. Competitive Sealed Proposals (Request for Proposals (RFP))
- J. Request for Qualification (RFQ)
- K. Sole Source Procurement
- L. Emergency Procurement
- M. Alternative Means of Procurement
- N. Record of Sole Source and Emergency Contracts
- O. Rejection or Cancellation
- P. Determination of Susceptibility for Award
- Q. Determination of Responsibility
- R. Contract Award
- S. Bid and Performance Security
- T. Cost or Pricing Data
- U. Contract Form
- V. Multi-year Contracts
- W. Multi-term Contracts
- X. Inspection, Records and Audit
- Y. Specifications
- Z. Construction and Professional Services
- AA. Certain Purchases in Excess of \$100,000
- BB. Purchases not Exceeding an Aggregate Amount of \$100,000
- CC. Request for Information
- DD. On-line Bidding and Electronic Transactions
- EE. Procurement Appeals/Protests Procedures

**A.B. Purpose.** The purpose of the Procurement ~~Rules~~ Code for the Judicial Branch is to:

1. Establish a procurement policy for the judicial branch;
2. ~~Allow for the continued development of procurement policies and practices for the judicial branch;~~

- ~~32. Make as consistent as possible the procurement laws, policies, and practices among the various courts operating under ~~these rules~~ this Code;~~
- ~~4. Promote public confidence in the procedures followed in public procurement and safeguards for maintenance of a judicial branch procurement system of quality and integrity;~~
- ~~53. Provide for the fair and equitable treatment of all persons who ~~do business~~ deal with the courts operating under these rules procurement system of the Arizona Judicial Branch;~~
- ~~64. Provide economies, where possible, in judicial branch procurement activities and maximize to the fullest extent practicable, the purchasing value of public monies;~~
- ~~75. Foster effective broad-based competition ~~within the free enterprise system~~ regarding purchases by courts operating under these rules judicial branch procurement activities; and~~
- ~~86. Obtain in a cost effective and responsive manner the materials, services, and construction required by the courts operating under these rules in order to better serve the state's residents and businesses and to allow for the timely performance of responsibilities. Provide safeguards for Judicial Branch procurement quality and integrity.~~

**BC. Applicability and Exceptions.**

1. The Procurement ~~Rules~~ Code for the Judicial Branch ~~apply~~ applies to:
- ~~a. purchases made by any personnel of~~ †The supreme court, including the Administrative Office (AOC) of the Courts, the court of appeals, the Commission on Judicial Conduct, and the commissions on appellate and trial court appointments. As used in this Code, the term “Judicial Branch Unit” means any of the above-named courts and commissions.
- ~~2. b. The Procurement Rules for the Judicial Branch apply to purchases made by any personnel of~~ †The superior court, justice courts, and municipal courts as if adopted by the presiding judge of the superior court in the county. As used in this Code, the term “Judicial Branch Unit” means any of the above-named courts if adopted by the presiding judge of the superior court for that court. If the Procurement Rules for the Judicial Branch are not adopted for any courts in a county, the presiding judge of the superior court in the county shall have forwarded to the Administrative Office of the Courts (AOC), Finance Office a copy of the county or city procurement rules, policies or procedures under which these courts operate. These rules shall rules, policies or procedures shall be substantially equivalent to the state procurement rules and the Procurement Rules for the Judicial Branch. They shall be resubmitted by the presiding judge whenever changes are made.

2. If a court elects to follow its local county or city procurement rules, policies, and procedures, the local rules, policies, and procedures should be substantially equivalent to the state procurement rules or this Code.
3. This Code applies to every procurement requiring expenditure of public monies except:
  - a. State subsidies, grant contracts, or similar financial agreements between the supreme court, any political subdivision, and any court of the Arizona Judiciary or any financial agreement made pursuant to law, the Arizona Constitution, or other order or rule of the Arizona Supreme Court.
  - b. Contracts or agreements entered into by the supreme court pursuant to A.R.S. § 12-108(A) to have published and printed the report of decisions of the Arizona Supreme Court and Court of Appeals.
  - c. Other published and printed material related to the Arizona Supreme Court's constitutional rule-making authority, administrative supervision over all the courts of the state, and any other constitutional responsibility.
  - d. Leases of real property and space leases or rentals.
  - e. Contracts or agreements entered into with the National Center for State Courts or the State Bar of Arizona.
  - f. Agreements in settlement of litigation or threatened litigation.
  - g. Contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which the Judicial Branch Unit is or may become a party.
  - h. Contracts or agreements for preparation, administration, or grading of the Arizona State Bar Examination.
  - i. Intergovernmental agreements for services or joint exercise of powers common to the contracting parties as prescribed in A.R.S. § 11-952.
  - j. Interagency agreements.
5. A Judicial Branch Unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any materials, services, professional services, construction, or construction services with one or more public procurement units in accordance with an agreement entered into between the participants.
6. A Judicial Branch Unit may purchase from a contract awarded by the State of Arizona or other federal, state, or local agencies using a competitive procurement process.

7. Notwithstanding subsections (H)(1) and (I)(1), a Judicial Branch Unit may use general services administration (GSA) contracts for materials or services, if the respective designee or delegate determines all of the following apply:
- a. The price is equal to or less than the contractor's current federal supply contract price.
  - b. The contractor has indicated in writing that the contractor is willing to extend the current federal supply contract pricing, terms, and conditions, and will agree to the court's standard terms and conditions, including those providing for insurance and indemnification.
  - c. The purchase order or work order for materials or services adequately identifies the GSA contract on which the order is based.
  - d. It is cost-effective and in the best interests of the Judicial Branch Unit.
8. A demonstration project may be undertaken if the respective designee determines in writing that the project is innovative and unique. The Judicial Branch Unit shall not be obligated to pay the contractor, or to procure or lease the services or materials supplied by the contractor. If the project is successful, on the written request and justification by the procurement officer, and written determination by the respective designee that it is in the best interest of the Judicial Branch Unit, the Judicial Branch Unit may pay the contractor for the demonstration project without conducting a competitive procurement under this Code. The written request shall be submitted within 12 months after the demonstration project begins or within 12 months after the demonstration project ends. The term of the contract resulting from a demonstration project shall not exceed two years. A request and written determination of the basis for the contract award shall be included in the contract file. A contract to procure or lease services or materials previously supplied during a demonstration project shall be conducted under this Code.

**CD. Content Definitions.** ~~The Procurement Rules for the Judicial Branch can be accessed on the Arizona Supreme Court internet site at: <http://supreme.state.az.us/rfp> or by contacting the Arizona Supreme Court, Finance Office at 1501 West Washington, Phoenix, Arizona. For purposes of this Code, the following definitions are adopted:~~

"Administrative director" means the Administrative Director of the Courts.

"Advantageous" means in the best interest of the Judicial Branch Unit as solely determined by the respective designee or delegate.

"Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.

"Change order" means a written order that is signed by the respective designee or delegate, and that directs the contractor to make changes that the changes clause of the contract authorizes the respective designee or delegate, to order.

"Clerks of the court" means the clerk of the court for each division of the Arizona Court of Appeals and for the superior court in each county.

"Commission chair" means the Chairman of the Commission on Judicial Conduct.

"Construction:"

a. Means the process of building, altering, repairing, improving, or demolishing any public structure or building or other public improvements of any kind to any public real property.

b. Does not include:

(1) The routine operation, routine repair, or routine maintenance of existing facilities, structures, buildings, or real property.

(2) The investigation, characterization, restoration, or remediation due to an environmental issue of existing facilities, structures, buildings, or real property.

"Contract" means all types of state agreements, regardless of what they may be called, for the procurement of materials, services, construction, construction services, or the disposal of materials.

"Contract modification" means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.

"Contractor" means any person or business that has a contract with a Judicial Branch Unit.

"Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit.

"Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this code, and a fee, if any.

"Cost-plus-a-percentage-of-cost contract" means a contract in which, prior to the completion of the work, the parties agree that the contractor's fee will be a predetermined percentage of the total cost of the work when the cost is unknown and not subject to a formula or other limitations.

"Data" means documented information, regardless of form or characteristic.

"Days" mean calendar days and shall be computed pursuant to A.R.S. § 1-243.

"Delegate" means a representative of the respective designee duly authorized to enter into and administer contracts and make written determinations with respect to the contracts.

“Demonstration project” means a project in which a vendor supplies a service or material to a Judicial Branch Unit for which the Judicial Branch Unit does not pay but for which the Judicial Branch Unit may be obligated to provide routine support such as utility cost and operating personnel.

“Emergency” means compliance with subsections (H) or (I) is impracticable, unnecessary, or contrary to the Judicial Branch Unit’s best interest due to:

- a. A threat to public health, welfare, or safety;
- b. Any condition creating an immediate and serious need for materials, services, or construction; or
- c. Any condition in which the conservation of public resources is at risk.

“Executive director” means the Executive Director for the Commission on Judicial Conduct.

“General services administration contract” means contracts awarded by the federal General Services Administration.

“Impracticable” means action that would be futile, excessively difficult or expensive, or of little practical value.

“Invitation for Bids” means all documents, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in subsections (H)(1)–(8).

“Materials” means all property, including equipment, supplies, printing, insurance, and leases of property.

“May” denotes the permissive.

“Multi-step sealed bidding” means a two phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.

“Negotiations” means an exchange of information or any form of communication during which the offeror and the Judicial Branch Unit may alter or otherwise change the conditions, terms, and price of the proposed contract, unless specifically prohibited by this Code.

“On-line bidding” means a procurement process in which a Judicial Branch Unit receives vendors’ bids for goods, services, construction, data processing, telecommunications, or office systems technologies and services electronically over the internet in a real-time, competitive bidding event.

"Person" means any corporation, business, individual, union, committee, club, other organization, or group of individuals, and may also include all courts subject to the Supreme Court's administrative supervision pursuant to Article VI, Section 3 of the Arizona Constitution.

"Presiding judge" means the presiding judge of the Superior Court in each county.

"Procurement:"

- a. Means buying, purchasing, renting or leasing, or otherwise acquiring any materials, services, construction, or construction services.
- b. Includes all functions that pertain to obtaining any materials, services, construction, or construction services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

"Procurement officer" means any authorized representative acting within the limits of the authorized representative's authority as delegated by the respective designee.

"Public procurement unit" means the department of administration, a political subdivision of this state, any other state, an agency of the United States, or any nonprofit corporation created for the purpose of administering a cooperative purchase.

"Purchase description" means the words used in a solicitation to describe the materials, services, or construction for purchase and includes specifications attached to, or made a part of, the solicitation.

"Request for Information" means all documents issued to vendors for the sole purpose of seeking information about the availability in the commercial marketplace of materials or services.

"Request for Proposals" means all documents, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in subsections (I)(1)-(13).

"Request for Qualification" means all documents, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in subsections (J)(1)-(15).

"Respective designee" means the Administrative Director of the Courts for the Arizona Supreme Court, including all budgets under its supervision, the Clerks of the Court for the Court of Appeals and the Office of the Clerk of the Superior Court, the Presiding Judges for the Superior Court, the Presiding Justice of the Peace for a Justice Court, the Chief Judge of a Municipal Court, the Executive Director for the Commission on Judicial Conduct, and any other person designated by court order.

"Responsible bidder or offeror" means a person who has the capability to perform the contract requirements and the integrity and reliability which will assure good faith performance.

"Responsive bidder or offeror" means a person who submits a bid that conforms in all material respects to the Invitation for Bids, Request for Proposals, or Request for Qualification.

"Services" means the furnishing of labor, time, or effort by a contractor or subcontractor that does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

"Shall" denotes the imperative.

"Small business" means an independently owned firm, corporation, or establishment having a small number of employees, low volume of sales, small amount of assets, and limited impact on the market, as determined by the Judicial Branch Unit. Small business status is presumed if the business is registered on the list of small businesses maintained by the State Procurement Office.

"Specification" means any description of the physical or functional characteristics, or of the nature of a material, service, or construction item. Specification may include a description of any requirement for inspecting, testing, or preparing a material, service or construction item for delivery

"Subcontractor" means a person or business that contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with a Judicial Branch Unit.

## **E. Administration.**

1. The respective designee may adopt other administrative practices and procedures consistent with this Code, governing the procurement and management of all materials, services, and construction to be procured by the Judicial Branch Unit, including the disposal of materials.
2. The respective designee for each Judicial Branch Unit may serve as its central procurement officer or designate a procurement officer.
3. Except as otherwise provided in this Code, the respective designee or a designated procurement officer for each Judicial Branch Unit shall, in accordance with this Code:
  - a. Procure or supervise all procurement.
  - b. Manage and maintain the required documentation as prescribed in this Code.

**F. Surplus Property.** Except as otherwise provided in this Code, the respective designee or delegate for each Judicial Branch Unit shall, in accordance with this Code:

1. Establish guidelines for the management of all inventories of materials.
2. Sell, trade, or otherwise dispose of surplus materials.
3. Dispose of equipment or materials through the Department of Administration Surplus Property Management Office or through a designated local government property disposition office unless, based upon a written plan that explains the advantages of a proposed disposition method, the respective designee of the Judicial Branch Unit determines that:
  - a. The equipment or materials may be exchanged for an item of equal or greater value, or, if in the process of a procurement under this Code, the Judicial Branch Unit may receive a cost reduction for the trade-in of the equipment or materials.
  - b. The equipment or materials may be transferred for the beneficial use elsewhere in the Arizona Judiciary or to a tribal court.
  - c. An alternative disposition method is deemed to be advantageous to the Judicial Branch Unit. Examples of alternate methods include sale, lease, or disposal of surplus materials by public auction or competitive sealed bidding.
  - d. The disposal of computer equipment through a salvage company is a cost effective way to safely destroy secure data efficiently.

**G. Authority and Liability.**

1. The respective designee for each Judicial Branch Unit may delegate authority for administration of this Code to members of the respective designee's staff.
2. The respective designee or delegate may appoint advisory groups or evaluation committees to assist with respect to specifications, solicitation evaluations, or procurement in specific areas and with respect to any other matters within the respective designee's authority.
3. Members of advisory groups or evaluation committees are not eligible to receive compensation but are eligible for reimbursement of travel related expenses.
4. The evaluation committee, through its chair, may seek technical information from persons outside the committee to obtain the expertise needed to make an informed recommendation.
5. Payment for any services valued at an aggregate amount of \$500.00 or more shall not be made unless pursuant to a written contract or purchase order.

6. A person who contracts for or purchases any material or construction services in a manner contrary to the requirements of this Code is personally liable for the recovery of all public monies paid plus twenty percent of such amounts and legal interest from the date of payment and all costs and damages arising out of the violation of A.R.S. § 41-2616(A).
7. A person who intentionally or knowingly contracts for or purchases any material, services, or construction pursuant to a scheme or artifice to avoid the requirements of this Code is guilty of a Class 4 felony according to A.R.S. § 41-2616(B).
8. A person who serves on an evaluation committee for an invitation for bids, request for proposals, or request for qualification shall disclose any interest in the procurement.
9. A person who serves on an evaluation committee shall sign a statement before reviewing bids or proposals that the person has no interest in the procurement other than that disclosed and will have no contact with any representative of the competing vendors related to the particular procurement during the course of evaluation of bids or proposals (until such time a contract is awarded), except when such person is acting in accordance with these rules.
10. A person who serves on an evaluation committee shall disclose on the statement any contact unrelated to the pending procurement that the person may need to have with a representative of the competing vendors.

#### **H. Competitive Sealed Bidding (Invitation for Bids (IFB)).**

1. Contracts shall be awarded by competitive sealed bidding, except as provided in this Code.
2. For competitive sealed bidding a document shall be prepared entitled "Invitation for Bids," which shall be made available to prospective bidders. This document shall include a purchase description, time and place for publicly opening the bids, contractual terms and conditions, and the evaluation criteria.
3. Adequate public notice of the IFB shall be given a reasonable time before the date set forth in the Invitation for opening of bids. Adequate notice may include publication one or more times in a newspaper of general circulation within a reasonable time before bid opening. The publication shall not be less than two weeks before the bid opening. The notice may also be posted at a designated site on a worldwide public network of interconnected computers.
4. Bids shall be opened publicly at the time and place designated in the IFB. The amount of each bid, together with the name of each bidder shall be recorded. This record shall be open to public inspection at the bid opening. The bidder shall designate any trade secret or proprietary information contained in the bid, and where the Judicial Branch Unit

concurs, that content shall remain confidential. The bids shall be open for public inspection after a contract is entered into.

5. Bids shall be unconditionally accepted without alteration or correction, except as authorized in subsection (H)(6). Bids shall be evaluated based on the requirements set forth in the Invitation for Bids. No criteria may be used in bid evaluations that are not set forth in the IFB.
6. Correction or withdrawal of erroneous bids before or within five days after bid opening, based on bid mistakes, may be permitted. In all other instances, after bid opening, no corrections in bid prices or other provisions of bids prejudicial to the interest of the Judicial Branch or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contract based on bid mistakes, shall be supported by a written determination made by the respective designee of the Judicial Branch Unit.
7. The contract shall be entered into with the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation for Bids and best meets the needs of the Judicial Branch Unit. If all bids for a procurement exceed available monies, and the low responsive and responsible bid does not exceed such monies by more than five percent, the Judicial Branch Unit may, in situations in which time or economic considerations preclude re-solicitation of bids, negotiate an adjustment of the bid price, including changes in the bid requirements, with the low responsive and responsible bidder, to bring the bid within the amount of available monies.
8. The multi-step sealed bidding method may be used if it is not practical to initially prepare a definitive purchase description that is suitable to permit a contractual agreement based on competitive sealed bidding. An IFB may be issued requesting the submission of technical offers to be followed by an IFB, limited to those bidders whose offers are determined to be acceptable under the criteria set forth in the first solicitation, except that the multi-step sealed bidding method shall not be used for construction contracts.

#### **I. Competitive Sealed Proposals (Request for Proposals (RFP)).**

1. A contract for materials or services may be entered into by competitive sealed proposals.
2. Proposals shall be solicited through a Request for Proposals.
3. Adequate public notice of the RFP shall be given pursuant to subsection (H)(3).
4. Proposals shall be opened publicly at the time and place designated in the RFP. The name of each offeror shall be recorded. All other information contained in the proposal shall be confidential, so as to avoid disclosure of contents prejudicial to competing offerors during the process of negotiation. The offeror shall designate any trade secret or proprietary information contained in the proposal, and where the Judicial Branch Unit

concur, that content shall remain confidential. The proposals shall be open for public inspection after a contract is entered into.

5. The RFP shall state in advance the relative importance of price and other evaluation factors. Specific numerical weighting is not required. The RFP shall include the criteria used for determining an offeror's responsibility, as well as the proposal's responsiveness and susceptibility for contract award. The evaluation committee shall use no other criteria in its evaluation of proposals.
6. If provided for in the RFP, the procurement officer may engage in discussions with responsible offerors as needed to clarify and assure full understanding of the responsiveness of the proposal to solicitation requirements. All clarifications to proposals shall be in writing. The procurement officer shall not favor one offeror over another in obtaining clarification where needed. There shall be no disclosure of any information derived from proposals submitted by competing offerors.
7. Following consultation with the evaluation committee, the procurement officer shall determine whether proposals are not susceptible for award or are not competitive. A determination that a proposal is not susceptible for award or not competitive shall be in writing, state the basis of the determination, and be retained in the procurement file.
8. The procurement officer may issue a written request for best and final offers from all offerors whose proposals are susceptible to an award. If the procurement officer has established a list of competitive proposals, the procurement officer may issue a request for best and final offers from all offerors whose proposals are competitive. The request shall set forth the date, time, and place for the submission of best and final offers. The request for a best and final offer shall inform offerors that if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer.
9. Following consultation with the evaluation committee, the procurement officer shall identify the offeror whose proposal is most advantageous to the Judicial Branch Unit. A determination that an offeror's proposal is most advantageous to the Judicial Branch Unit shall be in writing, state the basis of the determination, and be retained in the procurement file.
10. The respective designee or delegate is authorized to conduct negotiations with the offeror(s) whose proposal has been determined in the selection process to be most advantageous to the Judicial Branch Unit. The procurement officer shall coordinate any negotiations.
11. Any response to a procurement officer's request for clarification of a proposal made during negotiations shall be in writing. The procurement officer shall keep a record of all negotiations.

12. Negotiations shall not constitute a contract award nor shall it confer any property rights on the successful offeror. If negotiations are conducted and an agreement is not reached, the Judicial Branch Unit may enter into negotiations with the next highest ranked offeror whose proposal is susceptible to an award without the need to advise other offerors or repeat the formal solicitation process. The contract shall be awarded in accordance with subsection (R).
13. If the request for proposals provides for multiple contracts, more than one proposal may be determined to be most advantageous to the Judicial Branch Unit and negotiated pursuant to this Code.

**J. Request for Qualification (RFQ).**

1. Contracts may be entered into by issuance of a Request for Qualification, except this method shall not be used for construction contracts.
2. Qualified respondents shall be solicited through an RFQ.
3. The RFQ method shall only be used for procurement of contracts for services in which no warranty, express or implied, is made by the Judicial Branch Unit to the contractor that any services will be purchased during the term of the contract. Contracts awarded pursuant to an RFQ shall state that the services are being purchased only on an "as needed" basis, and shall further be subject to the provisions of subsections (Q)(3) and (Y)(3).
4. Adequate public notice of the RFQ shall be given pursuant to subsection (H)(3).
5. Responses to an RFQ shall be opened publicly at the time and place designated in the RFQ. The name of each respondent shall be recorded. All other information contained in the response shall be confidential, so as to avoid disclosure of contents prejudicial to competing respondents during the process of negotiation. The respondent shall designate any trade secret or proprietary information contained in the response, and where the Judicial Branch Unit concurs, that content shall remain confidential. The responses shall be open for public inspection after a contract is entered into.
6. The RFQ shall state in advance the relative importance of all evaluation factors. Specific numerical weighting is not required. The RFQ shall include the criteria used for determining a respondent's responsibility, as well as, the response is responsiveness and susceptibility for contract award. The evaluation committee shall use no other criteria in its evaluation of responses. Responses to the RFQ shall include detailed and specific information as to the services to be provided for the cost proposed and a complete explanation of how the proposed cost was determined.
7. A Judicial Branch Unit may include in the RFQ a "continuing" qualification period that allows the procurement officer to qualify respondents throughout the term of the contract, rather than a specified response deadline as defined in the RFQ.

8. If provided for in the RFQ, the procurement officer may engage in discussions with responsible respondents as needed to clarify and assure full understanding of the responsiveness of the responses to solicitation requirements. All clarifications to responses shall be in writing. The procurement officer shall not favor one respondent over another in obtaining clarification where needed. There shall be no disclosure of any information derived from responses submitted by competing respondents.
9. Following consultation with the evaluation committee, the procurement officer shall determine whether responses are not susceptible for award. A determination that a response is not susceptible for award shall be in writing, state the basis of the determination, and be retained in the procurement file.
10. The procurement officer may issue a written request for best and final offers from all respondents whose responses are susceptible to an award. The request shall set forth the date, time, and place for the submission of best and final offers. The request for a best and final offer shall inform respondents that if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer.
11. Following consultation with the evaluation committee, the procurement officer shall identify the respondent(s) whose response(s) are most advantageous to the Judicial Branch Unit. A determination that a respondent's response is most advantageous to the Judicial Branch Unit shall be in writing, state the basis of the determination, and be retained in the procurement file.
12. The respective designee or delegate is authorized to conduct negotiations with the respondent(s) whose response(s) have been determined in the selection process to be most advantageous to the Judicial Branch Unit. The procurement officer shall coordinate any negotiations.
13. Any response to a procurement officer's request for clarification of a response made during negotiations shall be in writing. The procurement officer shall keep a record of all negotiations.
14. Negotiations shall not constitute a contract award nor shall it confer any property rights on the successful respondent. If negotiations are conducted and an agreement is not reached, the Judicial Branch Unit may enter into negotiations with the next highest ranked respondent whose response is susceptible to an award without the need to advise other respondents or repeat the formal solicitation process. The contract shall be awarded in accordance with subsections (R)(1)-(3).
15. More than one response may be determined to be most advantageous to the Judicial Branch Unit and negotiated pursuant to this Code.

**K. Sole Source Procurement.** A contract may be entered into for procurement without competition if the respective designee of the Judicial Branch Unit determines that no reasonable

alternative sources exist. A written determination of the basis for the sole source procurement shall be included in the contract file.

**L. Emergency Procurement.** Notwithstanding any other provision of this Code, the respective designee may make or authorize an emergency procurement. Such procurement shall be as competitive as practicable under the circumstances. A written determination of the basis for the procurement and the reason for the selection of the particular contractor shall be included in the contract file.

**M. Alternative Means of Procurement.** Notwithstanding any other provision of this Code, when compliance with subsections (H)(1) and (I)(1) is impracticable, unnecessary, contrary to the public interest, or requires an open and continuous availability of offerors the respective designee may adopt a written alternative means of procurement for each specific type of purchase for which an alternative means of procurement is used that is as competitive as is practicable.

**N. Record of Sole Source and Emergency Contracts.** The respective designee or delegate for each Judicial Branch Unit shall maintain a record listing all contracts in excess of one hundred thousand dollars made under subsections (K) or (L) for a minimum of five years. The record shall contain each contractor's name, the amount and type of each contract, and a general description of the materials, services, or construction procured under each contract.

**O. Rejection or Cancellation.** An Invitation for Bids, Request for Proposals, or Request for Qualification may be canceled or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, if it is in the best interest of the Judicial Branch Unit.

**P. Determination of Susceptibility for Award and Competitiveness.**

1. The procurement officer, following consultation with the evaluation committee, may determine at any time during the evaluation period and before award that an offer is not susceptible for award or not competitive. A written determination shall be placed in the procurement file based on one or more of the following:
  - a. The offer fails to meet one or more of the mandatory requirements of the solicitation;
  - b. The offer fails to concur or comply with any susceptibility criteria identified in the solicitation, including rejection of any contract terms and conditions included in the solicitation; or
  - c. The offer is not competitive because it has no reasonable chance for award when compared on a relative basis with more highly-ranked offers.
2. An offer should be included for further consideration if there is any reason it may be susceptible for award or competitive.

3. The procurement officer shall promptly notify the offeror(s) in writing of the final determination that the offer is not susceptible for award or not competitive, unless the respective designee or delegate determines such notice would compromise the Judicial Branch Unit's ability to negotiate with other offeror(s).

**Q. Determination of Responsibility.**

1. The procurement officer shall determine at any time during the evaluation period and before award, that an offer is responsible or non-responsible. The procurement officer may permit an offeror to furnish information relating to responsibility called for in the solicitation but not supplied, if the intended offer is evident and submittal of the information is not prejudicial to the Judicial Branch and fair competition. A determination that an offeror is non-responsible shall be in writing and included in the procurement file. A finding of non-responsibility shall not be construed as a violation of the rights of any person. The following factors shall be considered in determining that an offeror is responsible or non-responsible:
  - a. The offeror's financial, business, personnel, or other resources, including subcontractors;
  - b. The offeror's record of performance and integrity;
  - c. Whether the offeror has been debarred or suspended;
  - d. Whether the offeror is legally qualified to contract with the state or the Judicial Branch Unit;
  - e. Whether the offeror promptly supplied all requested information concerning its responsibility; and
  - f. Whether the offeror meets any other responsibility criteria specified in the solicitation.
2. The procurement officer shall promptly notify offeror(s) in writing of the final determination that the offeror is non-responsible, unless the respective designee or delegate determines that such notice would compromise the Judicial Branch Unit's ability to negotiate with the offeror(s). The procurement officer shall file a copy of the determination in the procurement file.
3. Information furnished by a bidder or offeror pursuant to the determination of responsibility shall not be disclosed outside of the office of the procurement officer without prior written consent by the bidder or offeror except to law enforcement agencies or as otherwise required by law or court order.

## **R. Contract Award.**

1. The procurement officer shall prepare an award determination that explains the basis for the award and place the determination in the procurement file.
2. The respective designee or delegate shall award the contract to the responsible offeror whose offer is determined to be most advantageous to the Judicial Branch Unit based on the evaluation factors set forth in the solicitation and the applicable solicitation rules. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous proposal if a competing offeror located outside this state is not subject to a transaction privilege or use tax of a political subdivision of this state.
3. The procurement officer shall notify all offerors of an award and of the availability of the procurement file.

**S. Bid and Performance Security.** A Judicial Branch Unit may require the submission of security to guarantee faithful bid and contract performance. The amount and type of security required for each contract shall be in the sole discretion of the Judicial Branch Unit except as provided for construction contracts in subsection (Z)(1). The requirement for security shall be included in the IFB or RFP.

**T. Cost or Pricing Data.** For purposes of this Code, and where applicable and not inconsistent with this Code, the provisions of A.R.S. § 41-2543, may be applied.

## **U. Contract Form.**

1. Subject to the limitations of this Code, any type of contract that will promote the best interests of the Judicial Branch Unit may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited.
2. No cost-reimbursement contract shall be used unless the proposed contractor certifies in writing that the contractor's accounting system is adequate to allocate costs, and the Judicial Branch Unit is satisfied as to the validity of the certification.

**V. Multi-year Contracts.** Unless otherwise provided by law, a contract for materials or services may be entered into for a period of time up to five years, provided the length of any contract exceeding five years and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting. For a contract exceeding five years, the respective designee of the Judicial Branch Unit shall determine in writing that such a contract would be advantageous to the Judicial Branch Unit.

## **W. Multi-term Contracts.**

1. Before the use of a multi-term contract the respective designee or delegate shall determine in writing that:

- a. Estimated requirements cover the period of the contract and are reasonable and continuing.
  - b. Such a contract will serve the best interests of the Judicial Branch Unit by encouraging effective competition or otherwise promoting economies in procurement and expenditures.
2. If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, multi-year or multi-term contract shall be canceled. Subject to the availability of funds, costs for materials and services rendered to the date of cancellation, and cancellation costs, may be paid pursuant to the terms of the contract.

#### **X. Inspection, Records and Audit.**

1. The Judicial Branch Unit may at reasonable times inspect or cause to be inspected the part of the plant or place of business of a contractor or any subcontractor that is related to the performance of any contract or proposed contract.
2. A Judicial Branch Unit may, at reasonable times and places, audit or cause to be audited the books and records of any person who submits cost or pricing data as provided in this Code to the extent that the books and records relate to the cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for five years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing by the respective designee of the Judicial Branch Unit.
3. A Judicial Branch Unit is entitled to audit, or cause to be audited, the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of five years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the respective designee of the Judicial Branch Unit.
4. All procurement records shall be retained and disposed of by each Judicial Branch Unit in accordance with records retention schedules adopted by the Supreme Court.

#### **Y. Specifications.**

1. A Judicial Branch Unit may prepare and use its own specifications and may obtain advice and assistance from personnel of agencies in the development of specifications.
2. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Judicial Branch Unit's needs and shall not be unduly restrictive.

3. All specifications, including those prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Judicial Branch Unit's needs and shall not be unduly restrictive.

**Z. Construction and Professional Services.**

1. For purposes of this Code and where applicable and not inconsistent with this Code, construction contracts in excess of the amount stated in subsection (AA) are governed by the provisions of A.R.S. §§ 41-2573 through -2577.
2. Except as authorized by subsections (K) and (L), a single contract for architect, engineer, assayer, geologist, landscape architect and land surveying services shall be procured as provided in A.R.S. §§41-2578 and -2581.
3. Contracts for services shall be on the basis of demonstrated competence and qualifications for the types of services required and at fair and reasonable prices.
4. For the purposes of this Code, contracts for reimbursement of costs shall identify what costs are to be reimbursed, and the amount or the method or rate by which the amount shall be computed.
5. A Judicial Branch Unit may use the State Procurement Office or Local Procurement Office to procure construction contracts under subsections (Z)(1)-(4).

**AA. Certain Purchases in Excess of \$100,000.** Unless otherwise exempted, a procurement having an aggregate amount of more than \$100,000 shall follow the procedures of subsections (H), (I), or (J). For purposes of this Code, "aggregate" shall mean the sum of any existing, current procurement requirements for like materials or services. Nothing in this policy shall preclude the use of sealed bids (RFPs/RFQs) for procurement of \$100,000 or less if desired.

**BB. Purchases not Exceeding an Aggregate Amount of \$100,000.**

1. Purchases that do not exceed an aggregate dollar amount of \$100,000 are exempt from requirements of subsections (H), (I), and (J), but shall be made according to the following procedures:
  - a. Purchases estimated to cost between \$10,000 and \$100,000 require written quotations from at least three vendors.
  - b. Purchases estimated to cost between \$5,000 and \$10,000 require three written or verbal quotations from at least three vendors.
  - c. Purchases estimated to cost less than \$5,000 shall be made using comparative pricing providing for adequate and reasonable competition.

- d. Quotations, written and verbal, shall be documented and retained with documentation of the purchase.
- e. Vendors may be selected by taking into consideration the price, purchaser's past experience, the vendor's reputation, availability of goods or services, the service level of the vendor, and compatibility of equipment. Other specific criteria may be utilized as necessary given the nature of the specific purchase. Award shall be made to the responsible vendor who submits the quotation that is most advantageous to the Judicial Branch Unit and conforms to the purchase requirements.
- f. Any procurement which does not exceed the aggregate dollar amount of less than \$100,000 shall be restricted, if practicable, to small businesses as defined in this Code. It is declared to be impracticable to procure from a small business under subsections (K), (L), and (M) and when purchases are not expected to exceed \$5,000 or, when it is not the best, most economical, most efficient, or most convenient way to conduct official business.
- g. Procurement requirements shall not be artificially divided or fragmented so as to constitute a purchase under this section and to circumvent the source selection procedures required by subsections (H), (I), or (J) or be artificially combined to circumvent this section.

#### **CC. Request for Information.**

1. The procurement officer may issue a Request for Information to obtain price, delivery, technical information or capabilities for planning purposes. Adequate public notice as specified in subsection (H)(3) shall be provided.
2. Responses to a Request for Information are not offers and cannot be accepted to form a binding contract.
3. Information contained in a response to a Request for Information shall be considered confidential until the procurement process is concluded or for two years after the request for information was issued, whichever occurs first.
4. There is no required format to be used for a Request for Information.

#### **DD. On-line Bidding and Electronic Transactions Authorized.**

1. If a procurement officer determines that electronic, on-line bidding is more advantageous than other procurement methods provided in this Code, a procurement officer may use on-line bidding to obtain bids electronically for the purchase of goods, services, construction, data processing, telecommunications or office systems technologies and services.

2. A Judicial Branch Unit using on-line bidding may:
  - a. Require bidders to register before the opening date and time and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the solicitation.
  - b. Prequalify bidders and allow only those bidders who are prequalified to submit bids on line.
3. The Judicial Branch Unit retains its existing authority to determine the criteria that will be used as a basis for making awards.
4. A respective designee may use electronic transactions involving electronic records and signatures in conducting procurements under this Code, provided that the records are created and stored in accordance with ACJA §1-507(E).

**EE. Procurement Appeals/Protests Procedures.** The respective designee of each Judicial Branch Unit shall adopt a procurement appeals/protest policy and procedure. The policy adopted by the respective designee, at a minimum, shall address the following subjects:

1. Protested solicitations and awards;
2. Suspension or debarment of contractors; and.
3. Breach of contract controversies and contract claims.

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

**Part 6: Probation  
Chapter 1: General Administration  
Section 6-105.01: Powers and Duties of Officers Evidence-Based Practices**

1. **Effect of the proposal:** Introduce and instill evidence-based principles, as outlined in Justice 20/20
  
2. **Significant new or changed provisions:**
  - Expanded terms in definition section to more accurately capture juvenile court activities, especially those already defined in statute
    - Alcohol and drug testing – updated to reflect recent code changes
    - Case Plan - added
    - Child, youth, or juvenile – added
    - Complaint – added
    - Criminogenic need – slight adjustments
    - Default – added
    - Delinquent act – added
    - Delinquent juvenile – added
    - Dependent child – added
    - Evidence-based practice – added
    - Incurable child – added
    - Juvenile court – added
    - Petition – added
    - Referral – added
    - Youth assessment - added
  - Conduct a youth assessment for each juvenile who is referred to the juvenile court and update the assessment on each subsequent referral. The court shall use the assessment to determine the appropriate disposition of the juvenile, for establishment of a level of supervision, and for formulation of case plan.
  
3. **Committee actions and comments:** (Summarize comments and responses)

Seeking recommendation and support for adoption:

- Juvenile Administrator’s Meeting 8/22/2013
  - (E) (3) (c) Question as to whether an “information sharing requirement” belongs in the powers and duties of officers – no further recommendation as this is existing language in current code
  - (E) (3) (f) (4) Maricopa County expressed concern as to the 72 hour time frame being too short – no further recommendation as this is existing language in current code
  - JAM voted to approve this code section

- Committee on Probation 8/23/2013
  - Reviewed above comments from JAM
  - COP voted to approve this code section
  
- Committee on Juvenile Courts 9/5/2013
  - COJC voted to approve this code section

Seeking adoption:

- Arizona Judicial Council 10/17/2013

See comments table attached

**4. Controversial Issues:**

NA

**5. Recommendation:**

NA

**Comments and Responses to ACJA Section 6-105.01: Powers and Duties of Officers  
Evidence Based Practices**

PARAGRAPH	COMMENT	RESPONSE
(E)(3)(f)	I recommend that you also emphasize notification to the court when the juvenile conduct displays the "ability or willingness to comply" as well as the "inability or unwillingness."	Arizona Court Rules outline the obligation of juvenile to comply with conditions of probation. While officers can absolutely report "ability or willingness," the juvenile probation officer responsible for supervising may petition the court to revoke probation if there is probable cause to believe that the juvenile has violated a condition or regulation of probation.
(E)(3)(f)(3)	I recommend a shorter time than 90 days for the warrant request. I would issue @15 days.	After the 90 day maximum time is noted, the code further explains that the supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.
(E)(3)(i)	I recommend there be a school match assessment for the best school match for the minor.	No such specific assessment exists and this would be difficult to adopt in rural areas, however during the case planning process the youth / family, school, probation, and other involved stakeholders should be assessing school plans that are in the best interest of the youth.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 1: General Administration**  
**Section 6-105.01: Powers and Duties of Officers Evidence-Based Practices**

**Courts shall be governed by section 6-105, except and until approved by the Administrative Director to be governed by section 6-105.01.**

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

“Absconder” as provided in A.R.S. § 13-105(1) “means a probationer who has moved from the probationer’s primary residence without permission of the probation officer, who cannot be located within ninety days of the previous contact and against whom a petition to revoke has been filed in the superior court alleging that the probationer’s whereabouts are unknown. A probationer is no longer deemed an absconder when the probationer is voluntarily or involuntarily returned to probation service.”

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

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

“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.

“Child,” “youth,” or “juvenile” means “an individual who is under the age of eighteen years” as provided in A.R.S. § 8-201(6).

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

“Complaint” means “a written statement of the essential facts constituting a public offense ...” as provided in A.R.S. § 8-201(7).

“Court” means 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.

“Default” means has not met obligations of supervision as outlined in terms of probation.

“Delinquent act” means “an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense” as provided in A.R.S. § 8-201(10).

“Delinquent juvenile” means “a child who is adjudicated to have committed a delinquent act,” as provided in A.R.S. § 8-201(11).

“Dependent child” means “(a) a child who is adjudicated to be: (i) In need of proper and effective parental care and control and who has no parent or guardian, or one who has no parent or guardian willing to exercise or capable of exercising such care and control. (ii) Destitute or who is not provided with the necessities of life, including adequate food, clothing, shelter or medical care. (iii) A child whose home is unfit by reason of abuse, neglect, cruelty or depravity by a parent, a guardian or any other person having custody or care of the child. (iv) Under eight years of age and who is found to have committed an act that would result in adjudication as a delinquent juvenile or incorrigible child if committed by an older juvenile or child. (v) Incompetent or not restorable to competency and who is alleged to have committed a serious offense as defined in section 13-706. (b) Does not include a child who in good faith is being furnished Christian Science treatment by a duly accredited practitioner if none of the circumstances described in subdivision (a) of this paragraph exists,” as provided in A.R.S. § 8-201(13).

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

“Incorrigible child” means “a child who:

- (a) Is adjudicated as a child who refuses to obey the reasonable and proper orders or directions of a parent, guardian or custodian and who is beyond the control of that person.
- (b) Is habitually truant from school as defined in section 15-803, subsection C.
- (c) Is a runaway from the child’s home or parent, guardian or custodian.
- (d) Habitually behaves in such a manner as to injure or endanger the morals or health of self or others.
- (e) Commits any act constituting an offense that can only be committed by a minor and that is not designated a delinquent act.
- (f) Fails to obey any lawful order of a court of competent jurisdiction given in a noncriminal action.” as provided in A.R.S. § 8-201(16).

“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).

“Petition” means “a written statement of the essential facts that allege delinquency, incorrigibility or dependency” as provided in A.R.S. § 8-201(24).

“Referral” means “a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act” as provided in A.R.S. § 8-201(27).

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

“Standardized reassessment” means the state-approved tool designed to measure changes in an offender’s needs related to criminal 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.

“Youth assessment” means the state approved system of actuarial tools designed to assess risk, need, and responsivity factors of youth at various stages of the juvenile justice system.

**B. Applicability.** Az. Const. Art. 6, § 3, ~~and~~ A.R.S. §§ 12-253, ~~and~~ 12-254, ~~and~~ 8-205 authorize the supreme court to establish powers and duties of officers. A.R.S. § 13-805(A)(B)(C) provides:

A. The trial court shall retain jurisdiction of the case for purposes of ordering, modifying and enforcing the manner in which court-ordered payments are made until paid in full or until the defendant's sentence expires.

B. At the time the defendant is ordered to pay restitution by the superior court, the court may enter a criminal restitution order in favor of each person who is entitled to restitution for the unpaid balance of any restitution order. A criminal restitution order does not affect any other monetary obligation imposed on the defendant pursuant to law.

C. At the time the defendant completes the defendant's period of probation or the defendant's sentence or the defendant absconds from probation or the defendant's sentence, the court shall enter both:

(1.) A criminal restitution order in favor of the state for the unpaid

balance, if any, of any fines, costs, incarceration costs, fees, surcharges or assessments imposed.

~~(2.)~~ A criminal restitution order in favor of each person entitled to restitution for the unpaid balance of any restitution ordered, if a criminal restitution order is not issued pursuant to subsection B of this section.

The provisions of this code section requiring a probation officer to request a criminal restitution order apply to a probationer who moved from the probationer's primary residence on or after July 20, 2011, without permission of the probation officer.

**C. Purpose.** ~~Outline and clarify the powers and duties, with an emphasis on evidence based practices, of directors of juvenile court directors services, chief probation officers, probation officers, and surveillance officers.~~

**D. Duties of Directors of Juvenile Court Services and Chief Probation Officers.**

1. Directors of juvenile court services and chief probation officers shall:

- a. Abide by the Code of Conduct for Judicial Employees and the Code of Ethics for Arizona Probation Personnel;
- b. Treat probationers, victims, criminal justice personnel and the public with dignity and respect;
- c. Require that all probation employees adhere to all federal and state statutes, local ordinances, the Arizona Code of Judicial Administration (ACJA) and all administrative orders concerning adult and juvenile probation services;
- d. Require that probation employees are provided with, or have access to:
  - (1) Applicable local policies and procedures; and
  - (2) ACJA sections pertaining to probation related matters.
- e. Require all probation employees to comply with all applicable policies and procedures;
- f. Promote and support the existence of a drug-free workplace through the enactment and enforcement of ACJA sections or local policy;
- ~~g. Uphold the mission and strive to meet all related performance measures of state funded probation services;~~
- ~~hg.~~ Maintain accurate and verifiable records of all persons under supervision of the court; and

- h. Support the implementation of all probation and court- related goals contained within the strategic agenda for Arizona’s courts.
2. The chief probation officer, with the approval of the presiding judge, shall also:
    - a. As provided by A.R.S. § 12-251(A), “...[A]ppoint such deputy adult probation officers and support staff as are necessary to provide presentence investigations and supervision services to the court,” and ensure that the appointed positions shall also contribute to the effective and efficient operation of the probation department;
    - b. “Establish organizational and operational procedures for the deputy adult probation officers of the county” as provided in A.R.S. § 12-254(A)(1), and ensure that policies and procedures for the organization and operation of the probation department shall be consistent with federal and state statutes, existing supreme court administrative orders, and the ACJA;
    - c. “Direct the work and activities of the deputy adult probation officers of the county” as provided by A.R.S. § 12-254(A)(2); and
    - d. “Perform other duties assigned by the presiding judge, which duties may include serving as a juvenile probation officer, if such officer meets the minimum qualifications prescribed by § 8-203, subsection C” as provided in A.R.S. § 12-254(A)(4).
  3. The director of juvenile court services, with the approval of the presiding juvenile judge, shall also:
    - a. As provided by A.R.S. § 8-203 (B)” “... recommend the appointment of deputy probation officers, detention personnel, other personnel and office assistants as the director deems necessary.”;
    - b. Establish policies and procedures for the organization and operation of the probation department consistent with federal and state statutes, existing supreme court administrative orders and the ACJA;
    - c. Direct the work activities of the deputy juvenile court officers of the county; and
    - d. Perform other duties as assigned by the presiding judge of the juvenile court.

**E. Duties of Probation Officers.**

1. Adult and juvenile probation officers shall:
  - a. Abide by the Code of Conduct for Judicial Employees and the Code of Ethics for Arizona Probation Personnel;
  - b. Treat probationers, victims, criminal justice personnel, and the public with dignity and

respect;

- c. Adhere to all federal and state statutes, local ordinances, the ACJA and all administrative orders concerning adult and juvenile probation services;
- d. Comply with all current departmental policies and procedures;
- e. Acknowledge the impact of crime on victims by adhering to the Victim's Bill of Rights and other applicable legislation;
- f. Communicate and coordinate with treatment providers concerning probationer participation in and compliance with treatment requirements, to ~~ensure~~ monitor probationer rehabilitation, community protection, and victim restoration;
- g. Work with the community and department personnel to develop resources and opportunities for treatment and rehabilitation for persons on probation and under their supervision;
- h. Ensure that persons under their supervision are referred to available treatment and rehabilitation resources as needed within the level of authorized appropriations, and adhering to department policies and procedures and the ACJA;
- i. Maintain accurate and verifiable case records of all persons assigned to them for supervision; and
- j. Perform other duties as prescribed by the chief probation officer or director of juvenile court services.

2. Adult probation officers shall also:

- a. As provided by A.R.S. § 12-253(1), "Make and file a complete record of persons placed under suspended sentence by the court, and of all reports made to the officer in writing or in person, in accordance with the conditions imposed by the court";
  - (1) Adult probation officers shall immediately contact the law enforcement officer or agency involved on receipt of an arrest notification to ascertain the nature and circumstances surrounding the contact and obtain a copy of any corresponding incident report or citation.
  - (2) The supervising probation officer shall document in the case record all contacts and information received pertaining to the incident, as well as the actions taken as a result of the incident.
- b. As provided by A.R.S. § 12-253(2), "Exercise general supervision and observation over persons under suspended sentence, subject to control and direction by the court";
  - (1) Adult probation officers shall:
    - (a) Administer the standardized assessment within 30 days of a probationer's

- placement on probation or initial release from custody if an assessment was not completed prior to sentencing;
- (b) Re-evaluate the adequacy of the court-ordered conditions of probation as part of the ongoing assessment and planning process and, if applicable, petition the court for modifications;
  - (c) Utilize the results of the standardized assessment to establish a level of supervision and address needs for behavioral changes and monitor probationer behavior and compliance with the conditions of standard or intensive probation and, when appropriate, increase or decrease the probationer's level of supervision;
  - (d) Develop a case plan for all probationers that assess as medium or high risk on the standardized assessment within 60 days of a probationer's placement on standard probation or initial release from custody and within 30 days of a probationer's placement on intensive probation or initial release from custody. The officer shall ensure the case plan includes signatures of the officer and probationer and objectives in the case plan are measurable;
  - (e) Develop and implement supervision strategies that are matched by standardized assessment results and criminogenic factors with the probationer's risks, needs and strengths that promote supervision goals and to provide effective supervision that is individualized, proportional and purposeful;
  - (f) Target interventions to higher-risk cases to promote public safety;
  - (g) Administer the standardized reassessment every 180 days for probationers on intensive probation and for standard probationers that assess as medium or high risk to measure behavior changes until later assessments indicate a decrease in risk factors which assess the probationer as low risk.
  - (h) Review the previous case plan during the development of a new case plan to determine if a change in strategies is required to promote behavioral changes. Strategies shall be re-evaluated if there has been regress or no change in behavior;
  - (i) Reassess standard probationers that assess as low risk upon discovery of changes in criminogenic risk and needs or involvement in criminal conduct, if the current assessment is more than 180 days old;
  - (j) Complete a case plan if a standard probationer assessed as low risk has criminogenic risks and needs that require intervention;
  - (k) Document in the case record that a case plan is not needed for an assessed low risk standard probationer if no intervention is required;
  - (l) Conduct case file reviews for standard probationers assessed as low risk every 365 days. Case file reviews shall include, but are not limited to, case notes, collateral information and investigation of any arrest notification. Actions shall be taken in response to indicators of changes in criminogenic risk and needs or involvement in criminal conduct. Standard probationers that are eligible and in compliance with court-ordered conditions of probation may be recommended for early termination. The officer shall recommend that any outstanding financial obligations be reduced to a criminal restitution order. Probationers with outstanding restitution are not eligible for early termination;

- (m) Respond to emerging risk indicators with graduated increases in the level of supervision, pursuant to probation departmental policy;
  - (n) Reduce the level of supervision, up to and including recommendation for early termination of supervision, as risk issues are addressed and probationers meet their objectives;
  - (o) Provide probationers with feedback on the results of an assessment or reassessment and progress with the established behavioral goals and conditions of probation and provide positive reinforcement to encourage behavioral changes; and
  - (p) Consider the suitability of early termination for all eligible cases.
- (2) Adult probation officers shall provide a written directive to the probationer referring the probationer to an appropriate service provider within 60 days of sentencing, release from custody, or identification of the need if a need for treatment, education or counseling is identified through the use of a statewide standardized assessment or is ordered by the court. If more than one area of treatment or counseling is identified, the supervising probation officer shall prioritize the needs and address the one with highest priority within the prescribed time frame. The supervising probation officer shall then address the remaining treatment or counseling areas in descending order.
  - (3) The supervising officer shall administer alcohol and drug tests on a variable schedule, if appropriate. The frequency of testing shall be dependent upon the probationer's substance abuse history, unless otherwise directed by the court, and shall be documented in the case record.
  - (4) Adult probation officers shall ensure the collection of monies owed as a condition of probation and immediately address any arrearage. The probation officer shall also encourage the probationer's payment of other assessments, such as child support or traffic fines, ordered by any court.
  - (5) Adult probation officers shall monitor and enforce probationer compliance with court-ordered community restitution requirements. Credit toward court-ordered community restitution requirements are awarded on the basis of actual hours completed unless otherwise authorized by the court.
- c. As provided by A.R.S. § 12-253(3), "Serve warrants, make arrests and bring persons before the court who are under suspended sentences. The officer has the authority of a peace officer in the performance of the officer's duties."
  - d. As provided by A.R.S. § 12-253(4), "Investigate cases referred to the officer for investigation by the court in which the officer is serving and report to the court. In an investigation for a presentence report, the adult probation officer shall promptly inquire into the circumstances of the offense, the convicted person's history of delinquency or criminality, social history, employment history, family situation, economic status, including the ability to contribute to reimbursement for the costs of the person's legal defense pursuant to § 11-584, education and personal habits. The presentence report shall contain a recommendation by the officer regarding contribution by the convicted person toward the cost of legal defense pursuant to § 11-584. The officer shall also promptly inquire into the physical, emotional and financial impact of the offense on the victim and the emotional and financial impact

of the offense on the immediate family of the victim and shall notify the victim or the immediate family of the victim of the right to appear personally or by counsel at any aggravation or mitigation proceeding.

- e. As provided by A.R.S. § 12-253(5), “Secure and keep a complete identification record of every person released under a suspended sentence and a written statement of the conditions of the suspension.” Probation officers shall maintain verifiable case records for each probationer supervised, including, but not limited to:
  - (1) A written statement of the conditions of probation;
  - (2) An individual case plan setting forth behavioral and program expectations for probationers on intensive probation supervision and for standard probationers that assess as medium or high risk on the standardized assessment, or for those standard probationers assessing as low risk on the standardized assessment and have identified criminogenic needs; and
  - (3) Contact logs detailing the time, nature and location of each contact made with each person on probation.
  
- f. As provided by A.R.S. § 12-253(6), “Obtain and assemble information concerning the conduct of persons placed under suspended sentence and report the information to the court.” Reports shall contain case information, including but not limited to, violation behavior, positive progress and behavioral changes while under supervision. Adult probation officers shall petition the court to terminate the period of probation based on the use of standardized assessments and an evaluation of the probationer’s compliance with the conditions of probation; and
  
- g. As provided by A.R.S. § 12-253(7), “Bring defaulting probationers into court when in the probation officer’s judgment the conduct of the probationer justifies the court to revoke suspension of the sentence.”
  - (1) Adult probation officers shall make documented efforts to locate a probationer they believe to have defaulted.
  - (2) A supervising officer shall consider the following risk factors in determining the time frame necessary to file a petition to revoke probation and request that the court issue a warrant once an officer has reason to believe that a probationer has defaulted:
    - (a) Probationer’s general history;
    - (b) History of violence, including weapons use;
    - (c) History of drug or alcohol abuse;
    - (d) History of mental illness;
    - (e) Offense history;
    - (f) Supervision history;
    - (g) Illegal use of drugs or alcohol;
    - (h) Failure to participate in or complete treatment;
    - (i) Current or recent patterns of avoiding officer contact;
    - (j) Emotional or mental instability or distress on the part of the probationer or the family unit, including evidence of domestic violence; or

- (k) Current or recent unstable pattern of employment, residence, or associations.
  - (3) If the probationer is on standard probation supervision and is not located within 90 days, the supervising probation officer shall file a petition to revoke probation, seek a criminal restitution order pursuant to A.R.S. § 13-805(AC)(1)(2) for a probationer who is an absconder as defined in A.R.S. § 13-105(1), and request that the court issue a warrant. The supervising officer shall file the petition to revoke sooner, when required by local departmental policies, the circumstances surrounding the case or the need for community protection.
  - (4) If the probationer is on intensive probation supervision and is not located within 72 hours, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The supervising officer shall file the petition to revoke sooner, when required by local departmental policies, the circumstances surrounding the case or the need for community protection.
  - (5) The probation department shall make documented efforts to locate the probationer until the probationer is apprehended.
  - (6) When a petition to revoke is filed prior to the expiration of 90 days, the probation officer shall seek a criminal restitution order upon the expiration of 90 days, pursuant to A.R.S. § 13-805(AC)(1)(2), for a probationer who is an absconder as defined in A.R.S. § 13-105(1). The probation officer shall ensure any criminal restitution order is for monies not already ordered in a previous criminal restitution order.
- h. Monitor the payment of restitution.
3. Juvenile probation officers shall also:
- a. As provided by A.R.S. § 8-205(1), “Except as provided by § 8-323, receive and examine all referrals or Arizona uniform traffic ticket and complaint forms involving an alleged delinquent juvenile or incorrigible child.”
  - b. As provided by the juvenile court and ~~as provided by~~ A.R.S. § 8-205(3), “~~...Have the~~ authority of a peace officer in the performance of the court officer’s duties.” These duties shall include, but are not limited to:
    - (1) Serve warrants;
    - (2) Make arrests; and
    - (3) Bring non-compliant probationers before the court.
  - c. As provided by A.R.S. § 8-205(4), “Receive petitions alleging a child or children as dependent and transmit the petitions to the juvenile court.”
  - d. Maintain verifiable case records for each juvenile supervised, including, but not limited to:
    - (1) A written statement of the conditions of the probation;
    - (2) An individual ~~service case plan or court report setting forth~~ establishing

behavioral and program expectations and recommendations subject to the approval of the director; and

- (3) ~~Contact Logs~~ detailing the time, nature, and location of ~~each~~ contacts made with each juvenile ~~on probation~~.

- e. As provided by A.R.S. § 8-321(F)(1) through (7):

If the county attorney diverts the prosecution of a juvenile to the juvenile court, the juvenile probation officer shall conduct a personal interview with the alleged juvenile offender. At least one of the juvenile's parents or guardians shall attend the interview. The probation officer may waive the requirement for the attendance of the parent or guardian for good cause. If the juvenile acknowledges responsibility for the delinquent or incorrigible act, the juvenile probation officer shall require that the juvenile comply with one or more of the following conditions:

1. Participation in unpaid community restitution work.
2. Participation in a counseling program that is approved by the court and that is designed to strengthen family relationships and to prevent repetitive juvenile delinquency.
3. Participation in an education program that is approved by the court and that has as its goal the prevention of further delinquent behavior.
4. Participation in an education program that is approved by the court and that is designed to deal with ancillary problems experienced by the juvenile, such as alcohol or drug abuse.
5. Participation in a nonresidential program of rehabilitation or supervision that is offered by the court or offered by a community youth serving agency and approved by the court.
6. Payment of restitution to the victim of the delinquent act.
7. Payment of a monetary assessment.

- f. Exercise general supervision and observation over juveniles on probation, enforcing all court orders and emphasizing ~~probationer~~-accountability, and notify the court when ~~probationer~~ juvenile conduct displays an inability or unwillingness to comply with the conditions of probation and all court orders.

- (1) Juvenile probation officers shall make documented efforts to locate a juvenile ~~probationer~~ they believe to have defaulted.

- (2) A supervising officer shall consider the following ~~risk~~ factors in determining the time frame necessary to file a petition to revoke probation and request that the court issue a warrant once an officer has reason to believe that a juvenile ~~probationer~~ has defaulted:

- (a) ~~Probationer~~Juvenile's general history;
- (b) History of violence, including weapons use;
- (c) History of drug or alcohol abuse;

- (d) History of mental illness;
  - (e) Offense history;
  - (f) Supervision history;
  - (g) Illegal use of drugs or alcohol;
  - (h) Failure to participate in or complete treatment;
  - (i) Current or recent patterns of avoiding officer contact;
  - (j) Emotional or mental instability or distress on the part of the juvenile probationer or the family unit, including evidence of domestic violence; or
  - (k) Current or recent unstable pattern of education, employment, residence, or associations.
- (3) If the defaulted juvenile probationer is on standard probation supervision and is not located within 90 days, the supervising probation officer shall file a petition to revoke probation and request that the court issue a warrant. The supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.
  - (4) If the defaulted juvenile probationer is on intensive probation supervision and is not located within 72 hours, the intensive probation officer shall file a petition to revoke probation no later than the next business day and request that the court issue a warrant. The supervising probation officer shall file the petition to revoke sooner, based on local departmental policies, the circumstances surrounding the case and the need for community protection.
  - (5) Probation officers shall make documented efforts to locate the defaulted juvenile probationer until the juvenile probationer is ~~located~~ found pursuant to local departmental policy.
- g. Ensure that juveniles placed on probation pay restitution and probation fees as ordered ~~and establish monthly payment schedules which emphasize payment of restitution and probation fees in the absence of specific court ordered monthly payment schedules.~~
- h. Conduct a risk needs youth assessment on every for each juvenile who is referred to the juvenile court and update the assessment on each subsequent referral supervised ~~within 30 days, if not completed during the pre-dispositional process.~~ The court shall use the assessment to determine the appropriate disposition of the juvenile. The results of the assessment shall be used by the probation officer to establish recommend a level of supervision and to formulate a case plan for the juvenile and formulate a supervision plan.
- (1) Unless an offense does not warrant diversion, the diversion tool shall be completed at initial contact with the juvenile justice system and be used to assist decisions of diversions.
  - (2) The disposition tool shall be completed post adjudication / pre-disposition. The probation officer shall use results of the assessment to recommend level of placement and supervision.
- i. Closely monitor school attendance and performance.

- j. Assist those juveniles authorized to work in the United States who are seeking employment and closely monitor employment of juveniles ~~probationers~~.
- k. Involve the parent or guardian in ~~the~~ rehabilitation and treatment of the juvenile.
- l. Provide or arrange for appropriate supervision of juveniles performing community service.
- l. Bring before the court, at another scheduled proceeding, including a drug court proceeding, or by filing a new petition, a juvenile on probation for an offense involving the purchase, possession, or consumption of spirituous liquor or a violation of Title 13, Chapter 34 if the officer has probable cause to believe the juvenile ~~probationer~~ consumed any spirituous liquor or used any drug listed in A.R.S. § 13-3401 for the third or subsequent time while on probation.

**F. Duties of Surveillance Officers.**

- 1. Adult and juvenile surveillance officers shall:
  - a. Abide by the Code of Conduct for Judicial Employees and the Code of Ethics for Arizona Probation Personnel;
  - b. Treat probationers, victims, criminal justice personnel and the public with dignity and respect;
  - c. Adhere to all federal and state statutes, local ordinances, the ACJA and all administrative orders concerning adult and juvenile probation services;
  - d. Comply with all current departmental policies and procedures;
  - e. Acknowledge the impact of crime on victims by adhering to the Victims Bill of Rights and other applicable legislation;
  - f. Maintain accurate and verifiable case records of all persons assigned to them for supervision;
  - g. Enforce the collection of monies owed as a condition of probation;
  - h. Monitor and enforce probationer compliance with court-ordered community restitution requirements;
  - i. Make documented efforts to locate defaulting probationers pursuant to local departmental policy; and
  - j. Perform other duties as prescribed by the presiding judge, chief probation officer or director of juvenile court services.

2. Adult surveillance officers, as provided by A.R.S. §§ 13-916(E) and 12-259.01(1), “~~...H~~ave the authority of a peace officer in the performance of the officer’s duties.”
3. Juvenile surveillance officers, as authorized by the juvenile court and as provided by A.R.S. §§ ~~8-353~~ and 8-205(3), “~~...h~~ave the authority of a peace officer in the performance of the court officer’s duties.”

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

**Section 6-106: Personnel Practices**

**Effect of the proposal:** To conform physical fitness for duty examination requirements in ACJA § 6-106 to requirements established in HB 2442, effective October 31, 2013.

**Significant new or changed provisions:** Technical changes incorporated in subsection J: Continuing Employment Requirements.

**Committee actions and comments:**  
Not applicable, as changes are technical.

**Controversial issues:** If these changes are read to allow any observable job related problem (as opposed to problems observed only on the job) the changes do not appear to pose an operational problem for the courts. As a consequence, the changes do not present a Separation of Powers issue.

**Recommendation:** Approve and recommend for adoption as written.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

**Part 6: Probation**

**Chapter 1: General Administration**

**Section 6-106: Personnel Practices**

**A. – I. [No change.]**

**J. Continuing Employment Requirements.**

1. [No change.]

2. Each probation department may, for good cause, require an employee to undergo an evaluation to determine the employee's emotional, psychological or physical ability to safely perform the employee's assigned duties.

a. The department shall choose a licensed or certified professional to complete the evaluation.

b. The department shall pay for the cost of the evaluation.

c. Based on the evaluation, the chief probation officer or director of juvenile court services shall review the assignment of an employee to determine whether the employee can perform the assigned job duties consistent with the safety of the employee, other employees and the public.

d. The chief probation officer or director of juvenile court services may reassign the employee or take other appropriate action when it is determined that an employee can no longer perform the assigned job duties consistent with the safety of the employee, other employees or the public.

e. For physical examinations, departments shall comply with the additional requirements of A.R.S. § 38-1109.

(1.) Pursuant to A.R.S. §38-1109(A), a department may order a probation officer to submit to a physical examination:

[O]nly if . . . the probation officer has acted or failed to act in an observable manner that indicates that there is a physical condition materially limiting the . . . probation officer's ability to perform the essential functions of the probation officer's job within the . . . probation officer's job description. The order shall state all of the specific objective facts on which the order for the physical exam is based except that the order may omit the specific names of individuals who reported the . . . probation officer's conduct to the supervisor.

(2.) Each department shall adopt policies and procedures that comply with the substantive and procedural requirements set forth in A.R.S. § 38-1109.

3. [No change.]

**K. – M. [No change.]**

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

**Section 6-202.01: Adult Intensive Probation Supervision Evidence-Based Practices**

- 1. Effect of the proposal:** To conform 6-202.01 to 6-302.01 regarding Waiver requirements and to conform definitions in 6-202.01 to 6-105.01
- 2. Significant new or changed provisions:**
  - a) Remove requirement for annual renewal of waivers for one-person IPS teams
  - b) Revises definitions of case plan and criminogenic needs
  - c) Updates statute citation in subsection L.2.u.
  - d) Changes the wording for waiver residence contacts from “in” to “at,” which conforms to existing language for non-waivered team residence contacts.
- 3. Committee actions and comments:**

Not applicable as changes are technical
- 4. Controversial issues:** None
- 5. Recommendation:** Approve and recommend for adoption as written.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 2: Adult Services**  
**Section 6-202.01: Adult Intensive Probation Evidence-Based Practices**

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

“Absconder” as provided in A.R.S. § 13-105(1) “means a probationer who has moved from the probationer’s primary residence without permission of the probation officer, who cannot be located within ninety days of the previous contact and against whom a petition to revoke has been filed in the superior court alleging that the probationer’s whereabouts are unknown. A probationer is no longer deemed an absconder when the probationer is voluntarily or involuntarily returned to probation service.”

“ACJIS” means Arizona Criminal Justice Information System.

“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 of identifiable substances in the body including, but not limited to, breathalyzer tests, blood, oral fluid tests and urine, hair, and sweat testing samples.

“AOC” means 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.

“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 an 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.

“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 intensive probation case files in the probation department, conducted independently from any automated system.

“Intensive probation team” means one probation officer and one surveillance officer, two adult probation officers, or one probation officer and two surveillance officers, or one probation officer if a waiver of standards is granted.

“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.

“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.

“Schedule” means documentation of the hours the probationer is to be at the probationer’s residence or other approved locations pursuant to A.R.S. §13-914(E)(4).

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

“Standardized reassessment” means the state-approved tool designed to measure changes in an offender’s needs related to criminal 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 contact” means face-to-face communication with the intensive probationer at any place including but not limited to the probation department, the intensive probationer’s residence, place of employment, treatment location or community restitution placement to confirm compliance with conditions of probation and discuss progress, issues of concern and 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 K [No change]**

**L. Program Operations.**

1. [No change]
2. Each intensive probation officer or team shall:
  - a. through t. [No change]
  - u. The probation officer shall seek a criminal restitution order upon the expiration of 90 days, pursuant to A.R.S. § 13-805(A C)(1)(2), for a probationer who is an absconder as defined in A.R.S. § 13-105(1). The probation officer shall ensure any criminal restitution order is for monies not already ordered in a previous criminal restitution order.
3. through 9. [No change]

**M. and N. [No change]**

**O. Waiver Provisions.**

1. A.R.S. § 13-919 provides:

The requirements of § 13-916, subsection A, subsection B and subsection F, paragraph 2 may be waived for a county if the case load of adult probation officers supervising persons on intensive probation is not more than fifteen persons and the program requires visual contact with each probationer at least one time a week.
2. The presiding judge shall file a waiver request pursuant to A.R.S. §§ 13-916 and 13-919 with the AOC on a form prescribed by the administrative director. The administrative director shall consider the following when determining whether to grant the waiver:

- a. The number of offenders on intensive probation supervision in the requesting county;
  - b. The geographical make up of the requesting county and the communities that would be served under the waiver; and
  - c. The impact to the program and the implementation of evidence-based supervision by utilizing one-person teams.
3. ~~Waiver requests shall be renewed annually if the participating court expects to maintain caseloads of no more than fifteen persons on intensive probation supervision caseloads~~ If a waiver is granted, it will be in force until such time as the presiding juvenile court judge notifies the AOC in writing that use of the waiver is no longer necessary or when the AOC notifies the presiding judge that the waiver is no longer authorized.
4. [No change]
5. [No change]
6. A person placed on intensive probation and assigned to a waived officer shall be supervised by the intensive probation officer at supervision Contact Level 2 until the completion of the standardized assessment and initial case plan. The intensive probation officer shall utilize the results of the standardized assessment, along with the probationer's compliance with the conditions of intensive probation and any other relevant factors, and recommend to the court placement on an appropriate supervision contact level. Pursuant to A.R.S. § 13-917, if reductions or increases in supervision level are warranted, such reductions or increases shall be made by the court upon recommendation of the probation officer, as further described in L(8)(k).
- a. Contact Level 2 (CL2) shall be recommended for probationers assessing as high risk on the standardized assessment or reassessment. Minimum contact standards shall include:
    - (1) Visual contacts: a minimum of two per week with the probationer, with at least one occurring ~~in~~ at the probationer's residence. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
    - (2) Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation officer shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. The intensive probation officer shall have face-to-face, telephonic or written contact with the intensive probationer's employer every two weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.
    - (3) Collateral contacts: The intensive probation officer shall have a minimum of one collateral contact regarding each intensive probationer every two weeks, if applicable.

- b. Contact Level 3 (CL3) may be recommended for probationers who have demonstrated positive behavioral change while under supervision contact level 2. Minimum contact standards shall include:
  - (1) Visual contacts: a minimum of one visual contact per week, with at least one contact occurring ~~in~~ at the probationer's residence every other week. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
  - (2) Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation officer shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. The intensive probation officer shall have face-to-face, telephonic or written contact with the intensive probationer's employer every two weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.
  - (3) Collateral contacts: The intensive probation officer shall have a minimum of one collateral contact regarding each intensive probationer every two weeks, if applicable.
  
- c. Contact Level 4 (CL4) may be recommended for probationers assessing as medium or low risk on the standardized assessment or reassessment and who have demonstrated positive behavioral change while under supervision contact level 3. Intensive probation officers shall not recommend supervision contact level 4 for probationers who assess as high risk. Minimum contact standards shall include:
  - (1) Visual contacts: a minimum of one visual contact every two weeks, occurring ~~in~~ at the probationer's residence. Visual contacts shall be varied, scheduled and unscheduled, and include days, nights, weekends and holidays.
  - (2) Employment. Within ten days of placement on intensive probation or date of hire, the intensive probation officer shall notify the intensive probationer's employer of the intensive probationer's probation status and employment verification requirements. The intensive probation officer shall have face-to-face, telephonic or written contact with the intensive probationer's employer every four weeks. The intensive probationer, if unemployed and eligible to work in the state of Arizona, shall each weekday, unless otherwise directed, provide the intensive probation team with verification of job search activities.
  - (3) Collateral contacts: The intensive probation officer shall have a minimum of one collateral contact regarding each intensive probationer every four weeks, if applicable.
  
- d. Contact Level 5 (CL5) intensive probationers participating in residential treatment on release from residential treatment, the intensive probation officer shall utilize the results of the standardized assessment or reassessment, along with the intensive probationer's compliance with the conditions of intensive probation, discharge plan supported by and involving the treatment provider, intensive probation officer and

intensive probationer, and any other relevant factors to recommend to the court placement on an appropriate supervision contact level. Minimum contact standards shall include:

- (1) Visual contacts. The intensive probation officer shall have a minimum of one visual contact every 30 days with each intensive probationer. Mandatory visual contacts may be made by other probation or surveillance officers when authorized by the chief probation officer. Visual contacts shall be varied, scheduled and unscheduled.
- (2) Treatment provider contacts. The intensive probation officer shall have a minimum of one face-to-face, telephonic or written contact every 30 days with the intensive probationer's treatment provider.
- (3) Collateral contacts. The intensive probation team shall have a minimum of one collateral contact regarding each intensive probationer every 30 days, if applicable.

**P. [No change]**

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

**Part 6: Probation  
Chapter 1: General Administration  
Section 6-301.01: Juvenile Standard Probation Evidence-Based Practices**

1. **Effect of the proposal:** Introduce and instill evidence-based principles, as outlined in Justice 20/20
  
2. **Significant new or changed provisions:**
  - Expanded terms in definition section to portray juvenile court activities, especially those already defined in statute
  - Case plan within 30 days of disposition
  - Assessment every six months (and upon new referral), which also includes case plan update
  - Graduated responses, incentives, consequences, and supervision
  - Supervision strategies and resource allocation based on assessment
  - Administrative status no longer includes youth who are in the state, unless they are on warrant or pending charges in the adult system
  - Visual contacts moved from once a month, to once every 30 days (modeled after adult)
  - Visual contacts shall continue when in out-of-home placement or detention, youth no longer go on an administrative status
  
3. **Committee actions and comments:** (Summarize comments and responses)

Seeking recommendation and support for adoption:

- Juvenile Administrator's Meeting 8/22/2013
  - (J) (1) (j) Concern surrounding this practice – recommendation to remove
  - JAM voted to approve this code section
  
- Committee on Probation 8/23/2013
  - (J) (1) (j) – Deleted per JAM discussion
  - (J) (3) (d) (3) Concern surrounding the statement “provide and arrange for appropriate supervision” – ultimately, no change recommended
  - COP voted to approve this code section
  
- Committee on Juvenile Courts 9/5/2013
  - COJC voted to approve this code section

Seeking adoption:

- Arizona Judicial Council 10/17/2013

See comments table attached

**4. Controversial issues:**

N/A

**5. Recommendation:**

N/A

**Comments and Responses to ACJA Section 6-301.01: Juvenile Standard Probation  
Evidence Based Practices**

PARAGRAPH	COMMENT	RESPONSE
	NONE	

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 6: Probation**  
**Chapter 3: Juvenile Services**  
**Section 6-301.01: Juvenile Standard Probation Evidence-Based Practices**

**Courts shall be governed by section 6-301, except and until approved by the Administrative Director to be governed by section 6-301.01.**

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

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

“Administrative status” means a juvenile is not currently receiving active supervision or contact requirements have been suspended by the juvenile probation department.

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

“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.

“Child” “youth” or “juvenile” means “an individual who is under the age of eighteen years,” as provided in A.R.S. § 8-201(6).

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

“Default” means a juvenile has not met obligations of supervision as outlined in terms of probation.

“Delinquent act” means “an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense” as provided in A.R.S. § 8-201(10).

“Delinquent juvenile” means “a child who is adjudicated to have committed a delinquent act,” as provided in A.R.S. § 8-201(11).

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

“Director” means the director of the juvenile court or chief probation officer in combined departments.

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

“Hand count” means manual tabulation of all probation case files, conducted independently from any automated system.

“Out-of-home placement” means “the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian ...” as provided in A.R.S. § 8-501(8).

“Petition” means “a written statement of the essential facts that allege delinquency, incorrigibility or dependency” as provided in A.R.S. § 8-201(24).

“Protective supervision” means “supervision that is ordered by the juvenile court of children who are found to be dependent or incorrigible” as provided in A.R.S. § 8-201(26).

“Referral” means “a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act” as provided in A.R.S. § 8-201(27).

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

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

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

“Youth assessment” means the state approved system of actuarial tools designed to assess risk, need, and responsivity factors of youth at various stages of the juvenile justice system.

**B. Applicability.** Az. Const. Art. 6, § 3 and A.R.S. § 12-261 authorize the supreme court to administer state funding to aid probation services. The Administrative Office of the Courts (AOC) shall administer state aid funding for juvenile standard probation on behalf of the supreme court.

**C. Purpose.** The purpose of juvenile standard probation in Arizona is to provide the highest quality service to the court, community, juveniles being supervised and their families. This is accomplished by promoting public safety through effective community based supervision and enforcement of court orders, offering accurate and reliable information and affording juveniles opportunities to be accountable and initiate positive changes.

**D. General Administration.**

1. The AOC shall:

- a. Administer and direct juvenile standard probation state appropriations on behalf of the supreme court;
- b. Monitor state appropriations for juvenile standard probation;
- c. Prepare written material establishing various techniques, practices, guidelines and other recommendations regarding the operation and management of juvenile standard probation and distribute this material to appropriate superior and juvenile court judges and probation personnel;
- d. Inspect, audit or have audited the records of any court operating a juvenile standard probation;

- e. Prescribe and adopt procedures, forms and reports necessary for financial administration, program administration and operation, and management of juvenile standard probation;
  - f. Conduct seminars and educational sessions regarding the purpose and management of juvenile standard probation;
  - g. Establish performance measures and expectations in consultation with juvenile courts, for determining compliance with each courts' juvenile standard probation plan and budget request;
  - h. Assist juvenile courts in developing their juvenile standard probation plans and budgets;
  - i. Provide general assistance to juvenile courts on the administration and management of juvenile standard probation; and
  - j. Adopt other administrative practices and procedures, consistent with this section, as necessary for the administration of juvenile standard probation.
2. Each juvenile court and juvenile probation department receiving state juvenile standard probation funds shall comply with this section, to promote uniform administration.

**E. Budget Request Preparation.**

1. A.R.S. § 12-262 provides “The presiding judge of the superior court in each county desiring to improve, maintain or expand juvenile probation services ... may prepare a plan in accordance with guidelines issued by the supreme court.”
2. The presiding judge of the juvenile court in any county requesting state funding to operate juvenile standard probation shall submit a proposed plan and budget request for the subsequent fiscal year to the AOC. The administrative director shall establish the date for submission, as well as the forms to be used, and the corresponding instructions.
3. The administrative director shall review each request, and may modify the request based on appropriate statewide considerations. The AOC shall include the court's request or the modified request in the annual supreme court budget. The administrative director shall allocate to the juvenile court the monies appropriated by the legislature for standard probation based on the proposed plan, availability of funds, caseload population, past year use, county support and program effectiveness.
4. The chief justice shall make the final determination if a court does not agree with the allocations and requests further review.

5. Each juvenile court shall support the budget request with written justification and explanation as required by the administrative director.
6. A.R.S. § 12-269(A) provides:

The administrative office of the courts shall not disburse any direct state aid for probation services monies, including motor pool costs, that are appropriated for juvenile intensive probation services pursuant to section 8-353, state aid for probation services pursuant to section 12-262, adult intensive probation pursuant to title 13, chapter 9 and community punishment programs pursuant to article 11 of this chapter to a county with a population of two million or more persons.

**F. Program Plan and Financial Management.**

1. A.R.S. § 8-203(B) provides “A juvenile probation officer performing field supervision shall not supervise more than an average of thirty-five juveniles on probation at one time.” Each juvenile court shall submit an expenditure plan to the administrative director. The juvenile court shall outline in the expenditure plan how the requested state funds shall be used in achieving or maintaining the average case supervision requirements. The juvenile court shall submit the plan within the prescribed time frame and on forms required by the administrative director.
2. Each presiding judge of the juvenile court shall submit, in writing, all requests to modify expenditure plans on a form approved by the administrative director.
3. Each program plan shall explicitly document:
  - a. That a minimum of 80 percent of the state juvenile standard probation funds allocated to a juvenile court shall be used only for the payment of salaries and employee related benefits of probation officers involved in the case management, field supervision and enforcement of court orders of juveniles on standard probation who reside in the county; and
  - b. That not more than twenty percent of the allocated state juvenile standard probation funds for probation services are being used to otherwise maintain, improve or enhance standard probation services.
4. On request, the administrative director may approve a plan permitting an expenditure of funds of more than twenty percent on support, operating and ancillary services. The requesting juvenile court shall file the request with the AOC on a form prescribed by the administrative director.
5. In the event that the administrative director disapproves a plan or plan modification submitted by a juvenile court, the presiding judge of the juvenile court may request that

the administrative director submit the plan to the chief justice for consideration and final determination.

A.R.S. § 12-263 provides “Upon approval of a plan submitted, the supreme court shall enter into a funding agreement with the county and shall make payments to the county as necessary to carry out the agreement.”

- a. The administrative director shall enter into a written funding agreement with the submitting juvenile court for the distribution of funds upon approval of the plan as submitted or modified and the availability of funds.
  - b. The administrative director may amend or terminate funding agreements due to lack of funds, lack of financial need or the juvenile court’s failure to comply with applicable statutes, the approved plan, funding agreement, or this section.
6. The administrative director may reallocate funds during the year based on documented need, current use of funds and approved plan or budget modifications.
7. A.R.S. § 12-262(2) provides “That the funds provided by the state for this purpose will be used to supplement county funds provided for probation services.” A.R.S. § 12-265(C) provides “No state funds may be used to increase any salaries funded under current county probation programs.”
- a. A.R.S. § 12-268(D) provides “State monies expended from the juvenile probation services fund shall be used to supplement, not supplant, county appropriations for the superior court juvenile probation department.”
  - b. In accordance with the general appropriations act, probation department receipt of state probation monies is contingent on the county maintenance of expenditure levels for each probation program the previous fiscal year.
8. A.R.S. § 12-268(A) provides:
- A. The board of supervisors shall designate a chief fiscal officer who shall establish and administer a juvenile probation fund consisting of:
    1. County general fund appropriations for juvenile probation.
    2. Court information cost monies received pursuant to section 8-134, subsection L.
    3. State appropriations for juvenile probation, except monies in the juvenile probation services fund established by section 8-322 and except monies in the court appointed special advocate fund established by section 8-524, but including:

- (a) Monies for juvenile probation officers authorized by section 8-203.
  - (b) Monies for state aid for juvenile probation services authorized by this article.
  - (c) Monies for family counseling services established by title 8, chapter 2, article 5.
  - (d) Monies for juvenile intensive probation services established by title 8, chapter 3, article 4.
- 4. Probation fees collected pursuant to section 8-321, subsection N for community based alternative programs or diversion programs administered by the juvenile court.
  - 5. Probation fees collected pursuant to section 8-341.
  - 6. Federal monies provided for juvenile probation services.
  - 7. Juvenile probation monies from any other source.

9. A.R.S. § 12-268(B) provides:

The chief fiscal officer shall establish and maintain separate accounts in the fund showing receipts and expenditures of monies from each source listed in subsection A of this section. The presiding juvenile judge of the superior court shall annually present to the board of supervisors for approval a detailed expenditure plan for the juvenile probation services fund accounts. Any modifications to the expenditure plan affecting state appropriations shall be made in accordance with the rules and procedures established by the supreme court. Any modifications to the expenditure plan affecting county appropriated funds shall be made in accordance with the policies established by the county. The chief fiscal officer shall disburse monies from the fund accounts only at the direction of the presiding juvenile judge of the superior court. The chief fiscal officer, on or before August 31 of each year for the preceding fiscal year, shall submit an annual report to the supreme court showing the total amount of receipts and expenditures in each account of the juvenile probation services fund.

- 10. Each juvenile court shall use allocated state funds and interest only for the support and operation of juvenile standard probation.
- 11. On agreement with a juvenile court, the administrative director may withhold funds allocated to the juvenile court and may authorize direct expenditures for the benefit of the court. The administrative director may also reallocate these funds during the fiscal year.

12. The presiding judge of each juvenile court shall submit to the AOC, by January 31 of each year, a mid-year financial and program activity report related to the court's plan through December 31. Failure to submit the report in a timely manner may result in financial sanctions.
13. The presiding judge of each juvenile court shall submit to the AOC, by August 31 of each year, a closing financial and program activity report related to the court's plan through June 30. Failure to submit the report in a timely manner may result in financial sanctions.
14. The presiding judge of each juvenile court shall return to the AOC by August 31 of each year, all juvenile standard probation funds distributed to the juvenile court which are unencumbered through June 30 and unexpended through July 31. Failure to revert unexpended funds in a timely manner may result in financial sanctions.
15. The administrative director shall determine how the funds are used in the event that a juvenile court experiences a decreased need for funds or declines to participate after the legislature has appropriated funds for juvenile standard probation services.
16. Each juvenile court shall maintain and provide data and statistics to the AOC, as may be required by the supreme court to administer funding for juvenile standard probation.
17. On request of the AOC, the director shall conduct a hand count of the department's standard probation population. The director shall submit the results of the hand count to the AOC.
18. Each juvenile court shall retain all financial records, applicable program records, and data related to each approved plan for a period of at least five years from the close of each fiscal year.

**G. Allocation and Management of Juvenile Standard Probation Personnel Placements.**

The administrative director shall allocate state funded juvenile standard probation personnel placements approved for standard probation among juvenile courts. The administrative director may prepare and implement procedures for adjusting allocated placements and associated monies among juvenile courts.

**H. Standard Probation Caseload Limit.** A.R.S. § 8-203(B) provides: "A juvenile probation officer performing field supervision shall not supervise more than an average of thirty-five juveniles on probation at one time." Only those juveniles on the probation officer's active caseload are included in determining the average caseload of thirty-five juveniles.

**I. Active Cases.**

1. A juvenile standard probation officer's active caseload shall include:
  - a. Juveniles residing in county and receiving standard probation services;

- b. Juveniles in out-of home placement;
  - c. Juveniles placed in detention; and
  - d. Juveniles on warrant status for less than 90 days.
2. A juvenile standard probation officer's active caseload shall not include:
- a. Juveniles on administrative status for one of the following reasons:
    - (1) Juveniles traveling for more than 30 days out of state or country with the approval of the juvenile probation department;
    - (2) Juveniles direct filed to adult court and currently held in adult jail pending the adult court action; or
    - (3) Juveniles residing for more than 30 days out of state or country, but the department has retained jurisdiction of the juvenile.
  - b. Juveniles on warrant status for 90 days or more, and
  - c. Juveniles not yet dispositioned to standard probation, nor protective supervision by the court.

**J. Program Operations.**

1. Each probation department shall develop policies, procedures, and protocols:
- a. That aim to reduce juvenile risk and the likelihood of future delinquent acts that are consistent with the principles of evidence-based practices;
  - b. Regarding the alcohol and drug testing of juveniles on standard probation. The procedures shall address the methods used to select juveniles for testing, the frequency of testing, and the type of test to be administered;
  - c. By which accurate and timely records of the completion of community restitution hours are maintained for each juvenile on standard probation. Credit toward court ordered community restitution requirements are awarded on basis of actual hours completed unless authorized by the court;
  - d. For working with the office of the clerk of the superior court to establish a process by which supervising probation officers are provided with accurate and timely information concerning collections;

- e. To ensure the collection of monies owed as a condition of probation. Each probation department and supervising officer shall address any arrearage per departmental policy. Each probation department and supervising officer shall also encourage payment of other assessments or fines as ordered by any court;
- f. Which require standard probation officers to administer a youth assessment for each juvenile supervised, within 30 days, if not completed during the pre-dispositional process. Probation officers shall consider assessment results, family feedback, other agencies involved, as well as any other relevant information, when developing a case plan;
- g. Which require the supervising juvenile probation officer to update the youth assessment, upon each subsequent referral and once every six months, at a minimum. Upon each re-administration, juvenile officers shall review the previous case plan evaluating and updating noted strategies to reflect identified risks and needs;
- h. That require probation officers to utilize graduated responses to promote positive behavioral change through incentives, consequences, and supervision to address violations;
- i. That ensure probation officers providing standard supervision shall re-examine and reassess the risk and needs of each juvenile under their supervision and the factors associated with reducing, maintaining or increasing the juvenile's level of supervision; and

2. A.R.S. § 8-396(B) provides:

- B. On request of a victim who has provided a current address or other current contact information, the probation department shall notify the victim of the following:
  - 1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the delinquent's contact with or the safety of the victim.
  - 2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
  - 3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.
  - 4. That a petition to revoke probation alleging that the juvenile absconded from probation has been filed with the court.
  - 5. Any conduct by the juvenile that raises a substantial concern for the victim's safety.

3. The juvenile probation officer shall:
  - a. For every juvenile placed on standard probation, a case plan must be developed within 30 days of disposition. The probation officer shall ensure the case plan includes objectives that are measurable, signatures of the probation officer, juvenile and the juvenile's parent or guardian.
  - b. Develop and implement supervision strategies that match the youth assessment results and address criminogenic needs, in addition to the juvenile's delinquency risk, and strengths that promote case plan goals and provide effective supervision that is individualized, proportional and purposeful.
  - c. Evaluate and update the case plan on an on-going basis to identify progress toward goals and conditions of probation.
  - d. Ensure that each juvenile under supervision is either employed (if authorized to work in the United States), seeking employment, attending school, participating in a community restitution program or attending a court ordered treatment program or any combination thereof.
    - (1) Assist juveniles seeking employment and closely monitor employment of juveniles;
    - (2) Closely monitor participation in court-ordered treatment programs, involve the parent or guardian in the rehabilitation and treatment of the juvenile; and
    - (3) Provide or arrange for appropriate supervision of juveniles performing community restitution work.
  - e. Respond to emerging risk indicators with graduated increases in supervision, pursuant to departmental procedures.
  - f. Provide juveniles with feedback on the results of an assessment by providing positive reinforcement to encourage behavioral changes and progress with the established behavioral goals and conditions of probation.
  - g. Involve the parent or guardian in the rehabilitation and treatment of the juvenile.
  - h. Monitor court-ordered financial obligations.
  - i. Make documented efforts to locate a defaulted juvenile. The supervising probation officer shall request a warrant be issued if the juvenile is not located. Efforts to locate the juvenile shall continue pursuant to the court's departmental policy.

- j. Re-evaluate the adequacy and applicability of the court ordered conditions of probation as part of the ongoing assessment and planning process and, if applicable, petition the court for modifications.
  - k. Target interventions to high-risk cases to promote public safety.
  - l. Review the case plan to determine if a modification of strategies is required to promote behavioral changes. Strategies shall be re-evaluated if there has been regression or no change in behavior.
  - m. Petition the court to terminate probation when it has been determined that supervision is no longer necessary.
4. A.R.S. § 8-396(A) provides:

- A. On request of a victim who has provided an address or other contact information, the court shall notify the victim of any of the following:
  - 1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of the delinquent who committed the delinquent act against the victim.
  - 2. Any hearing on a proposed modification of the terms of probation or intensive probation.
  - 3. The arrest of a delinquent pursuant to a warrant issued for a probation violation.

**K. Minimum Supervision Requirements.** Each juvenile court shall develop policies and procedures that ensure minimum levels of supervision for juveniles placed on standard probation. These policies and procedures shall include minimum contacts once every 30 days for:

- 1. Visual contacts with the juvenile. Visual contacts shall be varied, scheduled and unscheduled. Visual contacts and supervision strategies shall be proportionate to the level of risk and needs of the juvenile based on results of the youth assessment and other significant case information. Visual contacts with the juvenile shall continue when in out-of-home placement or detention;
- 2. Parental contacts;
- 3. Treatment providers, as appropriate;

4. Employment contacts and verification if necessary; and
5. School contacts and verification.

**L. Specialized Populations.**

1. Any juvenile court establishing or maintaining specialized caseloads shall have a written description of the specialized caseload, including objectives and goals.
2. Any juvenile 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.
3. Any juvenile court establishing or maintaining specialized caseloads shall have written policies and procedures for minimum contact standards specific to the needs and goals of the identified caseload and shall include minimum monthly contacts for:
  - a. Visual contacts with the juvenile;
  - b. Parental contacts;
  - c. Employment contacts and verification as necessary, if juvenile is authorized to work in the United States;
  - d. School contacts and verification; and
  - e. Treatment providers as appropriate.
4. Probation officers assigned to supervise specialized caseloads shall participate in continuing education and training on the specific needs of the specialized population.

**M. Required Case Records.** Each standard probation officer shall maintain verifiable case records for each juvenile supervised, including, but not limited to:

1. A written statement of the conditions of the probation;
2. An individual case plan setting forth behavioral and program expectations and recommendations subject to the approval of the director; and
3. Logs detailing the time, nature, and location of each contact made with each juvenile on standard probation.

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

**Part 6: Probation**

**Chapter 1: General Administration**

**Section 6-302.01: Juvenile Intensive Probation Supervision Evidence-Based Practices**

1. **Effect of the proposal:** Introduce and instill evidence-based principles, as outlined in Justice 20/20
2. **Significant new or changed provisions:**
  - Expanded terms in definition section to portray juvenile court activities, especially those already defined in statute
  - Case plan within 30 days of disposition
  - Assessment every six months (and upon new referral), which also includes case plan update
  - Graduated responses, incentives, consequences, and supervision
  - Supervision strategies and resource allocation based on assessment
  - Administrative director considerations for granting waiver
  - Visual contacts shall continue when in out-of-home placement or detention
3. **Committee actions and comments:** (Summarize comments and responses)

Seeking recommendation and support for adoption:

- Juvenile Administrator's Meeting 8/22/2013
  - (H) (6) Concern surrounding the inability to grant intensive probation to juveniles placed in an out-of-home placement for more than 30 days – No change recommended as this is language that exists in current code
  - (M) (1) (i) Recommendation to remove to reflect the change made in Standard
  - JAM voted to approve this code section
- Committee on Probation 8/23/2013
  - Reviewed JAM Comments
  - COP voted to approve this code section
- Committee on Juvenile Courts 9/5/2013
  - COJC voted to approve this code section

Seeking adoption:

- Arizona Judicial Council 10/17/2013

See comments table attached

4. **Controversial issues:**

N/A

5. **Recommendation:**

N/A

**Comments and Responses to ACJA Section 6-302.01: Juvenile Intensive Probation  
Supervision Evidence Based Practices**

PARAGRAPH	COMMENT	RESPONSE
	NONE	

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

**Part 6: Probation**

**Chapter 3: Juvenile Services**

**Section 6-302.01: Juvenile Intensive Probation Supervision Evidence-Based Practices**

**Courts shall be governed by section 6-302, except and until approved by the Administrative Director to be governed by section 6-302.01.**

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

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

“Administrative status” means a juvenile who is not currently receiving active supervision or if contact requirements have been suspended by the juvenile probation department.

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

“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.

“Child”, “youth” or “juvenile”, means “an individual who is under the age of eighteen years” as provided in A.R.S. § 8-201(6).

“Collateral” means any individual or agency that has a relationship to a particular juvenile 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 private not-for-profit or governmental agency.

“Court” means 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.

“Custodian” means “a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court” as provided in A.R.S. § 8-201(8).

“Default” means a juvenile has not met obligations of supervision as outlined in terms of probation.

“Delinquent act” means “an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense, a violation of any law of this state, or of another state if the act occurred in that state, or a law of the United States, or a violation of any law that can only be violated by a minor and that has been designated as a delinquent offense, or any ordinance of a city, county or political subdivision of this state defining crime. Delinquent act does not include an offense under section 13-501, subsection A or B if the offense is filed in adult court. Any juvenile who is prosecuted as an adult or who is remanded for prosecution as an adult shall not be adjudicated as a delinquent juvenile for the same offense” as provided in A.R.S. § 8-201(10).

“Delinquent juvenile” means “a child who is adjudicated to have committed a delinquent act” as provided in A.R.S. § 8-201(11).

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

“Director” means the director of the juvenile court or chief probation officer in combined departments.

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

“Hand count” means manual tabulation of all probation case files, conducted independently from any automated system.

“JIPS team” means one probation officer and one surveillance officer, or one probation officer and two surveillance officers, or two probation officers and one surveillance officer, or one probation officer if a waiver of standards is granted.

“Law enforcement officer” means “a peace officer, sheriff, deputy sheriff, municipal police officer or constable” as provided in A.R.S. § 8-201(19).

“Out-of-home placement” means “the placing of a child in the custody of an individual or agency other than with the child’s parent or legal guardian ....” as provided in A.R.S. § 8-501(8).

“Petition” means “a written statement of the essential facts that allege delinquency, incorrigibility or dependency” as provided in A.R.S. § 8-201(24).

“Referral” means “a report that is submitted to the juvenile court and that alleges that a child is dependent or incorrigible or that a juvenile has committed a delinquent or criminal act” as provided in A.R.S. § 8-201(27).

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

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

“Youth assessment” means the state approved system of actuarial tools designed to assess risk, need, and responsivity factors of youth at various stages of the juvenile justice system.

**B. Applicability.** Az. Const. Art. 6, § 3 and A.R.S. § 8-358(A) which specifically provides: “The supreme court shall establish juvenile intensive probation guidelines.” The Administrative Office of the Courts (AOC) shall administer juvenile intensive probation supervision (JIPS) programs on behalf of the supreme court.

**C. Purpose.** JIPS is, as A.R.S. § 8-351 provides “a program which is established pursuant to this article of highly structured and closely supervised juvenile probation and which emphasizes surveillance, treatment, work, education and home detention.” The purpose of JIPS programs is to reduce commitments to the state department of juvenile corrections and other institutional or out-of-home placements.

**D. General Administration.**

1. The AOC shall:

- a. Administer and direct JIPS on behalf of the supreme court;
- b. Monitor JIPS;
- c. Prepare written material establishing various techniques, practices, guidelines and other recommendations regarding the operation and management of JIPS and distribute this material to appropriate superior and juvenile court judges and probation personnel;

- d. Inspect, audit or have audited the records of any juvenile court operating a JIPS;
- e. Prescribe and adopt procedures, forms and reports necessary for financial administration, program administration, operation and management of JIPS;
- f. Conduct seminars and educational sessions regarding the purpose and operation of JIPS;
- g. Establish performance measures and expectations in consultation with juvenile courts for determining compliance with each court's JIPS plan and budget request;
- h. Assist juvenile courts in developing their JIPS program plans and budgets;
- i. Provide general assistance to juvenile courts on the operation of JIPS;
- j. Adopt other administrative practices and procedures, consistent with this section, as necessary for the administration of JIPS; and
- k. A.R.S. § 8-358(B) provides:

The supreme court shall annually submit a report stating the number of juveniles supervised on intensive probation during the prior year, the nature of the offense and the delinquent history of each of these juveniles to the governor, the speaker of the house of representatives and the president of the senate at the time of its annual budget request and shall provide a copy of this report to the secretary of state. Beginning July 1, 2011, the report shall be submitted electronically.

- 2. Each juvenile court and juvenile probation department receiving state JIPS funds shall comply with this section, to promote uniform administration.

**E. Budget Request Preparation.**

- 1. A.R.S. § 8-357 provides: “The presiding juvenile judge of the superior court in the county shall annually submit a proposed budget for the following fiscal year for the juvenile intensive probation program to the supreme court.”
  - a. The director shall include, with the budget, a plan for the operations of JIPS for the following fiscal year.
  - b. The administrative director shall establish the date for submission, as well as the forms to be used and the corresponding instructions.

2. A.R.S. § 8-357 provides: “The supreme court shall review each request and include the counties’ requests in its annual budget request and shall allocate to the participating counties the monies appropriated by the legislature for intensive probation.”
  - a. The administrative director shall review each request, and may modify the request based on appropriate statewide considerations.
  - b. The AOC shall include the court’s request or modified request in the supreme court’s annual budget.
  - c. The administrative director shall allocate to the court the monies appropriated by the legislature for JIPS based on the proposed plan, availability of funds, caseload population, past year use and program effectiveness.
3. The chief justice shall make the final determination if a court does not agree with the allocations and requests further review.
4. Each juvenile court shall support the budget request with written justification and explanation as required by the administrative director.
5. A.R.S. § 12-269 (A) provides:

The administrative office of the courts shall not disburse any direct state aid for probation services monies, including motor pool costs, that are appropriated for juvenile intensive probation services pursuant to section 8-353, state aid for probation services pursuant to section 12-262, adult intensive probation pursuant to title 13, chapter 9 and community punishment programs pursuant to article 11 of this chapter to a county with a population of two million or more persons.

**F. Program Plan and Financial Management.**

1. Each juvenile court requesting state funding shall submit an expenditure plan to the administrative director. The expenditure plan and any modifications shall be consistent with A.R.S. §§ 8-351 through 358, this section, the supreme court’s budget request and available monies appropriated by the legislature for JIPS. The juvenile court shall submit the plan within the prescribed time frame and on forms required by the administrative director.
2. Each presiding judge of a juvenile court shall submit, in writing, all requests to modify expenditure plans on a form approved by the administrative director.
3. In the event the administrative director disapproves a plan or plan modification submitted by a juvenile court, the presiding judge of the juvenile court may request that the administrative director submit the plan to the chief justice of the supreme court for consideration and final determination.

A.R.S. § 12-263 provides: “The supreme court shall have the authority to reject any plan submitted pursuant to section 12-262. Upon approval of a plan submitted, the supreme court shall enter into a funding agreement with the county and shall make payments to the county as necessary to carry out the agreement.”

4. The administrative director may amend or terminate funding agreements due to lack of funds, lack of financial need, or the courts failure to comply with applicable statutes, the approval plan, funding agreement or this section.
5. A.R.S. § 12-268(A) provides: “The board of supervisors shall designate a chief fiscal officer who shall establish and administer a juvenile probation fund consisting of ... (d) Monies for juvenile intensive probation services established by title 8, chapter 3, article 4.”
6. A.R.S. § 12-268(C) provides: “The state monies in the juvenile probation services fund shall be used in accordance with guidelines established by the supreme court or the granting authority.”
7. The juvenile court receiving state funds shall use allocated state funds and interest only for the support and operation of approved JIPS.
8. On agreement with a juvenile court, the administrative director may withhold funds allocated to the juvenile court and may authorize direct expenditures for the benefit of the court. The administrative director may also reallocate these funds during the fiscal year.
9. The presiding judge of each juvenile court shall submit to the AOC, by January 31 of each year, a mid-year financial and program activity report related to the court’s plan through December 31. Failure to submit the report in a timely manner may result in financial sanctions.
10. The presiding judge of each juvenile court shall submit to the AOC, by August 31 of each year, a closing financial and program activity report related to the court’s plan through June 30. Failure to submit the report in a timely manner may result in financial sanctions.
11. The presiding judge of each juvenile court shall return to the AOC by August 31 of each year, all JIPS funds distributed to the juvenile court which are unencumbered through June 30 and unexpended through July 31. Failure to revert unexpended funds in a timely manner may result in financial sanctions.
12. The administrative director shall determine how the funds are used in the event that a juvenile court experiences a decreased need for funds or declines to participate after the legislature has appropriated funds for JIPS.
13. Each juvenile court shall maintain and provide data and statistics to the AOC, as may be required by the supreme court to administer JIPS.

14. On request of the AOC, the director shall conduct a hand count of the department's JIPS population. The director shall submit the results of the hand counts to the AOC.
15. Each juvenile court shall retain all financial records, applicable program records, and data related to each approved plan for a period of at least five years from the close of each fiscal year.
16. Each juvenile court shall deposit fees collected pursuant to A.R.S. § 8-241, and any interest collected on those fees into the juvenile probation services fees fund pursuant to A.R.S. § 12-268.

**G. Allocation and Management of JIPS Personnel Placements.** The administrative director shall allocate state funded JIPS personnel placements approved for intensive probation among juvenile courts. The administrative director may prepare and implement procedures for adjusting allocated placements and associated monies among juvenile courts.

**H. Eligibility Requirements for JIPS.**

1. A.R.S. § 8-358(A) provides:
  - A. The supreme court shall establish juvenile intensive probation guidelines. In establishing these guidelines the supreme court shall ensure that both:
    1. Juveniles who are granted intensive probation meet the requirements of section 8-352.
    2. Based on the nature of the offense and the delinquent history of the juvenile, there are reasonable grounds to believe that the juvenile is able to remain at liberty without posing a substantial risk to the community.
2. A.R.S. § 8-352(B) provides that prior to recommending intensive probation:

The juvenile probation officer shall evaluate the needs of the juvenile and the juvenile's risk to the community, including the nature of the offense, the delinquent history of the juvenile, the juvenile's history of referrals and adjustments and the recommendation of the juvenile's parents. The juvenile probation officer shall include the recommendation of the juvenile's parents in the disposition summary report. If the nature of the offense and the prior delinquent history of the juvenile indicate that the juvenile should be included in an intensive probation program pursuant to supreme court guidelines for juvenile intensive probation, the juvenile probation officer may recommend to the court that the juvenile be granted intensive probation.

3. The probation officer shall include in the disposition summary report, case information related to delinquent risk and criminogenic needs as documented by the youth assessment, in addition to other file and collateral information. The report shall also contain the officer's recommendation for supervision and treatment services based upon the juvenile's documented delinquent risk and criminogenic needs.
4. Probation officers shall support any recommendation for the placement of a juvenile on JIPS with the youth assessment, and other documented factors that increase risk.
5. Juveniles who are adjudicated for delinquent acts or for violations of probation originating from a delinquent act are eligible for JIPS.
6. The court shall not grant intensive probation to juveniles placed in an out-of-home placement for more than 30 days. The court shall reduce the juvenile to standard probation if the juvenile is currently on JIPS and requires placement over 30 days.
7. A juvenile probation officer who recommends intensive probation shall state the reasons for the recommendation in the disposition summary report. The officer shall recommend and the court may order JIPS for:
  - a. Juveniles who would otherwise have been recommended for commitment to the state department of juvenile corrections;
  - b. Juveniles who would otherwise have been recommended for an out-of-home placement;
  - c. Juveniles who meet the requirements set forth in A.R.S. § 8-352(B) and (H)(2) of this section; or
  - d. Juveniles who are repeat felony offenders.
8. A.R.S. § 8-352(C) provides: "After reviewing the juvenile's prior record, the facts and circumstances of the current delinquent act or technical violation of probation and the disposition summary report, the court may grant the juvenile a period of intensive probation."
9. Prior to placing a juvenile on JIPS, the court shall consider:
  - a. The juvenile probation officer's recommendations;
  - b. The factual basis and circumstances leading to the juvenile's disposition;
  - c. Monies and funds appropriated and the availability of adequate staff and treatment resources to ensure the level of intensive supervision required; and
  - d. Other factors appropriate to the ends of justice.

10. A.R.S. § 8-352(D) provides: “When granting intensive probation the court shall set forth on the record the factual reasons for using the disposition.”

**I. Dispositional Provisions.**

A.R.S. § 8-352(E) provides:

Intensive probation shall be conditioned on the juvenile:

1. Participating in one or more of the following throughout the term of intensive probation for not less than thirty-two hours each week:
  - (a) School.
  - (b) A court-ordered treatment program.
  - (c) Employment.
  - (d) Supervised community restitution work.
2. Paying restitution and probation fees except that the inability to pay probation fees or restitution does not prohibit participation in the intensive probation program.
3. Remaining at a place of residence at all times except to attend school, work or treatment, to perform community restitution or to participate in some activity, as specifically allowed in each instance by the supervising juvenile probation officer, or if in the direct company of a parent, guardian or custodian, as approved by the juvenile probation officer.
4. Allowing administration of drug and alcohol tests as directed by a juvenile probation officer.
5. Meeting any other conditions imposed by the court, including electronic monitoring, to meet the needs of the juvenile or to limit the risks to the community.

**J. Caseload Limit.**

A.R.S. § 8-353(B) provides: “A two person intensive probation team shall supervise no more than twenty-five juveniles at one time. A three person team shall supervise no more than forty juveniles at one time.”

**K. Active Cases.**

1. A JIPS team's active caseload shall include:
  - a. Juveniles residing in county and receiving intensive probation;
  - b. Juveniles in out-of-home placement for less than thirty (30) days;
  - c. Juveniles placed in detention; and
  - d. Juveniles on warrant status for less than 90 days.
2. A JIPS team's active caseload shall not include:
  - a. Juveniles on administrative status for one of the following reasons:
    - (1) Juveniles traveling for more than 30 days out of state or country with the approval of the juvenile probation department;
    - (2) Juveniles direct filed to adult court and currently held in adult jail pending the adult court action; or
    - (3) Juveniles residing for more than 30 days out of state, or country, and the department has retained jurisdiction of the juvenile.
  - b. Juveniles on warrant status for 90 days or more; and
  - c. Juveniles not yet dispositioned to JIPS.

**L. Waiver Provisions.** On request of the juvenile court, the administrative director may waive supervision, contact, and caseload limit requirements.

1. A.R.S. § 8-356(A) provides:

The supreme court may waive the requirements of section 8-353, subsections A and B and subsection C, paragraph 2 for a county if the case load of officers supervising juveniles on intensive probation is not more than fifteen juveniles and the program requires visual contact with each probationer at least one time a week.
2. A.R.S. § 8-356(B) provides:

If a waiver is granted and the intensive probation case load for each officer does not exceed fifteen, officers may supervise other additional juveniles on probation who in the judgment of the chief probation officer require additional supervision or pose a greater than normal risk to the community, as long as the total case load does not exceed fifteen.

3. The presiding juvenile court judge shall file a waiver request pursuant to A.R.S. § 8-356 with the AOC on a form prescribed by the administrative director. The administrative director shall consider the following when determining whether to grant the waiver:
  - a. The number of juveniles on intensive probation in the requesting county;
  - b. The geographical make up of the requesting county and the communities that would be served under the waiver; and
  - c. The impact to the program and the implementation of evidence-based supervision by utilizing one-person teams.
4. If a waiver is granted, it will be in force until such time as the presiding juvenile court judge notifies the AOC in writing that use of the waiver is no longer necessary or when the AOC notifies the presiding juvenile court judge that the waiver is no longer authorized.

#### **M. Program Operations.**

1. Each juvenile probation department shall develop:
  - a. Policies and procedures that aim to reduce juvenile risk and the likelihood of future delinquent acts that are consistent with the principles of evidence-based practices. The policies and procedures shall be interdependent, applied in developmental order and shall notably assess delinquent risk and criminogenic need, enhance intrinsic motivation, target interventions, provide skill training with directed practice, increase positive reinforcement, engage ongoing support in natural communities, measure relevant processes and practices, and provide measurable feedback;
  - b. Policies and procedures regarding alcohol and drug testing of juveniles on intensive probation. The procedure shall address the methods used to select juveniles for testing, the frequency of testing, and the type of test to be administered;
  - c. Protocols for working with the office of the clerk of the superior court to establish a process by which supervising probation officers are provided with accurate and timely information concerning collections;
  - d. Policies and procedures to ensure the collection of monies owed as a condition of JIPS. Each probation department and JIPS team shall immediately address any arrearage. Each probation department and JIPS team shall also encourage the JIPS juvenile's payment of other assessments ordered by any court;

- e. Policies and procedures which require intensive probation officers to administer a youth assessment for each juvenile supervised, within 30 days, if not completed during the pre-dispositional process. Officers shall consider assessment results, family feedback other agencies involved, as well and any other relevant information, when developing a case plan;
  - f. Policies and procedures which require intensive officers to develop a case plan within 30 days of disposition. The officer shall ensure the case plan includes objectives that are measurable, signatures of the probation officer juvenile and the juvenile's parent or guardian;
  - g. Policies and procedures which require the supervising probation officer to update the youth assessment, upon each subsequent referral and once every six months, at a minimum. Upon each re-administration, juvenile officers shall review the previous case plan evaluating and updating noted strategies to reflect identified risk and needs;
  - h. Policies and procedures that require probation officers to utilize graduated responses to promote positive behavioral change through incentives, consequences, and supervision to address violations;
  - i. Policies and procedures by which accurate and timely records of the completion of community restitution hours are maintained for each intensive juvenile probationer. Credit toward court-ordered community restitution requirements are awarded on the basis of actual hours completed unless authorized by the court.
2. Each JIPS team shall:
- a. Develop and implement supervision strategies that match youth assessment results and address criminogenic needs in addition to the juvenile's delinquency risk, and strengths that promote case plan goals and provide effective supervision that is individualized, proportional and purposeful. Surveillance and other intervention shall be proportionately matched to emerging or decreasing risk factors;
  - b. As provided by A.R.S. § 8-353(C)(2) "Exercise close supervision and observation over juveniles who are ordered to participate in the intensive probation program.";
  - c. Evaluate and update the case plan on an on-going basis to identify progress towards goals and conditions of probation;
  - d. As provided by A.R.S. § 8-355 "The juvenile intensive probation team shall ensure that each juvenile under its supervision is either employed, attending school, participating in a community restitution program or attending a court ordered treatment program or any combination thereof as ordered by the court for not less than thirty-two hours each week." This shall be accomplished by:

- (1) Assisting juveniles seeking employment and closely monitoring employment of juveniles if the juveniles are authorized to work in the United States;
  - (2) Closely monitoring participation in court-ordered treatment programs, involving the parent or guardian in the rehabilitation and treatment of the juvenile; and
  - (3) Providing or arranging for appropriate supervision of juveniles performing community restitution work.
- e. Respond to emerging risk indicators with graduated increases in the level of supervision, pursuant to departmental procedures;
  - f. Provide juveniles with feedback on the results of an assessment by providing positive reinforcement to encourage behavioral changes and progress with the established behavioral goals and conditions of probation;
  - j. Involve the parent or guardian in the rehabilitation and treatment of the juvenile;
  - k. Monitoring of court-ordered financial obligations. The inability to pay probation fees or restitution does not prohibit participation in JIPS;
  - l. As provided by A.R.S. § 8-353(C)(4) “Request the county attorney to bring a noncompliant probation before the court.”;
  - m. Make documented efforts to locate a defaulted juvenile. The supervising probation officer shall request a warrant be issued if the juvenile is not located. Efforts to locate the juvenile shall continue pursuant to the court’s departmental policy;
  - n. Re-evaluate the adequacy and applicability of the court ordered conditions of probation as part of the ongoing assessment and planning process and if applicable, petition the court for modifications;
  - o. Target interventions to high-risk cases to promote public safety;
  - p. Review the previous case plan during the development of a new case plan to determine if a change in strategies is required to promote behavioral changes. Strategies shall be re-evaluated if there has been regress or no change in behavior;
  - q. Petition the court to modify the intensive juvenile probationer’s supervision to standard probation or terminate the period of probation when the JIPS team determines that intensive probation is no longer needed. If the intensive probation grant is modified to standard supervision, the probation department shall transfer the case to a standard probation officer, and;
  - r. Require each active case under the JIPS team’s supervision to submit a schedule of activities for approval. Juveniles who are detained or participating in out-of-home placement are exempt from this requirement. The intensive probation team shall monitor and enforce the approved schedule.

3. A.R.S. § 8-354(A) provides:

The juvenile probation officer shall periodically examine the needs of each juvenile who is granted intensive probation and the risks of modifying the level of supervision of the juvenile. The court may at any time modify the placement or the level of supervision of a juvenile who is granted intensive probation.

- a. Levels of supervision may be progressively increased or decreased over the term of supervision dependent on compliance by the juvenile with the conditions of probation, and continued law-abiding behavior.
  - b. Requests by the JIPS team for a change in the level of supervision of a juvenile shall be in accordance with minimum requirements. The level of supervision shall not be decreased beyond the minimum level described in section O, Minimum Supervision Requirements.
4. The probation officer may petition the court to terminate the period of intensive probation based on results of a youth assessment and an evaluation of the juvenile's behavioral changes in compliance with the conditions of probation. If the court transfers the juvenile to standard probation, the juvenile shall be assigned to a standard probation officer.
5. Recommendations by a JIPS officer to the court to terminate a juvenile's intensive probation supervision or to reduce the level of supervision shall be preceded by completion of a youth assessment and shall be based on satisfactory compliance and performance by the juvenile with the conditions and terms of intensive probation.
6. Victim notification. A.R.S. § 8-396(A)(B)(C) provides:

A. On request of a victim who has provided an address or other contact information, the court shall notify the victim of any of the following:

1. A probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of the delinquent who committed the delinquent act against the victim.
2. Any hearing on a proposed modification of the terms of probation or intensive probation.
3. The arrest of a delinquent pursuant to a warrant issued for a probation violation.

B. On request of a victim who has provided a current address or other current contact information, the probation department shall notify the victim of the following:

1. Any proposed modification to any term of probation if the modification affects restitution or incarceration status or the delinquent's contact with or the safety of the victim.
2. The victim's right to be heard at a hearing that is set to consider any modification to be made to any term of probation.
3. Any violation of any term of probation that results in the filing with the court of a petition to revoke probation.
4. That a petition to revoke probation alleging that the juvenile absconded from probation has been filed with the court.
5. Any conduct by the juvenile that raises a substantial concern for the victim's safety.

C. If a victim has requested post adjudication notice and probation is revoked and the juvenile is committed to the department of juvenile corrections, the court shall notify the department of juvenile corrections of the victim's request.

#### **N. JIPS Placement**

1. A juvenile placed on JIPS shall be supervised by the JIPS team pursuant to the minimum supervision requirements until such time as a youth assessment and initial case plan have been completed and the juvenile has demonstrated satisfactory progress meeting case plan objectives.
2. Upon completion of a youth assessment and initial case plan, the JIPS team shall utilize the results of the youth assessment, along with the juvenile's compliance with the conditions of JIPS, and any other relevant factors, and recommend to the court placement on an appropriate supervision level.
3. A juvenile continued on JIPS as a result of a probation violation may be supervised at any level as established by a youth assessment and other relevant information. The JIPS team shall utilize the results of the youth assessment, along with the juvenile's compliance with previously imposed conditions of standard or intensive probation and any other relevant factors, and recommend to the court placement on an appropriate supervision level.
4. A juvenile may exit JIPS at any supervision level.

#### **O. Minimum Supervision Requirements.**

1. The following supervision requirements are established as minimum thresholds. Each juvenile probation department may establish more rigorous requirements for any supervision level. Each director shall ensure that all established minimum requirements are provided in writing to each JIPS team, along with appropriate training regarding adherence to those requirements.

2. The probation department shall establish supervision guidelines that are directed toward achieving desired outcomes that include, but are not limited to the reduction of the juvenile recidivism and criminogenic factors and will ensure that the majority of JIPS resources are dedicated to high risk juveniles in order to successfully complete their term of probation and promote positive behavioral changes. Supervision guidelines shall include the following considerations:
  - a. Tailored to the risks, needs and strengths presented by the individual juvenile as determined by the youth assessment;
  - b. Supervision programs, surveillance and strategies shall incorporate a continuum of graduated sanctions necessary to promote public safety and supervision goals;
  - c. Initial and subsequent supervision planning shall develop specific goal-directed objectives to be accomplished by the juvenile during the term of supervision and the strategies that the officer will use to monitor compliance and promote the accomplishments of those objectives. Supervision contacts shall be integral to implementing the overall supervision strategies, have a purpose that is directly related to case objectives and the juvenile's level and type of risk;
  - d. High risk cases require the concurrent implementation of multiple intervention strategies that apply the skills from a variety of disciplines to address the level and type of risk presented by the juvenile, build on a juvenile's strengths, and provide juveniles with incentives to change;
  - e. Document changes in a juvenile's circumstances throughout the period of probation and actively engage in assessing the impact of any changes on the level and type of supervision. Officers shall independently assess a juvenile's circumstances through field and collateral contacts at a level proportional to the issues in the individual cases;
  - f. Responses to noncompliance shall be timely, realistic and escalating; and shall include elements designed to both control and correct noncompliance; and
  - g. The intensity and frequency of supervision activities shall be reduced over time for stable, compliant juvenile's who are meeting their supervisory objectives.
3. Supervision Level I shall include:
  - a. Visual contacts. The JIPS team shall have a minimum of four visual contacts with each juvenile per week. Home contacts are required on a random and varied basis. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contacts shall be varied and unscheduled, and include evenings, weekends, and holidays. Visual contacts with the juvenile shall continue when in out-of-home placement or detention;

- b. Employment verification. The JIPS team shall make weekly face-to-face, telephonic or written contact with the employer of an employed juvenile;
- c. School verification. The JIPS team shall make weekly contact with the school or education program staff of a juvenile for the purpose of monitoring attendance, grades, behavior, peer associations, and other factors relating to the juvenile's progress;
- d. Parental involvement. The JIPS team shall contact the parents or legal guardians of each juvenile at least once per week to discuss the juvenile's progress and behavior in the home and community, and shall make documented efforts to involve the parents or guardians in the juvenile's treatment and rehabilitation;
- e. Curfew. The JIPS team shall establish curfews for each juvenile placed on JIPS and shall provide appropriate supervision to ensure compliance;
- f. Community restitution. The JIPS team shall maintain community restitution contacts with each juvenile performing work to ensure compliance;
- g. Alcohol and drug testing. The JIPS team shall administer alcohol and drug testing according to the policy and procedures of the juvenile court;
- h. Treatment and counseling. The JIPS team shall provide a written directive to the juvenile referring the juvenile to an appropriate service provider within 30 days of disposition as a condition of JIPS, or when a need for treatment or counseling is identified. If more than one area of treatment or counseling is identified, the JIPS team shall prioritize and address the needs with the highest priority within the prescribed time frame. The JIPS team will then address the remaining treatment or counseling areas in descending order;
- i. Investigation of referral notification. The JIPS team shall immediately contact the law enforcement officer or agency upon receipt of an referral or other contact notification to ascertain the circumstances surrounding the contact and obtain a copy of any corresponding incident report or citation. The JIPS team shall document in the case file all contacts and information received pertaining to the incident, as well as the action taken as a result of the incident;

- j. A.R.S § 8-352(E)(3) provides “Remaining at a place of residence at all times except to attend school, work or treatment, to perform community restitution or to participate in some activity, as specifically allowed in each instance by the supervising juvenile probation officer, or if in the direct company of a parent, guardian or custodian, as approved by the juvenile probation officer.” The JIPS team shall monitor and enforce approved schedules for juveniles that are meeting expected behavioral goals, scheduling requirements shall provide the juvenile a graduated reduction in structured activities to promote a successful transition to reduced supervision. Scheduled activities shall provide for pro-social opportunities “as specifically allowed in each instance by the juvenile probation officer, or if in the direct company of a parent, guardian or custodian, as approved by the juvenile probation officer.”
  - k. Development of case plans that target risk and needs areas evidenced to be significant predictors of risk to re-offend;
  - l. The use of communication techniques that engage the juvenile in their own case plan, motivation and goals;
  - m. Respond to juvenile behavior pursuant to established departmental policies on graduated responses of consequences and incentives;
  - n. Evaluation of ongoing supervision and strategies;
  - o. Responses to positive pro-social behavior pursuant to established departmental incentive policies; and
  - p. The probation officer’s recommendations for a reduction of supervision for eligible juveniles pursuant to the results of a youth assessment may be made to the court once it has been ascertained that a change in supervision level is warranted based upon the assessment and progress with established behavioral goals.
4. Supervision Level II shall include all conditions of Level I in addition to the following:
- a. Visual contacts. The JIPS team shall have a minimum of two visual contacts with each juvenile per week, with at least at least one contact occurring at the juvenile’s residence. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contact shall be varied and unscheduled, and include evenings, weekends, and holidays. Visual contacts with the juvenile shall continue when in out-of-home placement or detention; and
  - b. Employment verification. The JIPS team shall make bi-weekly face-to-face, telephonic or written contact with the employer of an employed juvenile.
5. Supervision Level III shall include all conditions of Level I in addition to the following:
- Visual contacts. The JIPS team shall have a minimum of one visual contact with each juvenile per week, with at least one visit occurring at the juvenile’s residence every other

week. Mandatory visual contact may be made by other probation or surveillance officers when authorized by the director. Visual contact shall be varied and unscheduled, and include evenings, weekends, and holidays. Visual contacts with the juvenile shall continue when in out-of-home placement or detention.

**P. Program Length.**

A juvenile shall be on intensive probation from the date ordered by the juvenile court until revoked, successfully discharged or otherwise discharged from JIPS by the court.

**Q. Required Case Records.**

1. A.R.S. § 8-353(C)(1) provides: “The juvenile intensive probation team shall ...“Secure and keep a complete identification record of each juvenile supervised by the team and a written statement of the conditions of the probation.”
2. Each JIPS team shall maintain verifiable case records for each juvenile supervised, including, but not limited to:
  - a. An individual case plan setting forth behavioral and program expectations and recommendations subject to the approval of the director;
  - b. Logs detailing the time, nature, and location of each contact related to each juvenile on JIPS;
  - c. Current photograph and profile of each juvenile on JIPS; and
  - d. Documentation regarding violation behavior, positive progress and behavioral changes while under supervision.

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

---

**Date Action  
Requested:**

October 17, 2013

**Type of Action  
Requested:**

Formal Action/Request  
 Information Only  
 Other

**Subject:**

Elected Officials Salary  
Increase

15 minutes

---

**FROM:**

Jerry Landau

**DISCUSSION: Update on Elected Officials Salary Increase**

**RECOMMENDED COUNCIL ACTION: None**

Commission on Salaries for Elected State Officials; constitutional officer, including judicial salaries

#### **Law**

Pursuant to A.R.S. §41-1903, the Commission on Salaries for Elected State Officials (Commission) is required to biennially conduct a review of the rates of pay of elective state officers, justices and judges of courts of record, and clerks of the superior court. The purpose of the review is to determine and provide the pay levels of the respective offices appropriate to the duties and responsibilities of each office.

The Commission submits a report of the results of each review and its recommendations to the governor no later than June 1 each year. Pursuant to A.R.S. § 41-1904, the governor must include recommendations for the exact rates of pay deemed advisable for those offices in the budget the governor submits to the legislature.

All or part of the governor's recommendations, as applicable, are effective on the first Monday of January of the next calendar year following the transmittal of the recommendations in the budget unless:

- A statute has been enacted that establishes rates of pay other than those proposed by all or part of the recommendations.
- Either house of the legislature specifically disapproves all or part of such recommendations.

In case of either a legislative enactment or disapproval by either house, the recommendations are effective only insofar as not altered or disapproved. Any part of the governor's recommendations may, in accordance with the recommendations, be made operative on a later date.

Salaries for Justices of the Peace are set by the legislature pursuant to A.R.S. § 22-125. Salaries for all other county officers are set by the legislature pursuant to A.R.S. § 11-419.

#### **Facts**

1. There have been no salary increases for executive branch Constitutional Officers since 1999.
2. Because a salary change can only become effective upon the commencement of a term, if no action is taken on salaries this year, the next salary increase will not occur until 2019. It will, therefore, be 20 years between salary increases.
3. The Governor's salary is currently ranked 45<sup>th</sup> in the nation.
4. There have been no judicial salary increases since 2009. Any salary increase adopted in 2014 would not take effect until 2015. The next salary increase could not occur until 2017.

5. There are now Municipal Court judges who earn a higher salary than the Chief Justice, other Appellate Court Judges, and Superior Court Judges.
6. It is imperative we strike a balance, in that attorney's from the private sector familiar with the business community and other areas of the law seek appointment to the bench as well as public attorneys.
7. The number of attorneys from private practice seeking judicial appointment is decreasing. The current judicial salary and the change to the retirement program will only continue this trend. During the last Maricopa County recruitment, 19 of 21 applicants were from the public sector.
8. The median income for a private attorney with a law firm of 8+ partners is now \$250,000.
9. Judicial Salary increases present a relatively low cost to the State because Maricopa County is responsible for the salaries of all its Superior Court Judges; the State is responsible only for Appellate Court Justices and Judges, and one-half the salary of other Superior Court Judges.
10. County officials will be seeking salary increases this year, their first increases since 2009.

10.03.13

## ARIZONA JUDICIAL COUNCIL

### Request for Council Action

---

<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 17, 2013	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	<b>HB 2310: Mental Health Courts</b>

---

#### **FROM:**

Marcus Reinkensmeyer, Director  
Court Services Division

#### **DISCUSSION:**

House Bill 2310 (Chapter 140, 51st Leg. 1<sup>st</sup> Reg. Sess. 2013) requires the Administrative Office of the Courts to prepare a report concerning mental health courts and specialized probation caseloads involving seriously mentally ill offenders. HB 2310 directs the AOC to present its report to the Governor, the President of the Senate, the Speaker of the House, and the Chief Justice by December 31, 2014. The Legislature appropriated funds to the AOC for this project.

The AOC's report will address the "effectiveness, efficiency, and accountability" of Arizona's mental health courts and specialized probation caseloads, as specified in HB 2310. The AOC's evaluation will include data gathering and the development of standards for the design, training, and procedures used in these programs.

#### **RECOMMENDED COUNCIL ACTION:**

None at this time, but there will be updates in 2014

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

**CHAPTER 140**  
**HOUSE BILL 2310**

AN ACT

RELATING TO THE ADMINISTRATIVE OFFICE OF THE COURTS; PROVIDING FOR  
CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Administrative office of the courts; evaluation and  
3 recommendations for mental health courts; report

4 A. The administrative office of the courts shall do both of the  
5 following:

6 1. Evaluate the effectiveness, efficiency and accountability of the  
7 mental health courts and specialized probation caseloads that currently  
8 operate in this state.

9 2. Develop standards for the design, training in and procedures to  
10 establish and implement efficient, effective and accountable mental health  
11 courts in this state. In developing the standards, the administrative office  
12 of the courts shall take into consideration the evaluations conducted  
13 pursuant to paragraph 1 of this subsection. The standards shall include data  
14 gathering and reporting procedures to facilitate annual evaluations and  
15 audits and ensure comparative data across this state.

16 B. The administrative office of the courts shall report its findings  
17 and recommendations to the governor, the president of the senate, the speaker  
18 of the house of representatives and the chief justice of the Arizona supreme  
19 court on or before December 31, 2014.

20 C. The administrative office of the courts may contract with or  
21 employ, as necessary, professional consultants, experts and specialists to  
22 conduct the evaluation and in the development of the standards, training and  
23 procedures. The evaluation and development of standards conducted pursuant  
24 to subsection A of this section shall be done in cooperation with court  
25 administration, probation departments, prosecutors, defense attorneys and  
26 other mental health stakeholders.

27 Sec. 2. Conditional enactment; notice

28 A. This act does not become effective unless the administrative office  
29 of the courts receives an appropriation for the implementation of the  
30 evaluation on or before the effective date of this act.

31 B. The administrative office of the courts shall notify in writing the  
32 director of the Arizona legislative council of the date on which the  
33 condition is met or if the condition is not met.

APPROVED BY THE GOVERNOR APRIL 29, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2013.