

ARIZONA JUDICIAL COUNCIL

High Country Conference Center
201 West Butler Avenue
Flagstaff, AZ 86001

October 11, 2017

Meeting Minutes

Council Members Present:

Chief Justice Scott Bales
Judge Janet Barton
Ken Bennett
Judge Kyle Bryson
David Byers
Judge Rachel Torres Carrillo
Judge Louis F. Dominguez
Victor Flores
Judge Charles Gurtler
Mike Hellon

Michael Jeanes
Eric Silverberg - Proxy for Gary Krcmarik
Judge Dorothy Little
Judge David Mackey
Lea Márquez Peterson
Judge Antonio Riojas, Jr.
Judge Monica Stauffer
Judge Samuel Thumma
John Phelps – proxy for Alex Vakula
George Weisz

Council Members Absent (excused):

Hon. Peter Eckerstrom
Athia Hardt
Gary Krcmarik

R. Tony Penn
Lisa Urias
Alex Vakula

Administrative Office of the Courts (AOC) Staff Present:

Theresa Barrett
Mike Baumstark
Danny Cordova
Susan Hunt
Don Jacobson
Jodi Jerich
Paul Julien
Joe Kelroy
Jerry Landau
Amy Love

Michelle Martinez
Mark Meltzer
Heather Murphy
Kate Novak
David Redpath
Marcus Reinkensmeyer
Kathy Waters
Lorraine Smith
Mark Wilson
David Withey

Presenters and Guests Present:

Linda Ackove
Pete Dunn
Debra Grossman
Robert Grossman
Anne Hesch
David Irons
Hugh Jones

Martin Lynch
Michael Medlin
Vice Chief Justice John Pelander
Andrea Tazioli
Dan Varner
Mike Williams
Judge Lawrence Winthrop

Chief Justice Scott Bales, Chair, called the meeting to order at 10:30 a.m. and welcomed the attendees.

Approval of Minutes

The Chair called for any corrections to the minutes from the Council’s June 19, 2017, meeting.

MOTION: To approve the minutes from the June 19, 2017, meeting of the Arizona Judicial Council, as presented. The motion was seconded and passed. AJC 2017-20.

Approval of 2018 Meeting Dates

The Chair called for any changes to the proposed 2018 meeting dates of Thursday, March 22; Monday, June 18; Thursday, October 25; and Thursday, December 13.

MOTION: To approve the 2018 Arizona Judicial Council meeting dates, as presented. The motion was seconded and passed. AJC 2017-21.

Arizona Commission on Access to Justice Annual Report

Judge Lawrence F. Winthrop, Chair of the Arizona Commission on Access to Justice presented information on the Commission’s annual report and recommendations. He encouraged attendees to view the Commission’s website to learn more. He provided information cards on the AZCourthelp website and noted that Commission members were available to come to Arizona communities to talk about the work of the Commission.

Report and Recommendations from the Task Force on Utilization of Juvenile Detention Centers

Mr. Joseph Kelroy, Director of the Juvenile Justice Services Division for the AOC presented the recommendations from the Task Force on Detention.

Recommendation 1: The Arizona Judicial Council should support a revision to clarify in A.R.S. Title 8 that counties may contract with other counties for detention center services.

MOTION: To approve Recommendation 1, as presented. The motion was seconded and passed. AJC 2017-22.

Recommendation 2: The Arizona Judicial Council should recommend a statutory change and the supreme court should establish a court rule authorizing temporary custody, for up to 48 hours, for juveniles who are awaiting transport to a detention center in another county.

Discussion: Mr. Dave Byers stated a statutory change is not needed and staff should work with local jurisdictions on this issue.

MOTION: To table Recommendation 2 for further study. The motion was seconded and passed. AJC 2017-23.

Recommendation 3: The Arizona Supreme Court should expand the detention standards to include safety standards, training, and designated transportation duties.

MOTION: To approve Recommendation 3, as presented. The motion was seconded and passed. AJC 2017-24.

Recommendation 4: The Arizona Judicial Council should support revisions to A.R.S. § 8-209 to authorize: 1) the presiding juvenile court judge to repurpose unused detention space and 2) juvenile court staff to provide services and programs within the repurposed detention space.

Discussion: Judge Janet Barton stated her preference is that the presiding juvenile court judge in each county approve with the support and authority of their presiding judge. Mr. Byers noted that the presiding juvenile court judge already has authority in statute and suggested the language be revised to allow the presiding judge's approval. The motion maker agreed to the friendly amendment.

MOTION: To approve Recommendation 4 with the amendment to allow the presiding judge's approval. The motion was seconded and passed. AJC 2017-25.

Recommendation 5: A local juvenile court and county should enter into an intergovernmental agreement for detention services if the county decides to close the county detention facility.

Discussion: The Chair asked that the language be clarified regarding the identity of the sending and receiving county to read "when a juvenile court is going to provide detention services through another county, an appropriate IGA must be entered." Mr. Byers added

that this recommendation should be approved through a modification of Arizona Code of Judicial Administration.

MOTION: To approve Recommendation 5 as amended with the substitute language “when a juvenile court is going to provide detention services through another county, an appropriate IGA must be entered” and that the recommendation be approved through a modification of Arizona Code of Judicial Administration. The motion was seconded and passed. AJC 2017-26.

Recommendation 6. The detention standards should include language requiring designated juvenile court staff to use the AOC-approved Detention Screening Instrument (DSI).

Discussion: It was suggested that this recommendation be tabled until validation results are available.

MOTION: To table Recommendation 6 until validation results are available. The motion was seconded and passed. AJC 2017-27.

Recommendation 7: The AOC should modify JOLTSaz to provide participating counties the ability to view and receive data reports on their juveniles in detention.

MOTION: To approve Recommendation 7, as presented. The motion was seconded and passed. AJC 2017-28.

Judicial Branch Legislative Package

Mr. Jerry Landau, Director, and Ms. Amy Love, Deputy Director of Governmental Relations for the AOC presented the following legislative proposals for next year’s package:

2018-01: Driver license; sanctions; civil traffic violations

MOTION: To support legislative proposal 2018-01: Driver license; sanctions; civil traffic violations, as presented. The motion was seconded and passed. AJC 2017-29.

2018-02: Criminal offenses; monetary obligations

MOTION: To support legislative proposal 2018-02: Criminal offenses; monetary obligations, as presented. The motion was seconded and passed. AJC 2017-30.

2018-03: Sentencing; misdemeanors

MOTION: To support legislative proposal 2018-03: Sentencing; misdemeanors, as presented. The motion was seconded and passed. AJC 2017-31.

2018-04: Release procedures (withdrawn)

2018-05: Employment; monitoring of wages

MOTION: To support legislative proposal 2018-05: Employment; monitoring of wages, as presented. The motion was seconded and passed. AJC 2017-32.

2018-06: Probate practice; procedure

Discussion: Support as an amendment with Legislative staff working with the State Bar.

MOTION: To support legislative proposal 2018-06: Probate practice; procedure as an amendment with Legislative staff working with the State Bar. The motion was seconded and passed. AJC 2017-33.

2018-07: Mitigation of fine; community restitution waiver (withdrawn)

2018-08: Juvenile court facilities; use

MOTION: To support legislative proposal 2018-08: Juvenile court facilities; use, as presented. The motion was seconded and passed. AJC 2017-34.

Digital Evidence Task Force Report and Recommendations

Judge Samuel Thumma, Chair of the Task Force on Court Management of Digital Evidence presented the Task Force's report and recommendations.

Mr. Byers noted there has been concern about storing and accessing data for long periods of time based on retention schedules. Discussion took place regarding storing digital evidence and the need to distinguish between digital evidence and electronically stored information and the relationship between the two.

MOTION: To approve the report and recommendations from the Task Force on Court Management of Digital Evidence, as written. The motion was seconded and passed. AJC 2017-35.

Arizona Code of Judicial Administration (ACJA)

Mr. Mark Wilson, Director of the Certification and Licensing Division for the AOC presented the proposed revisions to ACJA § 7-205: Defensive Driving.

Public comment was received from the following individuals:

- Mr. Robert Grossman – Central Phoenix Traffic School
Concern with deceptive business practices
There should be sanctions against cancelling classes
Stay focused on protecting Arizona consumers
- Mr. Mike Williams – Arizona Traffic School Coalition
Staff did a great job on the proposed changes
Allow courts the flexibility to make changes as needed to close loopholes
This body and courts should look at the issue of identity theft and security
There should be IT security requirements on a school
- Mr. David Irons - National Traffic Safety Institute
Supportive of Board member recommendations
Since school owners collect fees, they need to be bonded and insured
He is a proponent of efficacy studies and is happy to share studies done across the nation
- Mr. Hugh Jones – Right Turn Traffic School
Having interactive and substantive questions makes you participate from their perspective; no need for participation questions
It is more important to score 80% on substantive questions to demonstrate knowledge of the material than to score 80% on the participation questions which only shows the student was present
- Andrea Tazioli – representing several defensive driving schools
The code should establish a minimum price the schools must charge
Concern with proposed school name changes which could be misleading and believes that the existing school names should be grandfathered in
Concern with the requirement that owners of multiple online schools modify curriculum to assure each school has substantially different curriculum, as schools have already expended a tremendous amount of time and resources establishing existing curriculum
Changing the code will affect many current school owners

Mr. Wilson asked the Council members to approve adoption of the following code section amendments:

Proposed website changes (Page 6)

Discussion: Mr. Mike Hellon stated the need to add the word “date” to the sentence “As determined by the division director, the website shall allow the public to filter by ...”

MOTION: To approve adoption of the website changes with the inclusion of the word “date.” The motion was seconded and passed. AJC 2017-36.

Proposed certification of online and classroom (Page 18)

Discussion: The proposed amendments should reflect further staff study regarding bonding and data security concerns and include language about a school’s continuing obligation to meet certification requirements.

MOTION: To approve adoption of the proposed certification of online and classroom with the direction that staff further study bonding and data security concerns and include language about a school’s continuing obligation to meet certification requirements. The motion was seconded and passed. AJC 2017-37.

Proposed classroom changes, i.e., location, date, time, etc. (Page 27)

Discussion: Judge Monica Stauffer suggested adding language to the website that if a class is cancelled someone should be contacted. Mr. Wilson was asked to check if AOC’s current website invites comments and describes to students how to make a complaint. He noted that staff needs to add some guidance on the website for students and what they should expect.

MOTION: To approve adoption of the proposed classroom changes, as presented. The motion was seconded and passed. AJC 2017-38.

Proposed curriculum changes (Page 13 and 14)

Discussion. The AOC Director should have flexibility to make changes as appropriate.

MOTION: To approve adoption of the proposed curriculum changes, as presented. The motion was seconded and passed. AJC 2017-39.

Proposed school performance changes (Page 14)

MOTION: To approve adoption of the school performance changes, as presented. The motion was seconded and passed. AJC 2017-40.

Proposed Board membership changes (Page 7)

Discussion: Judge David Mackey raised concern with reducing the number of industry representatives in addition to taking away their right to vote and suggested that it should be one or the other. A motion was made and seconded to reduce the numbers as proposed, but keep them as voting members. Discussion ensued regarding term limits and affording the Chief Justice discretion to appoint for additional terms.

MOTION: To approve adoption of the proposed Board membership changes with the amendment to reduce the number of industry representatives as proposed, as voting members, and allow 2 consecutive terms with the Chief Justice having discretion to appoint for additional terms. The motion was seconded and passed (5 opposed). AJC 2017-41.

Proposed online class practice changes (Page 30)

MOTION: To approve adoption of the proposed online class practice changes, as presented. The motion was seconded and passed. AJC 2017-42.

Proposed cost disclosed to student changes (Page 21)

MOTION: To approve adoption of the proposed cost disclosed to student changes, as presented. The motion was seconded and passed. AJC 2017-43.

Proposed school name changes (Page 19)

Discussion: Mr. Byers moved that Council adopt and let the Board deal with current and future names. Mr. Wilson noted that this will be handled during the renewal period. Judge Thumma suggested that the language should say “court system” rather than “Supreme Court.” The friendly amendment was accepted.

MOTION: To approve adoption of the proposed school name changes with the amendment to replace the words “Supreme Court” with “court system.” The motion was seconded and passed. AJC 2017-44.

Proposed interactions between defensive driving schools and limited jurisdiction courts changes (Page 41)

MOTION: To approve adoption of the proposed interactions between defensive driving schools and limited jurisdiction courts changes, as presented. The motion was seconded and passed. AJC 2017-45.

Mr. Byers moved adoption of any other code section in the package that was not specifically presented. Judge Mackey suggested as a friendly amendment that the AOC Director be allowed to make non-substantive changes identified down the road. The friendly amendment was accepted. Mr. George Weisz stated the need for good performance measures to determine if these classes are working and if we are producing results.

MOTION: To approve adoption of any other code section in the package that was not specifically presented and to allow the AOC Director to make non-substantive changes identified down the road. The motion was seconded and passed. AJC 2017-46.

Call to the Public

Mr. Martin Lynch provided public comment on the study of the history of the legal system and the image of the judiciary in terms of oversight and accountability.

Call to the Public/Adjourn

The meeting adjourned at 3:55 p.m.