

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
June 20, 2016	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Branch Update

FROM:

Jerry Landau, Government Affairs Director
Amy Love, Legislative Liaison

DISCUSSION:

Mr. Landau and Ms. Love will update members on the 2016 Legislative Session.

RECOMMENDED COUNCIL ACTION:

Review of Legislative Session

Arizona Judicial Council
June 2016
Legislative Review

Chapter 338/SB1293: mediation; confidential communications; exception (Sen. Driggs)

<http://www.azleg.gov/legtext/52leg/2r/bills/sb1293h.pdf>

A court-appointed mediator may disclose confidential information to law enforcement, the department of child safety or adult protective services if the mediator reasonably believes that a minor or vulnerable adult is or has been a victim of abuse, child abuse, neglect, exploitation, physical injury or a reportable offense.

Defines *abuse, child abuse, exploitation, neglect, physical injury, reportable offense and vulnerable adult.*

Section amended: §12-2238

Chapter 270/SB1296: guardianship; proceedings; ward's relationships (Sen. Driggs)

<http://www.azleg.gov/legtext/52leg/2r/bills/sb1296h.pdf>

A petition for appointment of guardian of an incapacitated person must include the most recent family court order if applicable.

Outlines who must be appointed guardian or co-guardian if the petition for guardianship is filed before or within two years of the incapacitated person's eighteenth birthday, with good cause exemptions. A person with sole legal decision making at the time the incapacitated person turned eighteen must be appointed as guardian while persons with shared legal decision making at the time the child reached the age of majority must be appointed co-guardians. The court is allowed to make other co-guardian appointments if in the best interests of the incapacitated person and clarifies that neither co-guardian has rights that are superior to the others.

Guardians are directed to make good faith efforts to maintain the ward's significant relationships and ensure access to family and friends. A ward or a person who has a significant relationship to the ward may petition the court for an order compelling the guardian to allow contact with the ward. The burden of proof that a relationship is significant and in the best interest of the ward is placed on the person seeking the order for contact. The petition must describe the type and frequency of contact being requested and allows for a suspension of contact process in the event of a material change in circumstance.

Notice of hospitalization of the ward must be given to the ward's family within three days, defined to include the ward's spouse, parents, adult siblings, adult children, or

anyone who has filed a demand for notice. Notification is also required in the event of death of the ward, along with any known burial arrangements.

Sections amended: §14-5101, §14-5303, §14-5306, §14-5309, §14-5311

Sections added: §14-5316, §14-5317

Chapter 271/SB1297: paternity; preliminary injunction (Sen. Driggs)

<http://www.azleg.gov/legtext/52leg/2r/bills/sb1297s.pdf>

The clerk of court, pursuant to an order by the superior court, is required to issue a preliminary injunction in actions to establish legal decision making and parenting time for a child or children born out of wedlock. The injunction must prohibit harassment or assault of any party, removal of any child subject to the proceedings from the jurisdiction of the court, and cancellation of any insurance coverage for the child. Sets forth documentation that must accompany the petition in order to trigger the injunction. Current law mandates a similar order at the time of filing for separation or dissolution of a marriage with children.

Section added: §25-808

Chapter 158/SB1298: probation; juvenile; adult (Sen. Driggs)

<http://www.azleg.gov/legtext/52leg/2r/bills/sb1298h.pdf>

Conforms the list of offenses for which an adjudicated juvenile is required to be fingerprinted to those which the Department of Public Safety is required to maintain fingerprints pursuant to other statute.

A juvenile on intensive probation must currently spend 32 hours in one of four activities: school, a court ordered treatment program, employment or supervised community restitution work. A fifth is added, an activity that improves the juvenile's pro-social skill development, including enhancing the family relationship. Either the court or the probation officer can order the activities.

Persons placed on probation for a dangerous crime against children prior to July 13, 2009 who no longer fall under the mandatory GPS or electronic monitoring may petition the court to remove the GPS or electronic monitoring.

Persons on adult intensive probation may maintain a combination of employment and student status. The required 40 hours of community restitution may be reduced for probationers who are employed or in an approved treatment program as well as for full time students.

An intensive probation team may make weekly verification in lieu of weekly contact with a probationer's employer.

Sections amended: §8-341, §8-352, §8-355, §13-914, §13-916

Chapter 134/ HB2260: foster care review board; continuation (Rep. Brophy McGee)

<http://www.azleg.gov/legtext/52leg/2r/bills/hb2260c.pdf>

The State Foster Care Review Board is continued for eight years.

The Presiding Judge of the Juvenile Court can appoint persons employed at a child welfare agency to a local foster care review board. The Arizona Supreme Court will now appoint three persons, rather than seven persons. The Presiding Judge of the Juvenile Court in a county must appoint one member to the State Board for every ten local boards in a county (up from one for every three boards per county), with no more than six appointed members from the same county.

An adult nonresident of the state is qualified to adopt a child if the child is a dependent currently under the jurisdiction of the juvenile court residing in the home of the applicant and DCS placed the child and recommends the adoption. A child who is the subject of a petition for adoption by an adult nonresident of the state is not required to be present in the state at the time of the petition.

Upon receipt and acceptance of a written application from the prospective adoptive placement an entity contracted by DCS must conduct an investigation of the prospective parent and submit a report to the juvenile court within 90 days of the original application.

Notice may be provided to the board if an applicant for adoption who was certified as nonacceptable has petitioned the court to review the certification and the child sought to be adopted is in an out-of-home placement and is a dependent child or the subject of a dependency action. An applicant deemed nonacceptable cannot reapply for certification to an entity contracted by DCS for one year.

A child's deceased great-uncle or great-aunt is exempt from preadoption certification investigation requirements and home studies if the spouse had legal custody within 24 months leading up to their death.

An entity contracted by DCS must submit an updated report if an applicant has adopted a child within the preceding three years before the current application, and may only submit an updated report if the applicant has adopted another child more than three years before the current application.

An applicant is exempt from statutory preadoption certification requirements if the applicant is a licensed foster parent who is petitioning to adopt a child currently placed by DCS in the foster parent's home and DCS recommends the adoption.

A child cannot be committed to ADJC if only adjudicated dependent or incorrigible, unless the child is also a delinquent child and is not excluded for other reasons. The board must review a child's case if the child is dependent and committed or awarded to the ADJC or if the child is placed by DCS in licensed foster homes.

The foster parent training requirements for a license renewal move from six hours per year to 12 hours over the two year period of licensure.

Applies retroactively to July 1, 2016.

Sections amended: §8-120, §8-103, §8-105, §8-342, §8-515.01, §8-515.03, and §8-515.04

Section repealed: §41-3016.08

Section enacted: §41-3024.16

Chapter 333/HB2537: supreme court justices; number (Rep. Mesnard)

<http://www.azleg.gov/legtext/52leg/2r/bills/hb2537h.pdf>

Increases the number of justices on the Arizona Supreme Court from five to seven.

Section amended: §12-101

Chapter 314/SB1308: juvenile charged as adult; detention (Sen. Griffin)

<http://www.azleg.gov/legtext/52leg/2r/bills/sb1308h.pdf>

A juvenile charged as an adult with an offense that is not dangerous (defined in §13-105) may be detained in a juvenile detention center instead of the county jail. Dangerousness does not need to be alleged in order to require the defendant be held in the county jail.

Section amended: §8-305

Sections amended: §28-842, §28-8280

Chapter 95/HB2154: failure to appear; arrest; fingerprinting (Rep. Borrelli)

<http://www.azleg.gov/legtext/52leg/2r/laws/0095.pdf>

Repeals §13-3904, Failure to appear after giving a promise to appear on a criminal citation, and moves its content to §13-2506 so that laws regarding failure to appear are now under the same statute. Adds to the statute a failure to appear violation for failing to appear after a person is personally served with a written notice to appear on a designated date.

The booking agency, not the arresting agency, is now responsible for taking legible ten-print fingerprints of persons arrested for felony offenses, offenses involving domestic violence or violations of Title 13, Chapter 14 regarding sexual offenses or Title 28, Chapter 4 regarding driving under the influence. An exception, persons arrested for a misdemeanor that would be filed in the municipal court must report to the arresting agency for fingerprinting.

Defines *summoned* and *booking agency*.

Delayed effective date of January 1, 2017.

Sections amended: §13-2506, §13-3903, §41-1750

Section repealed: §13-3904

Chapter 57/SB1228: ignition interlock requirement; DUI; drugs (Sen. Kavanagh)

<http://www.azleg.gov/legtext/52leg/2r/laws/0057.pdf>

It is no longer a requirement for an individual who has been convicted of DUI or aggravated DUI that does not involve intoxicating liquor to equip any vehicle the person

operates with a certified ignition interlock device. If the person is convicted of DUI involving alcohol, the court is required to order installation of a certified ignition interlock device. If the person is convicted of DUI not involving alcohol, the court in its discretion may order the interlock.

Repeals the MVD requirement to revoke the driver's license of a person who is convicted of DUI drugs (§28-1381, driving under the influence of an illegal drug or §28-1383).

Delayed effective date: January 1, 2017

Sections amended: §28-1381, §28-1383, §28-1559, §28-3304, §28-3315, §28-3319

Chapter 339/SB1295: DUI; watercraft; medical practitioner; authorization (Sen. Driggs)

<http://www.azleg.gov/legtext/52leg/2r/bills/sb1295s.pdf>

It is a defense to a violation of §28-1383 (a) (3), DUI Drugs if the person is using a drug as prescribed by a medical practitioner who is licensed pursuant any section of Title 32 and who is authorized to prescribe the drug.

Sections amended: §5-395, §28-1381