



Arizona Commission on Access to Justice

Virtual Meeting Annotated Agenda

February 4, 2021 - 9:00 a.m. to 12:00 p.m.

[ACAJ WEBPAGE](#)

TIME	AGENDA ITEM	PRESENTER
9:00 a.m.	Welcome and opening remarks A.O. 2021-113 Appointment of members to the Arizona Commission on Access to Justice	Judge Lawrence F. Winthrop, Chair
9:05 a.m.	Report from Chief Justice Brutinel	Chief Justice Robert Brutinel
9:15 a.m.	Approval of minutes from November 19, 2020 ☐ <i>Formal Action/Request</i>	Judge Winthrop
9:15 a.m.	Chairperson's report Links for your review: 1. Letter to President-elect Biden from the President of the ABA, Trish Refo 2. Access to Justice Headlines 3. Office for A2J Could be Revived Under Biden 4. President Biden Extended the Eviction Ban Through March 2021 5. Orgs Enter Utah 'Sandbox' Trying to Reshape Legal Industry 6. Major Takeaways from NY's New Anti-Eviction Law 7. How to Stop Evictions from Further Ruining Lives 8. Minnesota Will Launch Legal Paraprofessional Pilot program 9. Online Faith and Justice Summit Puts Focus on Reaching Tennesseans with Legal Needs 10. No Money, No Lawyer, No Justice	Judge Winthrop
9:25 a.m.	Child Support Guidelines Review Committee – Quadrennial Report Update	Judge David Gass, Chair of the CSGRC

**All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact ACAJ staff, Kathy Sekardi at (602) 452-3253 or Julie Graber, at (602) 452-3250 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Sabrina Nash at (602) 452-3849. Requests should be made as early as possible to allow time to arrange the accommodation.*

☐ *Formal Action/Request*

- 9:40 a.m. **Commission on Minorities in the Judiciary – ACJA Code revision proposal**
☐ *Formal Action/Request*
William Knight, Los Abogados Hispanic Bar Association and Member of Commission on Minorities in the Judiciary
- 9:50 a.m. **Update from Community Legal Services regarding eviction actions**
Pamela Bridge
- 9:55 am **Report from the Arizona Housing Coalition Eviction Policy Task Force**
Joanna Carr, Research and Policy Director, Arizona Housing Coalition
- 10:15 a.m. **DHHS report regarding Legal Services for Children and Families**
Judge Maurice Portley, (Ret.), Senior Director of Judicial Engagement Team for Casey Family Programs
- 10:20 a.m. **Report on efforts to propose changes to the new Legal Paraprofessional scope of practice**
☐ *Formal Action/Request*
William Knight
- 10:25 a.m. **Legislative update ([link](#))**
[HB2197](#) Eviction prevention; study committee
Elise Kulik, Legislative Liaison, Arizona Supreme Court
- 10:45 a.m. **10-MINUTE RECESS**
(Members please mute your microphones and return in 10 minutes)
- 10:55 a.m. **COVID-19 eviction actions update**
A.O. No. [2021-19](#)
[CDC](#) – Eviction Moratorium Order 01/29/21
Theresa Barrett, Manager, Court Programs Unit, AOC
- 11:05 a.m. **Update on COVID-19 Legal Information Hotline**
Joel England, Executive Director, State Bar of Arizona
- 11:10 a.m. **Update on [AZCourtHelp.org](#) enhancements and use**
*Dr. Kevin Ruegg and Cathleen Cole
Arizona Bar Foundation for Legal Services & Education*
- 11:20 a.m. **Workgroup report: Public Information and Messaging**
[DRAFT](#) – 2020 Annual Report
Aaron Nash, Public Information Officer, AOC

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11:25 a.m.	Workgroup report: Justice in Government SB1661 Housing assistance program; appropriation	Chris Groninger
11:30 a.m.	Workgroup report: Attorney and Judicial Engagement	Judge Joe Kreamer
11:35 a.m.	Workgroup report: Self-Represented Litigants in Limited Jurisdiction Courts Workgroup	Kathy Sekardi, AOC
11:45 a.m.	Workgroup report: CARES Act Compliance	Judge Samuel Thumma
11:50 p.m.	Good of the Order / Call to the Public	Judge Winthrop
12:00 p.m.	Adjournment	

2021 ACAJ Meetings

May 6, 2021
Tentatively 9:00 a.m. to 12:00 p.m.

November 2, 2021
Tentatively 9:00 a.m. to 12:00 p.m.

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Meeting Date: February 4, 2021

Subject: Report from Chief Justice Brutinel

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Chief Justice Robert Brutinel

Presenters: Same

Discussion: Chief Justice Brutinel will discuss: 1. The licensure of limited scope, non-attorney practitioners to improve access to justice in certain practice areas where the private and public sector fail to adequately provide for litigants' representation needs. 2. Why access to justice is important and what the Chief Justice looks to this commission to do to obtain strategic agenda.

Recommended motion: None.

Arizona Commission on Access to Justice
MINUTES
Thursday, November 19, 2020
9:00 a.m. to 12:15 p.m.
Virtual Meeting

Virtual attendees: Judge Lawrence Winthrop (chair), Judge Samuel Thumma (vice-chair), Kip Anderson, Mike Baumstark, Judge Thomas Berning, Pam Bridge, Judge Bruce Cohen, Judge Maria Elena Cruz, Joel England, Kevin Groman, Judge Anna Huberman, William Knight, Judge Joseph C. Kreamer, Maria Morlacci, Helen Purcell, Janet Regner, Kevin Ruegg, Rodolfo Sanchez, Kathy Schaben, Valerie Wyatt, Anthony Young

Absent/Excused: Judge Dean Christoffel, Anni Foster

Presenters/Guests: Patricia Lee Refo, Professor Rebecca Sandefur, Jennifer Albright, Cathleen Cole, Chris Groninger, Amy Love, Ira Pilchen, Suzanne Porter, Carol Rose, Mark Wilson

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Julie Graber, Sabrina Nash, Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the November 19, 2020 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair at 9:00 a.m. Judge Winthrop thanked outgoing commission members Judge Maria Elena Cruz, Judge Thomas Berning and Helen Purcell for their dedication, diligence and the great work that they've done for the commission since its inception. He mentioned that it's possible that Scott Bales may attend the February 4, 2021 meeting.

B. Approval of Minutes

The draft minutes from the May 14, 2020 ACAJ meeting were presented for approval.

Motion: Mike Baumstark moved to approve the May 14, 2020 minutes. **Seconded:** Kevin Ruegg. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Report from the American Bar Association President

Patricia Lee Refo, president, American Bar Association (ABA), expressed the ABA's commitment and support for the Arizona Commission on Access to Justice. She then outlined the work that the ABA is doing and how it intercepts with what the ACAJ has been working on:

- Regulatory Reform - at a recent meeting of the ABA House of Delegates meeting the ABA passed a resolution encouraging states to experiment with regulatory reform in their states and study the results of what various states are doing. The ABA has been gathering court officials and the Academy in the states that are deploying regulatory reform and measuring the outputs in a comparative model.
- Pandemic Relief – the ABA passed a resolution for eviction relief for both tenants and landlords. There is great concern among all affected parties on how to recover from the pandemic. The ABA is talking to Congress regarding relief measures before the moratorium expires at the end of this month and into the new administration. During ABA day in Washington next year the ABA will continue to express the need for eviction relief and to campaign for funding for the Legal Services Corporation. The need

for legal services goes beyond eviction relief to include bankruptcy, domestic violence, mental health and many other accompanying issues related to the pandemic.

- ABA Free Legal Answers – is a platform that allows income eligible users to type in a question that is routed to licensed attorneys in their state to review and agree to respond on behalf of the individual. To date more than 100,000 legal issues questions have been answered by lawyers in the state where the question originated.
- Racial Equity – a newly created consortium of 52 ABA accredited law schools to study policing practices throughout the United States. The focus of the consortium is how to improve, enhance and modernize policing practices throughout the United States. The law schools are working to identify ways that students and faculty can assist with training and other projects in their local communities to move forward with the modernization of police practices nationwide.

Discussion:

- What does the funding for the Legal Services Corporation look like for next year with regards to the Legal Services Corporation? Indications show that increased funding is coming from both the House and the Senate, but not at the level requested.
- How best to leverage technology in the delivery of legal services? Increasing broadband frequency in rural areas to assist those areas with access. The chair noted that Katie Hobbs and CISCO made a commitment to deliver broadband access to libraries across and particularly to Arizona's rural areas.

B. Understanding the Justice Gap and the Potential for Non-legal Service Providers to Help Bridge that Gap

Rebecca Sandefur, professor, The College of Liberal Arts and Sciences, ASU Faculty Fellow, American Bar Foundation Editor, outlined what we know about the justice gap:

- There is a crisis of unrepresented litigants usually in debt, family and eviction cases.
- Courts are overwhelmed by a backlog of cases
- Crisis facing individuals without legal assistance involving their basic human needs; their livelihood, shelter and care of dependent children and adults.

Across all income levels many self-represented litigants are dealing with personal injury, employment, housing, family court and consumer debt issues. Legal issues can impact the self-represented litigants with:

- negative health outcomes,
- lost income, employment or housing
- damages relationships
- problems with alcohol or drugs

If nothing changes, Americans in mid-life can expect to deal with justice problems for over 43% of their lives. Americans aged 18-34 can expect that 21% of their lives will be overshadowed by civil justice problems.

However, there are new types of legal representation under consideration in many states such as authorized legal service providers such as licensed legal paraprofessionals. Legal paraprofessional may be licensed in a specific area of law and may advise or inform a litigant in their area of expertise. This option is best for individuals seeking legal advice or information.

Another option being discussed in a few states is alternative business structures which contemplates a law firm that differs from the standard sole proprietorship or partnership model. Alternative business structures allow non-lawyers to own law firms and share fees with attorneys. This option works well for individuals who need representation in the courtroom, or their legal issue is complex. Research has shown these options are as effective as traditional law practices and offer greater access to legal services for self-represented litigants. These services also provide greater consumer choice, services that are designed around clients, expanded access to clients and new sources of revenue and investment for businesses.

C. Updates on Alternative Business Structures and Legal Paraprofessionals Programs

Jennifer Albright, AOC Senior Court Policy Analyst, introduced newly hired Suzanne Porter, AOC Certification and Licensing Program Manager for the Legal Paraprofessionals program. Ms. Porter reported that the Arizona Judicial Council (AJC) approved the proposed changes to the Arizona Rules of the Supreme Court and the Arizona Rules of Evidence. The proposed changes would go into effect January 1, 2021. She stated that she is currently working with colleges to finalize the Licensed Legal Paraprofessional exam.

Discussion: Ms. Porter was asked how soon a Legal Paraprofessional would be seen in court? She responded it would probably be late spring or early summer. She was also asked how the courts would know an individual was a Legal Paraprofessional? Ms. Porter stated that a list of licensed Legal Paraprofessionals was being kept by the Arizona State Bar and that their Bar number would be listed on documents. She also noted that Legal Paraprofessionals were to identify themselves as such to the courts and their area of expertise.

D. Chairperson's Report

Judge Winthrop, chair, noted:

- At the September 2020 national ACAJ meeting a panel met to discuss the role of access to justice commissions going forward in the 2020's.
- He also participated with Karen Lash in a November national panel presentation and discussed the creation of a state level intergovernmental collaboration project.
- At the upcoming Bar convention Judge Winthrop and Judge Kreamer will discuss/present a webinar on amendments to Supreme Court Rule 38 dealing with retired lawyers and inactive lawyers, and how to encourage their help with pro bono work.
- Judge Winthrop and Judge Thumma may present the commission's goals for 2021 for discussion at the March 2021 Arizona Judicial Council meeting.

E. Family Court Workgroup Report: Modification of Support for Incarcerated Parents

Bruce Cohen, Presiding Family Court Judge, Maricopa County Superior Court discussed the possibility of streamlining the process for the modification of child support orders while incarcerated. He stated that he'd like the Commission to establish a stakeholder workgroup to create a streamlined process for incarcerated defendants to apply for IV-D services.

Discussion: Members expressed their support of the proposed workgroup and Judge Dean Christoffel offered to contact Pima County individuals.

F. COVID 19 Eviction Actions Update

Mike Baumstark, AOC, updated members on the issues created by the COVID-19 pandemic and outlined the various administrative orders and actions taken by the courts to provide information to the public on court procedures during the pandemic. He also stated that judicial training was being held for judicial officers to keep them up to date on the latest changes and noted that Dave Byers was hosting stakeholder meetings with landlords, attorneys, and legal assistance entities regarding rental assistance and grants assisting with rent.

G. CARES Act Workgroup Report:

Judge Samuel Thumma reported that the workgroup was formed to provide public awareness, education and promote access to court forms and other resources regarding eviction proceedings that may not have complied with the CARES Act. The first meeting of the workgroup was held on November 3, 2020 and the workgroup discussed various possible next steps, including the need for public education and resources, and to assist judges if relief contains provisions like the CARES Act or addresses similar issues. The next meeting of this workgroup will be in December.

H. Update on COVID-19 Legal Information Hotline

Joel England reported that from May 20, 2020 through October 30, 2020 the Hotline received 2,339 calls.

Top legal issues discussed:

- Housing (35%)
- Finance or money (14%)
- Employment/Unemployment (13%)

The number of calls referred for a free half hour consultation was 694 and of those calls; 120 small business owners were assisted, and 379 callers aged 60 years or older were helped with COVID-19 legal issues.

I. Update on AZCourtHelp.org Enhancements and Use

Cathleen Cole discussed Google Analytic results from March 2020 through October 2020. There were 280,662 new AZCourtHelp users, up 118% from the same period in 2019. There were 845,851 pageviews, up 85%.

Devices used to access AZCourtHelp:

- Desktop usage increased 33%
- Cellphone usage increased 82%
- Tablet usage increased 16%

Acquisition of Users:

- Organic searches were up 179%
- Referrals up 102%
- Social media ups 220%

Top referrals to AZCourtHelp:

- AZCourts.gov – 19,560
- AZPoint.gov – 14,105
- AZLawHelp.org – 10,115

Top pages viewed:

- Find my court – 56,539
- Electronic court records – 42,395
- Forms -29,326

Thirteen Live Chat operators handled 3,312 sessions totaling 544 hours and 7 minutes. The average length of each chat was ten minutes. The top live chat topics were orders of protection, landlord/tenant issues, traffic issues, court scheduling, and criminal matters and set aside.

J. Update on the Public Information and Messaging Workgroup

Aaron Nash stated that a draft of the ACAJ Annual Report will be available for review at the February 4, 2021 meeting. He noted that the timeframe covered for the annual report is calendar year from November 2019 to November 2020.

K. Update on Justice in Government Workgroup

Chris Groninger noted that the workgroup was working collaboratively with the Legal Assistance Hotline, AZCourts.gov and government entities on getting COVID-19 information out to all stakeholders. They're also working on a regional approach to guardianship issues, working in collaboration with VOCA agencies regarding VOCA funds, coordinating with state agencies on a Crime Victims Website and creating/maintaining partnerships with state agencies and legal assistance partners.

L. Update from the Judicial and Attorney Engagement Workgroup

Judge Joseph Kreamer noted that during the November 5, 2020 workgroup meeting the workgroup reviewed projects to move forward on in 2021. The three projects are:

- Judicial Web Portal – accessible to judges and directs them to *pro bono* opportunities. The judicial web portal would inform judges about educational opportunities and any *pro bono* restrictions for judges.
- Senior Lawyers- Supreme Court Rule 38 was amended which could provide *pro bono* opportunities for retired attorneys through the Arizona State Bar’s Senior Bar
- Engaging Public Attorneys – both the Arizona Attorney General’s Office and the US Attorney’s Office are agreeable to providing *pro bono* opportunities to public attorneys. However, the challenge is providing public attorneys with a direct and readily available list of *pro bono* opportunities that do not conflict with their job limitations.

M. Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup

Judge Anna Huberman reported that the workgroup is continuing its work on consumer debt videos and legal information sheets. There are three completed and translated videos completed and four more to be scripted and recorded.

N. ABA/ATJ Chairs Presentation – Ignite Talk

Cathleen Cole presented a talk at the national ABA/ATJ Chairs meeting on the AZCourtHelp.org and the AZCourtCare.org websites. ACAJ watched Ms. Cole’s video presentation and offered congratulations.

III. OTHER BUSINESS

A. Good of the Order

Judge Cohen stated that despite the pandemic it was gratifying to see that the commission’s work was still being accomplished and that the commission was tuned in to access to justice issues.

Helen Purcell expressed her gratitude for the opportunity to serve on the commission for the past four years and thanked Judge Winthrop and the commission.

Carol Rose, communications coordinator, State Bar of Arizona, introduced herself as the new State Bar Communications Coordinator and stated how impressed she was with today’s meeting and the work that the commission is doing.

B. Call to the Public

No members of the public were present.

2021 Meeting Dates:

February 4, 2021

May 6, 2021

November 2, 2021

Adjourned at 12:13 p.m.



Meeting Date: February 4, 2021

Subject: Report from the Child Support Guidelines Review Subcommittee re: Quadrennial Review

Type of action requested:

- ☒ Formal action or request
- ☐ Information only
- ☐ Other

From: Judge David Gass, Chair of the Child Support Guidelines Review Subcommittee

Presenters: Judge Gass

Discussion: The Child Support Guidelines Review Subcommittee of the Family Court Improvement Committee (FCIC-CSGRS) was established to conduct the federal and state mandated quadrennial review of the Guidelines. Along with economic and case file reviews, the members conducted research on a variety of topics that were recommended by the previous committee, raised by changes to federal and state law, and case law. Amendments to the Guidelines based upon that research in a restyled, easier to read format are presented for Committee input.

Recommended motion: Motion to approve as presented or with recommended amendments.

[Webpage](#): Child Support Guidelines Review Subcommittee



Draft Report and Recommendations

Family Court Improvement Committee, Subcommittee for a Review of the
Child Support Guidelines — January 2021

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Draft Report and Recommendations

Family Court Improvement Committee,
Subcommittee for a Review of the Child Support
Guidelines — January 2021

EXECUTIVE SUMMARY

Creation and Charge of Subcommittee

On January 8, 2020, Chief Justice Robert Brutinel issued Administrative Order 2020-10 establishing the Child Support Guidelines Review Subcommittee (subcommittee) of the Family Court Improvement Committee. The administrative order directed the subcommittee to:

- Review and make recommendations regarding issues referred for further studies by the 2017 Committee for an Interim Review of the Child Support Guidelines (Interim Review),
- Make recommendations regarding other improvements to the guidelines,
- Consider economic and labor market data; the impact of guideline policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that impact compliance with child support orders,
- Analyze case data on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment, and
- Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives.

...

Chief Justice Robert Brutinel



...

Hon. Paul J. McMurdie,
Family Court Improvement
Committee Chair



...

Hon. David M Gass,
Child Support Guidelines
Review Subcommittee Chair





Additionally, the administrative order directed the subcommittee to file a final report and make recommendations to the Arizona Judicial Council (AJC) in December 2020. Due to COVID-19 and its impact on gathering the case file review data, a request to extend the deadline for this report was submitted to Chief Justice Brutinel.

Administrative Order 2020-181 issued on November 25, 2020, extended the subcommittee and the report deadline until April 30, 2021. Additionally, this administrative order extended the term of service for the appointed members through July 31, 2021. The extended term allowed the subcommittee to address any issues raised by the AJC and additional tasks including forms development and child support calculator updates.

The subcommittee met numerous times via video conferencing before distributing the draft proposed Guidelines and a draft version of this report for comment. A virtual public hearing was held on January 15, 2021, to gather public input. Eight interested persons spoke to the subcommittee at the hearing. Additional public input was sought using an online comment page that was established prior to the first subcommittee meeting. A total of nine written comments were received. (See Appendix B: Public Comments.)

Summary of Committee Recommendations

A summary of the subcommittee's final recommendations is outlined below. The summary is organized by the proposed Arizona Child Support Guidelines' Table of Contents. More detailed recommendations are set forth in the body of this report.

Proposed Amendments Made Throughout the Guidelines

- Reorganize the Guidelines to flow along with the Child Support Worksheet
- Restyle the Guidelines for ease of use and understanding
- Update terminology to conform with Arizona Revised Statutes Title 25 use of legal decision-making and parenting time

Determining Income

- Segregate and organize information about Child Support Income into user-friendly sections
- Replace "gross income" with "Child Support Income"

Determining the Parents' Incomes for Purposes of Calculating Child Support

What is included in Child Support Income?

- Clarify that income is from any source before any deductions or withholdings
- Add language regarding military pay and benefits

When is overtime included in Child Support Income?

- Highlight by providing a separate section that discusses overtime





When is income attributed for purposes of child support even if not actually being earned?

- Add language regarding unemployment and underemployment and full-time earnings

Adjustments to Child Support Income for Spousal Maintenance and Support of Children of Other Relationships

- Provide the court discretion to consider the lack of tax deductibility of the spousal maintenance payment under applicable federal and state income tax regulations and provide an example
- Take no action to adjust Child Support Income for HSA/FSA accounts, but provide the court the discretion to consider
- Adopt the Title IV-D process devised by the Office of the Attorney General in cases with a low-income payor and multiple child support obligations

Determining the Basic Child Support Obligation

- Set as the presumptive the amount set forth in the Schedule of Basic Support Obligation for Combined Adjusted Child Support Incomes of \$30,000 per month for parents with Combined Adjusted Child Support Incomes of more than \$30,000 per month
- Provide a process for requesting a deviation from the presumptive amount for Combined Adjusted Child Support Incomes of more the \$30,000 per month

Determining the Combined Child Support Obligation

- Eliminate the calculation that reduces the childcare amount by the federal child and dependent care tax credit

Medical Insurance

- Allow the use of a family health insurance policy available to a parent's new spouse or domestic partner for a child, crediting the prorated cost and assigning the responsibility for providing health insurance to that parent
- Add examples regarding the calculation of the cost of child-related medical insurance

Childcare Expenses

- Identify what expenses are included in childcare costs

Extraordinary Child Expenses

- Restyle extraordinary child costs for clarity

Adjustments for Costs Associated with Parenting Time

- Amend Parenting Time Table A to provide for essentially equal parenting time when both parents incur expenses and costs associated with parenting time
- Amend former Sections 11 and 12 (now Section V) commensurate with the proposed amendments in Parenting Time Table A
- Eliminate Parenting Time Table B and rename Parenting Time Table A without the "A" designation





- Define essentially equal parenting time as when both parents have 164 days of parenting time or more

Deviations

- Provide additional guidance regarding when deviation from the Guidelines should be considered

Non-Covered Medical Expenses

- Clarify that unreimbursed and uninsured expenses are included in medical expenses

Tax Benefits Associated with Minor Children

- Eliminate the allocation of exemptions in light of the tax changes of the Tax Cuts and Jobs Act (TCJA) and define how the tax benefits associated with children are to be shared

Condition for Entitlement to Tax Benefit

- Establish a process for a parent to claim the tax benefit if the child support obligation for that tax year is not fully paid by January 15

State Involvement in Child Support Cases

- Add new section that discusses the Title IV-D Program and Child Support Assigned to the State

Schedule of Basic Support Obligation

- Extend the Schedule of Basic Support Obligation to Combined Adjusted Child Support Incomes up to \$30,000 per month

ECONOMIC REVIEW

To meet its obligation to conduct the federally mandated economic and case file reviews, the Administrative Office of the Courts contracted with the Center for Policy Research (CPR). Dr. Jane Venohr, Economist and Research Associate attended several meetings to discuss the review process, and provide data and expert insight that assisted the subcommittee in defining the underlying factors needed for the Schedule of Basic Support Obligation (Schedule) calculations.

In all, there are seven factors. The subcommittee elected to maintain the historic assumptions for the following five factors:

- Adjust to current price levels,
- Exclude childcare, child's health insurance premium, and extraordinary out-of-pocket medical expenses and include ordinary out-of-pocket medical expenses of \$250 per year per child in the child-related expenditures,
- Consider expenditures to net income ratio, which is the first step to converting measurements of child-related expenditures to a child support income basis,



- Consider federal and state income taxes and FICA, which is the second step to converting measurements of child-related expenditures to a child support income basis, and

This historic assumption takes the combined Adjusted Gross Income (AGI) and uses the federal withholding formula applying to a single taxpayer. State income tax is applied to the federal taxable income based on the percentage the employee's selected tax rate.

The passage of Proposition 208, that creates a 1% difference in state taxes for persons with income over \$250,000 per year or couples with incomes over \$500,000 per year. At the time of this report the necessary information for including this new tax in the Schedule was not available for the Arizona Department of Revenue; therefore, it was discussed but not included in the measurements.

- Whether and how to convert the measurements of child-related expenditures, based on national data, to account for differences between U.S. average price levels and Arizona's average price levels.

Historically, Arizona has not made an adjustment for cost of living. Arizona's price parity is only 3.5% less than the national average. The cost of living varies by region within the state, and calculation would be complex and cumbersome.

The assumptions for the two remaining factors were updated during this review. The reasoning is as follows:

- Economic study to use as the basis of the Schedule, and

The current Schedule is based upon the Betson Rothbarth 3 (BR3) economic study. The BR3 study, conducted in 2006, utilized data from the 1998-2004 Consumer Expenditure Survey (CES). Seeking updated economic data, Arizona included the development of Betson Rothbarth 5 (BR5) economic study in its contract with CPR. The BR5 economic study utilizes data from the 2014-2019 CES.

BR5 provides the most current measurements of child-related expenditures. Its economic methodology is consistent with the economic methodology underlying the current Schedule. The Betson Rothbarth measurements are a valid and robust method and have been used by several states (including Arizona) for over two decades.

The subcommittee elected to use the BR5 economic study to update Arizona's Schedule of Basic Support Obligation.

- Extending the schedule to higher incomes.

The current Schedule includes Combined Adjusted Child Support Incomes of up to \$20,000 per month. The BR5 measurements support the extension of the Schedule to Combined Adjusted Child Support Incomes up to \$34,000 per month. Alternate studies do not extend to that dollar amount and could not be used for comparison. However, comparisons between BR5 and alternate studies



that include Combined Adjusted Child Support Incomes up to \$28,750 per month were provided and proved to be consistent with BR5.

The subcommittee felt a round number would make more sense to the general public; the subcommittee extended the Schedule to include Combined Adjusted Child Support Incomes of \$30,000 per month.

ISSUES DEFERRED TO THIS REVIEW FROM THE INTERIM REVIEW

Three issues were discussed during the 2017 Interim Review that were determined to be outside the scope of that review, and thus referred for additional study and consideration.

Federal Tax Exemption for Dependent Children

Section 27 (Now Section XI) of the Guidelines allocated federal and state tax dependency exemptions between parents, as they agreed, or in a manner that allowed each parent to claim allowable federal dependency exemptions in proportion to the Combined Child Support Incomes of both parents. In 2017, the mandatory provision of the Affordable Care Act (ACA) penalized the parent who claimed that exemption, but who was not the parent ordered to provide the child's health insurance.

The federal government has since temporarily repealed this mandatory aspect of the ACA making this issue moot.

Recommendation: If the mandatory aspect of the ACA is resurrected, a future review should address the issue.

Determination of the Child Support Income of The Parents

Section 5 (Now Section II) was referenced in a Court of Appeals opinion¹ that posed the question “may a court attribute income beyond that of regular full-time employment without a showing that the income was historically earned from a regular schedule and is anticipated to continue into the future?”²

In its recommended amendments to Section II.A.1.d, the subcommittee, grants the court discretion to consider whether non-continuing or non-recurring income is deemed income for child support purposes. Further, the subcommittee addressed overtime in Section II.A.3.

¹ *Lundy v. Lundy*, 242 Ariz. 198, 200, ¶ 8 n. 1 (App. 2017).

² In *Lundy*, the Arizona Court of Appeals, Division 1, noted an apparent conflict in Section 5(A) of the guidelines and went on to say, “We read the second sentence to prohibit inclusion of income from traditional overtime or second jobs, and we read the third sentence to permit realistic calculation of income in cases involving a parent whose income does not arise from such discrete sources.” See *Lundy*, 242 Ariz. at 200, ¶ 8 n. 1.

“3. When is overtime included in Child Support Income?

- a. The court generally does not include more income than earned through full-time employment.
 - i. Each parent should have the choice of working additional hours through overtime or at a second job without increasing the child support obligation.
 - ii. A parent who historically worked overtime when the family was intact may choose to reduce or not to work overtime hours to ensure the parent has meaningful interaction with the child during that parent’s parenting time.
- b. The court may consider income actually earned if it is greater than would have been earned by full-time employment if that income was historically earned and is anticipated to continue into the future. The court generally does not attribute additional income to a parent if it would require an extraordinary work regimen. Determination of what constitutes an extraordinary work regimen depends upon all relevant circumstances, including the choice of jobs available within a particular occupation, working hours, and working conditions. It also may depend upon the parent’s relevant medical or personal circumstances.

Insufficient Funds for Multiple Orders

As in the previous review, the issue of allocating insufficient funds for multiple orders was a topic of great concern. The members discussed cases where a person paying child support (payor) has multiple court orders for child support and more common cases where a payor is the parent of children who live in the household as well as the child for whom a support order is being sought or modified. A payor’s inability to support all the payor’s children, usually results in unpaid support for most, if not all, of the orders.

Recommendations:

- Eliminate the distinction between children who are the subject of the child support case and those who are not,
- Allow greater discretion to adjust for another support order,
- Adopt the Title IV-D process devised by the Office of the Attorney General in cases with a low-income payor, which allows the court to pro-ration the limited funds available to provide support among the

payor's children. This process prevents the foreclosure of support for any child due to the application of the Self Support Reserve test, and

- Clarify the adjustment for other children in the household under an equal custody arrangement.

RECOMMENDATIONS BASED ON CHANGES TO STATE AND FEDERAL LAW

45 CFR §302.56(c)

Recently the minimum requirement in 45 CFR §302.56(c) to base the child support order on the noncustodial parent's earnings and income was amended to include "and other evidence of ability to pay." Arizona's Guidelines require the court to make findings on the record as to Child Support Income and order the parties to exchange financial information such as tax returns, financial affidavits, and earnings statements every twenty-four months.

Recommendation: Because Arizona's Guidelines conform with the amended requirement, take no action regarding evidence of ability to pay.

Tax Cuts and Jobs Act (TCJA)

The TCJA made two changes to the federal tax code that impact the guidelines.

First, amounts paid toward spousal maintenance orders effective after December 31, 2018, are no longer deductible—and are excluded from the recipient's taxable income. As a result, the parent paying spousal maintenance has less spendable (after-tax) income available for child support and the parent receiving spousal maintenance has more spendable (after-tax) income available for child support. This result may warrant an adjustment to income.

Recommendation: Upon a parent's request for a hearing, allow a parent to present evidence regarding the lack of tax deductibility of spousal maintenance for court consideration regarding an adjustment to the parent's Child Support Income.

Second, parents historically have been entitled to claim children as personal exemptions on income tax returns, but the deduction for personal exemptions was suspended for tax years 2018 through 2025 by the TCJA. For these years, taxpayers cannot claim a deduction for exemptions, but they may be eligible to claim the child tax credit and the additional child tax credit.

Recommendations:

- Use more inclusive "tax benefit" terminology to address not only the policy change from exemption to credit, but any post-2025 policy reversion,
- Clearly articulate allocation of the tax benefits and the conditions of entitlement, and

- Adopt a process for claiming the tax benefit when the conditions of entitlement have not been met.

RECOMMENDATIONS BASED ON CHANGES TO CASE LAW

After reviewing published opinions and memorandum decisions filed between November 2016 and May 19, 2020, the subcommittee found that other than the clarifications described above regarding Lundy, no additional proposed amendments were needed to address case law.

OTHER RECOMMENDATIONS

Restyling

The 2017 Interim Review recommended a restyled and reorganized version of the guidelines that flowed with the child support worksheet. That work has been revitalized in this review with the goal of making the guidelines more easily understood by all.

Some of the more prominent features of the reorganization and restyling include:

- Adding an Executive Summary,
- Reorganizing and renumbering the Guidelines to flow with the child support worksheet,
- Including Arizona Revised Statutes Title 25 terminology regarding “legal decision-making” and “parenting time,” except when referencing third-party caregivers, and
- Using simplified terminology such as “Child Support Income” instead of “gross income.”

Recommendation: Adopt the restyled and reorganized Guidelines.

Adoption subsidies or a Child’s Social Security Income (SSI) Benefits

The Office of the Attorney General frequently receives questions from parties about whether adoption subsidies or a child’s SSI benefit should be counted as income to the parent who receives it as a representative payee. The subcommittee developed the following language to provide the information in the Guidelines Section II.A.2.a.iii:

“Sums a parent earns or receives by or for the benefit of a minor child, including adoption subsidies, Supplemental Security Income (SSI), and subsidies arising from the disability of a child are not Child Support Income but may impact a parent’s child support obligation as explained in Section VII.B below.”

Additionally, Guidelines Section X.B.3 states:

“Other than court-ordered child support payments, if a parent earns income or receives money by or for the benefit of a minor child, including adoption subsidies, Supplemental Security Income (SSI), and subsidies arising from the disability of a child, that amount is not credited to reduce either parent’s child support obligation.”

Recommendation: Clarify that income earned or money received by or for the benefit of a child will not be credited to reduce the child support obligation.

Child and Dependent Care Adjustment

While considering the need to adjust Child Support Incomes for Flexible Spending and Health Savings Accounts (FSA and HSA), the subcommittee also considered the current adjustment to the basic child support obligation for the child and dependent care tax credit. The subcommittee found that the child and dependent care tax credit:

- Does not apply in low-income situations,
- Is incorrectly applied, if a flex spending account or pre-tax dollars are used to pay for childcare,
- Can fall into a gray area for the parent who is not the primary residential parent, and
- Can change based on income year -to -year for parents with essentially equal parenting time.

Additionally, the subcommittee agreed that the complexity of the calculation was not justifiable for the *de minimis* adjustment amount.

The removal of this calculation from the child support worksheet, does not prohibit a parent paying for childcare who may be eligible for this tax benefit from seeking this adjustment.

Recommendation: Remove the adjustment for child and dependent care tax credit from the child support worksheet but provide the court discretion to consider evidence regarding this tax benefit (Section XI.B.1.c).

Parenting Time Adjustment Tables A and B

Historically, the Guidelines have contained two parenting time adjustment tables (Table A and Table B) and two means of calculating the parenting time adjustment.

Table A provides a stepped approach to address the transient child expenses and costs associated with parenting time. Arizona’s stepped approach was originally designed around the most commonly ordered parenting time plans of that time (e.g., every other weekend and a Wednesday overnight) and has seen little, if any, change since 2001.



The 2018 Guidelines define essentially equal parenting time as 143 days or more and provide adjustments ranging from 30.7% to 48%. In the case file review, the CPR consultant found that 25% of the child support worksheets indicated essentially equal parenting time. The comparable percentages in 2013 and 2007 were 21% and 15%, respectively, indicating a change in societal parenting norms.

Table B uses a stepped approach to address the situation in which the parents have essentially equal parenting time and one parent pays all expenses and costs associated with the child. Those costs do not transfer with the child to the other parent's home. Table B, anecdotally, is rarely used. The case file review provided evidence that only two of the cases indicated the use of Table B.

Recommendation: Amend Table A to:

- Increase the number of parenting time days required to receive a parenting time adjustment from 3 days to 20 days,
- Round the percentages to the nearest one-half percent,
- Define essentially equal parenting time as when both parents have 164 days or more, then extending the Parenting Time Table to include a 50% adjustment for that range of parenting time days, and
- Eliminate Table B and address these rare cases by deviation in Section IX.

Current:

Parenting Time Table A

Number of Parenting Time Days		Percentage
0	3	0.0%
4	20	1.2%
21	38	3.1%
39	57	5.0%
58	72	8.5%
73	87	10.5%
88	115	16.1%
116	129	19.5%
130	142	25.3%
143	152	30.7%
153	162	36.2%
163	172	42.2%
173	182	48.6%

Proposed:

Parenting Time Table

Number of Parenting Time Days		Percentage
0	19	0.0%
20	34	2.5%
35	49	5.0%
50	69	7.5%
70	84	10.0%
85	99	15.0%
100	114	17.5%
115	129	20.0%
130	142	25.0%
143	152	32.5%
153	163	40.0%
164	or more	50.0%

Health Insurance

One of the ACA's three primary goals was to make affordable health insurance available to more people.



Though a new spouse's income cannot be used when determining a child support obligation, the subcommittee views health care coverage as "community" in this situation. As a result, an adjustment under Section III.B.3.d for the cost to the stepparent is appropriate and expands on the ACA goal to include more affordable options for insuring children.

Recommendation: Allow a parent to fulfill the Guidelines' requirement regarding health insurance through family coverage provided by a parent's new spouse or domestic partner for a child.

Schedule of Basic Support Obligation

Combined Adjusted Child Support Incomes Extension

The case file review conducted in 2013 revealed that 1% of the orders reviewed were based upon a combined adjusted gross income of greater than \$20,000 per month. The current review indicates the percentage of orders based upon that income has risen to 3%. Additionally, among those orders, 2% were based upon a Combined Adjusted Child Support Income between \$20,000 and \$30,000 per month.

Extending the Schedule to higher incomes would:

- Improve the predicted amounts among high-income parents considering the establishment or modification of a child support order,
- Produce more consistent support awards at higher incomes, and
- Lead to fewer deviations.

Recommendation: Extend the Schedule of Basic Support Obligation to Combined Adjusted Child Support Incomes up to \$30,000 per month.

Schedule Extension and the Presumptive Amount

When the Combined Adjusted Child Support Income is greater than \$20,000 per month, the current Guidelines set that amount as the presumptive Basic Child Support Obligation.

Recommendation: Set the Basic Child Support Obligation for Combined Adjusted Child Support Incomes of more than \$30,000 per month as the presumptive amount.

Schedule Extension and Deviation from the Presumptive Amount

The current Guidelines impose a burden of proof on the parent who seeks an award greater than the presumptive for Combined Adjusted Child Support Income in excess of \$20,000 per month. The CPR consultant pointed out that Arizona's Guidelines are unique in this regard. The subcommittee recognized the burden of proof was inappropriate and devised language that discusses a court's determination regarding the "evidence" and further clarifies the presumptive level.

Recommendation: To amend Section III.A.1.c as follows:

- “c. If the Combined Adjusted Child Support Income of the parties is greater than \$30,000 per month:
- i. If no party requests consideration of a higher amount, the amount for Combined Adjusted Child Support Income of \$30,000 is the Basic Child Support Obligation, or
 - ii. Upon a party’s request, the court determines whether the evidence shows that an amount higher than the Basic Child Support Obligation for the Combined Adjusted Child Support Income of \$30,000 per month is in the child’s best interests. The court takes into account the child’s needs in excess of the presumptive amount, any significant disparity in the respective percentages of Child Support Income for each party, and any other factors which, on a case-by-case basis, demonstrate that the increased amount is appropriate.”

Other topics discussed

Flexible Spending Accounts (FSA) and Health Savings Accounts (HSA)

Having considered the insight of tax specialists and research conducted by the CPR consultant, the subcommittee recommends that no action be taken to add FSA and HSA accounts into the calculation of child support for every case.

The guidance indicated that if a parent made the maximum contribution to either type of account, the tax impact would likely be relatively small. A parent earning an annual income between \$25,000 and \$100,000, who contributed \$2,500 over the year to either an FSA or an HSA, could see a tax savings between \$21 and \$36 monthly. Moreover, the calculation to determine the tax savings amount is complex, requiring information from the 1040 Tax Return (FSA) or Form 8889 (HSA).

If the contribution, tax savings, and ability to pay medical expenses using pre-tax dollars is at issue in a case, a court may, in its discretion, consider a deviation.

ISSUES REFERRED TO AN INTERIM WORKGROUP

Several topics were discussed by this subcommittee. Some of the issues identified require more extensive research than can be accomplished within the timelines of a review.

Recommendation: To establish an interim workgroup under the Family Court Improvement Committee to seek resolution for the following issues:

Adjustment for Children Over the Age of 12;

Research the impact of the essentially equal parenting time adjustment and its impact on the adjustment for children over the age of 12. Should this adjustment be added to the Basic Child Support Obligation before or after applying the parenting time adjustment?

Duplicative Expenses;

When Arizona adopted the policy of adjusting the child support obligation based upon parenting time, the focus was on transient expenses and costs associated with the child (such as food, entertainment, personal care items, and reading material) and not on the fixed expenses. In doing so, it was understood that duplicated expenses (such as maintaining two households) were not included. Because Arizona's Guidelines are based upon an income shares model, which relies upon data from intact families, the underlying model fails to account for duplicative expenses.

Should duplicative expenses be addressed in the Guidelines? If so, how? Past suggestions include one where the basic support obligation is grossed up by a certain percentage (such as 120%), which would address the reality that the cost for the child is higher than the figure the chart gives us based on data for intact families.

Minimally Adequate Support Test; and

Consistent with 45 CFR § 302.56(c)(1)(ii), the Arizona Child Support Guidelines contain a Self-Support Reserve (SSR) test for the parent ordered to pay child support. The SSR addresses that parent's basic subsistence needs. The federal regulation offers states discretion to consider the basic subsistence needs of the parent receiving child support as well. Should a test like the SSR be developed for the recipient parent whose income is below a certain threshold? For example, if the recipient parent's income is below 170% of the federal poverty level, and the income of the paying parent is 340% or more above the federal poverty level, a minimally adequate support amount sufficient to bring the income of the lesser earning parent above 170% of the federal poverty level would be added to the child support calculation.

A.R.S. §25-510(E).

Currently, the state law requires that simple interest that accrues on support arrearages be charged at a rate of ten per cent per annum. There is no federal requirement for charging interest on arrearages. Some states have lowered or eliminated interest on arrearages. In collaboration with the Department of Economic Security, Division of Child Support Services research should be conducted to determine the need for this interest; compare Arizona's rate with that of other states; and make recommendations for possible legislative amendment.

REFERRAL TO THE NEXT CHILD SUPPORT GUIDELINES REVIEW COMMITTEE

45 CFR § 302.56

At the time of this report, an amendment to 45 CFR § 302.56 was pending. The amendment would add optional exceptions to the prohibition against treating incarceration as voluntary unemployment under child support guidelines. The proposed exceptions, under § 302.56(c)(3)(i) and (ii), would be for incarceration: (1) because of intentional nonpayment of child support resulting from a criminal case or



civil contempt action in accordance with guidelines established by the State under §303.6(c)(4), and/or (2) for any offense for which the individual's dependent child or the child support recipient was a victim. Should this amendment be adopted, consideration should be given to whether the exceptions should be included in the Guidelines.

Review Third Party Caregiver Worksheet

With every review, the child support worksheet is taken into consideration. Generally, this review focuses on the function of the worksheet for dissolution, separation, and paternity cases. Additional focus should be placed on Section XII.C of the Guidelines and the third-party caregiver worksheet in future reviews.

ACA Tax Penalty

The ACA currently does not impose a mandatory insurance requirement and contains no related tax penalty for a parent who can claim a child tax credit but who is not the parent who provides health insurance. With any change of leadership in our nation's capital, the mandatory aspect could be resurrected. If that were to occur, the next review committee will need to address the issue.

Self-Support Reserve Test

Maintain the new section in the Economic Review and Case File Review Report that considers Arizona's self-support reserve test as well as those devised by other states.

Appendix A: Child Support Guidelines Review Subcommittee Membership

Honorable David Gass, Chair
Arizona Court of Appeals, Division I

Members

Ms. Carol Park Aden
Community Legal Services, Inc.

Ms. Mary K. Boyte Henderson J.D.
Mary Katherine Boyte, PC

Honorable John J. Assini
Superior Court in Pima County

Ms. Jennifer A. Mihalovich
Stewart Law Group

Ms. Laura C. Belleau
Karp & Weiss, P.C.

Ms. Janet W. Sell
Office of the Arizona Attorney General

Honorable Bruce R. Cohen
Presiding Family Court Judge
Superior Court in Maricopa County

Mr. Vance D. Simms
Public Member, Custodial Parent

Ms. Kellie E. DiCarlo
Arizona Legal Document Services, LLC

Honorable Jeff Fine (replaced Honorable
Amanda Stanford on 7/15/2020)
Superior Court in Maricopa County

Honorable Joseph Goldstein
Superior Court in Yavapai County

Ms. Rosa Torrez
Department of Economic Security

Ms. Tiffany Harvey (replaced Cherie Wasiel on
7/15/2020)
Public Member, Non-Custodial Parent

Mr. Steve Wolfson J.D.
Dickinson Wright PLLC

Ex Officio Members

Don Bays
Henry+Horne

Chris Gorman
Gorman Consulting Group, LLC

Appendix B: Public Comments

Time	County	Role	Parenting Time	Child Support
10:25	Pima	Family Member	N/A	N/A
Comment	C.L. is a first responder as is her husband. Each has children from previous marriages. C.L.'s experience with parenting time, child support, and co-parenting with her former spouse has been strikingly different from her husband's experience. She asked the subcommittee review the impact of the Guidelines on first responders: the hours worked in excess of 160 hours per month without overtime pay; and balancing meaningful parenting time with its impact on the ability to contribute to the success of the family by working a second job to pay.			
Response	The subcommittee reviewed the Fair Labor Standards Act. Members discussed C.L.'s comment and a number of other occupations that have work schedules outside the realm of the traditional 40-hour work week. With "to specify is to eliminate those occupations or circumstances not listed" in mind, the subcommittee agreed that the Guidelines language should remain broad; however, the members recommended that consideration of this issue be enhanced in judicial training.			
10:30			Mostly with Mother	Receive
Comment	J.D. asked that more specific language be added to the Guidelines regarding the inclusion of health care and mental health care as special needs of a child. She suggested that additional judicial training be offered regarding domestic violence and order enforcement. She also suggested that in cases where domestic violence involving a child has occurred that the child be provided an attorney.			
Response	While the subcommittee took every comment under advisement, this discussion was not included in the agenda for January 25, 2021.			
10:35	Yuma			Receive
Comment	S. scheduled time to comment but did not appear.			
Response	Staff reached out to S. by email and telephone to offer time to comment at the January 25, 2021 meeting. No response was received.			
10:45	Maricopa		Mostly with Other Parent	N/A
Comment	P.V. is a parent with special needs, who has never been able to work. She asked the subcommittee to consider the impact of the Guidelines when attributing income to a special needs parent.			
Response	During the public hearing, a member read proposed Guidelines Section II.A.5.b to P.V. She was gratified to hear that her issue was contained the in the draft proposed Guidelines.			
10:50				
Comment	D.A. made several suggestions during his comment to the subcommittee. 1. If a court can contact parties about their case, can the court also provide a general notification announcing a Guidelines review? 2. Some of the increases being made in the Schedule are 8-12% higher than the rate of inflation. These increases are most notable at the higher combined adjusted child support incomes without obvious justification. He views these increases as social change and not economic reality and asks that the Schedule be reviewed. 3. Require judicial officers to remind the parties that they each have a right to request and receive a full and complete copy of the other parent's financial records every 24 months. Reliance on the language being in the Guidelines does not provide sufficient information for laypersons. 4. The Proposition 208 tax increase should be included in the calculations.			

Response	While the subcommittee took every comment under advisement, this discussion was not included in the agenda for January 25, 2021.			
10:55	Out-of-State	Family Member		N/A
Comment	J.K. discussed his frustrations with Arizona's paternity laws, specifically the voluntary acknowledgement of paternity.			
Response	Because J.K.'s comments were outside the scope of this review and more focused on paternity laws, subcommittee staff referred J.K. to the Arizona Legislature website, and Arizona House of Representatives and Senate Health and Human Services committee chairpersons.			
11:00	Out-of-State	Advocate	N/A	N/A
Comment	B.U. is a Senior Child Support Researcher for the National Parents Organization. He asked that the subcommittee consider the Guideline's self-support reserve test and the adequacy of the resulting amount.			
Response	The subcommittee reached out to CPR requesting data and its addition to its final economic and case file review report. Arizona's self-support reserve test is 80% of the state's minimum wage. Currently, Arizona's minimum wage is \$12.15 per hour. ($\$12.15 \text{ per hour} \times 2080 \text{ hours per year} \div 12 \text{ months} \times .80 = \$1,684.80 \text{ or } \$1,685 \text{ rounded}$), making it one of the highest in the country. Most states rely on the federal poverty levels, currently \$1,063 per month for one person. A few states increase for taxes and to be on par with other income eligibility programs. NY State is the highest 135% of the FPG, so that's \$1,435 per month (\$1,063 times 135%).			
11:05	Maricopa			
Comment	B.C.'s written comment: "I would like to ask the courts to not allow judges to google a minimum wage of another state as [name purposely deleted] did this in my case and got it wrong by three dollars an hour this is an egregious issue that even three years later he has refused to correct even with the the appropriate paperwork"			
Response	The current Supreme Court child support calculator provides the minimum wage amounts when selecting a state or U.S. Territory. Similar functionality will be considered for the updated statewide calculators eliminating this issue.			
11:10	Pima		Almost Equally	
	R.S. scheduled time to comment but did not appear.			
	Staff reached out to R.S. by email and telephone to offer time to comment at the January 25, 2021 meeting. No response was received.			
11:20				
Comment	J.R. could not connect during the Public Hearing. Staff reached out by telephone to offer time to comment at the January 25, 2021, meeting. J.D. a parent with special needs had positive comments about receiving child support through an electronic payment (debit) card and asked the subcommittee not to impact that option.			
Response	The subcommittee assured J.D. that the draft proposed Guidelines have no impact on the receipt of child support by debit card.			

Sent: Monday, August 24, 2020 2:21 PM
To: CSGRS-Public Comments
Subject: CSG Comments

Tell us about yourself

Name	Ricky Elliott
Email	rdelliott2569@aol.com
Do you reside in Arizona?	Yes
If yes, in what county?	Maricopa

Child support & parenting time

What is your current parenting time arrangement?	Mostly with Mother
Do you pay or receive child support?	Ex was not made to pay anything

Comments

Please provide your input about the child support guidelines.

I am wondering why there is no standard for minimum orders and why the judges don't ask for financial information when it is not provided. My ex was unemployed but receiving disability and was told he didn't have to pay anything because he wasn't working. I don't think it's fair that I should have to keep paying to refile for an adjustment because the judge said he doesn't have to pay something. The packet we used said he was supposed to submit his financial info, but he didn't and the judge didn't ask for it before he made his decision.

Sent: Sunday, March 29, 2020 5:57 PM
To: CSGRS-Public Comments
Subject: CSG Comments

Tell us about yourself

Name	Tracy Hebert
Email	tlynnhebert13@gmail.com
Do you reside in Arizona?	Yes
If yes, in what county?	Maricopa

Child support & parenting time

What is your current parenting time arrangement?	Mostly with Father
Do you pay or receive child support?	I pay child support

Comments

Please provide your input about the child support guidelines.	Section 25-320: Part F says until 18 or 19 if still in High School. I believe this should add that if the child decides to live at home while going to college then child support shall continue for at least the 1st 2 years of college. One part says Over time shall not be considered. Court should make it mandatory to provide all proof of income to review if overtime is a constant income. Judges have never done this with my ex husband who has always had overtime. Says that minimum wage shall be applied automatically (what would have been earned by full time employment. Courts should consider the facts as to why a parent may not be earning a full time income. If a parent is receiving TANF, SNAP, or Cash assistance than minimum wage shall not be applied. Also along the same lines consider if the parent is going to school to improve their abilities to earning a full time wage. If a parent can show major hardship through no fault of their own (ie not just refusing to go to work) than the court shall suspend child support until said parent is able to get a job. If said parent is only able to acquire a part time job for the time being then child support shall be deviated to reflect the parents part

time earnings within reason so that the payor is still able to live within reasonable means or wait until the parent can either find a second part time job to fulfill the child support obligation or is able to obtain full time employment to fulfill the full child support obligation.

Another alternative would be that when figuring out child support obligations and after reviewing parents income and reason one parent might not be working, if the parent to pay child support is not working for an acceptable reason than suspend child support or if only able to acquire part time work then split the child support in half to offset lack of income.

If parent is receiving SNAP, or TANF then a deduction shall be made accordingly. Courts shall offer the payor if unemployed, having a hard time locating employment, or earning less than full time minimum wage, options to gain skills for work or a list of agencies who may be able to help them find proper employment, such as Arizona at Work.

Instead of every 48 months exchanging income information between parents, it should be every 12 months and it should also be filed with the court for review, make it accessible to upload online to the court website to make it convenient. This income should be filed with a current child support worksheet. If child support shall go up or down by 15% a notice shall be sent out and it shall be applied automatically, without the need for another hearing. Once the new order is received by mail then a new wage assignment shall be given to their employer to reflect the change.

For tax purposes parents shall split the children each year. In the event of an odd number of children or just one child, then the tax exemption can be traded off each year with the extra child.

Example of tax exemptions:

2007 2008 2009

Child one Payor Payor Payor

Child two Payee Payee Payer

Child three Payor Payee Payor

Judges need to be aware of guidelines and must abide by them. More times then none the judges don't listen or pay any attention to the guidelines.

I am suggesting these guidelines from personal experience.

Thank you

Sent: Wednesday, January 27, 2021 4:00 PM
To: CSGRS-Public Comments
Subject: CSG Comments

Add your details / (Ingrese sus datos)

Name / (Nombre)

Email / (Correo electrónico)

Provide additional information / (Ingrese información adicional)

County where I live / (Condado en el que vivo)

Maricopa

I am a(n): / (Soy:)

Parent / (Progenitor)

Children's Parenting Time. / (El régimen de visitas con los menores.)

With both parents almost equally / (Con ambos progenitores casi por partes iguales.)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

I pay child support / (Yo pago la pensión alimenticia de menores.)

Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

I am using this opportunity to tell you how messed up your system has been for years. I am a guy that pays my child support and as of a year ago I could I have it modified to be 1/3 of what it is but I chose not to. I haven't even worked in that years. Either. But it seems that your agency DES and the lower tiered ones anyone from unemployment to child-support have a tendency to screw the person that's making the payments, Me! So you get my child support through Garnishment of easy your way then you hold it then you give it back to me if it's to be refunded months later but then you give me back too much and then you garnish my unemployment again and then you hold it and then it goes to ridiculous lines of my

account which include the terms interest interest interest. How friggin hard is it to do this thing or have a program that.? If you were working on my company I would've fired everyone of you guys 1 million times over with because you don't have it. I'm always wondering where my moneys at because the states got to take it from me and now my sons enough to understand that you guys suck! Praise the governor and his assistance for helping me through the last year or I would've lost my house and been out on the street. Get your shit together and if you need me to talk to a counselor a group of people you need to analyze things and get feedback from you I'm available because this is absolutely ridiculous. My home state of Arizona state our families been in for 90 years. And it sucks! Where is my money ? Have a great whatever

Sent: Monday, January 25, 2021 2:40 PM
To: CSGRS-Public Comments
Subject: CSG Comments

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Maricopa

I am a(n): / (Soy:)

Parent / (Progenitor)

Children's Parenting Time. / (El régimen de visitas con los menores.)

Third-party caregiver / (Tercero a cargo del cuidado de los menores)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

N/A / (No corresponde)

Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

Hello...I wanted to register to oversee a hearing in family court. I paid to have a mediation hearing with my mother who now has rights to my son JayJay. About 5 months ago I made the decision to call DCS because my mom was being violent with me in front of JayJay. They said If he isn't in any danger reach to family court when when I have the necessary things to provide for the baby. Since then I got housing and employment. I wrote to the court and had a court date for In January 1-20-21.It is now rescheduled for

Sent: Monday, January 25, 2021 10:59 AM
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Apache

I am a(n): / (Soy:)

Advocate / (Defensor)

Children's Parenting Time. / (El régimen de visitas con los menores.)

Mostly with me / (Pasan la mayoría del tiempo conmigo.)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

I receive child support / (Yo recibo la pensión alimenticia de menores.)

Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

I don't feel that all scenarios could be possibly included but I can say that there is one scenario that is pretty straight forward and that is that in a home of domestic violence and abuse there is no standard. Standard does not apply in such scenarios. The abuse continues and there is no co parenting in these cases. There is a custodial parent and non custodial and non custodial is just that. If a non custodial parent has no parenting time by choice and has nothing more to do with a child other than pay support and that is only by force that non custodial parent needs to make up the difference for not being there emotionally or otherwise because the amount of child support is not equivalent to if the non

custodial parent took responsibility such as providing food while they have the child, providing clothing, entertainment, and education and the list continues. Yet a custodial parent is what I feel penalized. A custodial parent when figuring out child support is shown to make minimum wage (yet they don't) yet the non custodial parenting time isn't 0 which is the actual truth. Non custodial parents are given a credit for parenting time in which they don't even have or even partake in. So a custodial parent is not only responsible for all the emotional, physical, educational, medical, but also the largest financially responsible for the child not the non custodial parent by choice.

Again education is key in all of this because I'm certain judges see a lot and heard a lot but fact is fact and law is law and they aren't utilizing these laws to make their decisions! They are making very biased decisions for whatever personal reasons which is not in the best interest of the child. I have put in a lot of hours and work into my case I have been fighting for 2 years now and have done a lot of research and the laws are there but no enforcement or training whatsoever or a lack of any kind of empathy or compassion for these children and the abuse and poverty they endure and not just by the parents but by the very system or individuals that are set into place to protect them. Enforcement and education are very important and it's lacking in every aspect. I would love to hear what laws from a professional's point of view they feel need changed in order to make this an easier process on everyone involved. I would be more than happy to go fight for these laws to help these children accomplish a better life than poverty. If they knew poverty before the abuse they know it now. Poverty is a huge reason for all the wrong in the world. If a custodial parent makes \$10,000 a month it should be up to them to lower their standards of living not up to the non custodial parent to struggle how their next electric bill will be paid or how their rent will be covered. The mentality of my ex husband was that I receive help from the government and he doesn't receive benefits of such and no one helps him so he is entitled to all his money. This is just one of the examples of abuse that continues and these children are the ones who ultimately suffer. Thank you for your time and I look forward to a better future for the children of our future.

Sent: Friday, January 15, 2021 10:06 AM
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Pima

I am a(n): / (Soy:)

Attorney / (Abogado)

Children's Parenting Time. / (El régimen de visitas con los menores.)

N/A / (No corresponde)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

N/A / (No corresponde)

Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

Thank you to everyone who participated in making these important and long overdue updates. Your work is truly appreciated. My practice involves the private mediation of family law matters, including parenting plans and child and spousal supports. Many of my clients are self-represented. I am concerned about how the spousal maintenance is being handled. It is unrealistic to expect the concept of "effect tax rate" to be something that non-experts are familiar with. I am not an expert myself, but I have been an attorney for 30 years and I don't even know what mine is. It is not accurate to assume self-represented people don't usually have spousal support as a part of their dissolutions. In fact, Form 6 was designed

specifically to assist self-represented people obtain spousal maintenance. While imperfect, perhaps a better idea would be to figure out the most common effective tax rate for the community and simply apply it to all spousal maintenance payments when utilized as a part of the child support calculation? In the alternative, perhaps spousal maintenance now being ordered and/or agreed upon has already been reduced to take into consideration that it is no longer subject to the old tax rules? If that is the case, then there is no reason to apply any reduction to the spousal maintenance portion of the child support calculation, because it was already reduced to being with. I know there are competing ways of handling this, but their both much easier to access for the majority of litigants than the language being suggested.

Sorry I can be on the zoom call and thanks again

MARIE PICCARRETA

Sent: Monday, January 11, 2021 11:03 AM
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County where I live / (Condado en el que vivo)

Pima

I am a(n): / (Soy:)

Attorney / (Abogado)

Children's Parenting Time. / (El régimen de visitas con los menores.)

N/A / (No corresponde)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

N/A / (No corresponde)

Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

The difference between 164 days and equal time is huge! This could mean a swing of 36 full parenting days. That is over 100 meals for a child! That is over 864 more hours of parenting time; time that you need to pay for entertainment, be responsible for remote learning, even keep your home heated or air conditioned.

The Guidelines are already horrible for equal time. The guidelines barely register when one parent makes \$80,000 a year and the other makes \$50,000 a year. If you add 100 more days of parenting time to the financially disadvantaged parent without any financial contribution, you are rewarding the financially advantaged

parent at the expense of the children.

More cases than you would ever dream are littered with domestic violence and coercive control. "Equal" parenting time is often conceded to an abusive parent for the sole purpose of avoiding child support. The equal parenting time guidelines do not recognize the clear inequities in parenting responsibilities versus parenting time. Differences of \$20,000 a year make all the difference in the world for quality of life, and the guidelines should reflect this after every level.

164 days is NOT equal time. That is 182 days. Math.

Sent: Tuesday, January 5, 2021 9:49 AM
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County where I live / (Condado en el que vivo)

Maricopa

I am a(n): / (Soy:)

Parent / (Progenitor)

Children's Parenting Time. / (El régimen de visitas con los menores.)

Mostly with the other parent / (Pasan la mayoría del tiempo con el otro progenitor.)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

I pay child support / (Yo pago la pensión alimenticia de menores.)

Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

Please attach your comment if it is already written in a document.

I am proving my public comment to shed light on the consequences of setting orders beyond a parent's ability to pay, and humbly request that this committee review guidelines on this matter.

Please provide your input. / (Por favor, escriba sus comentarios.)

Specifically, in cases such as mine where earnings have been reduced for a reasonable cause, such as taking care of a child with unusual emotional needs, that require a parent's presence in the home, which makes it difficult to gain and keep meaningful employment.

Child support guidelines are designed to establish a standard of support for children consistent with the reasonable needs of children AND the ability of parents to pay.

In my particular situation, I clearly did not have the ability to pay, which is evidenced by the assistance received by TANF.

As explained by the Administration for Children and Families, Health and Human Services, "Orders set beyond your parents ability to pay can lead to unintended consequences". These consequences have lead to unfair incarceration, unmanageable debt, and much more punishment.

Our disabled child is protected by the American with Disabilities Act to protect his rights. Where is my protection as his caregiver?

Thank you.

Sent: Monday, January 4, 2021 5:48 PM
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Email / (Correo electrónico)

Provide additional information / (Ingrese información adicional)

County where I live / (Condado en el que vivo)

Yuma

I am a(n): / (Soy:)

Parent / (Progenitor)

Children's Parenting Time. / (El régimen de visitas con los menores.)

Mostly with me / (Pasan la mayoría del tiempo conmigo.)

Child Support payment. / (Situación de pagos de pensión alimenticia de menores.)

I receive child support / (Yo recibo la pensión alimenticia de menores.)

Comments about child support guidelines / (Comentarios sobre las pautas de pensión alimenticia de menores)

Please attach your comment if it is already written in a document.

Please provide your input. / (Por favor, escriba sus comentarios.)

I've read over the child support guidelines and I didn't come across anything having to do with a parent who never pays child support. Or doesn't provide reasonable support to a child consistently. In the best interest of the kids, they need consistency of support because children don't stop needing food, shelter, clothes, hygiene products, etc. In my case the non custodial parent has only made less 1/3 of the payments in the last 3 yrs. I've tried to reach out plenty of times to my Case worker, But nothing has made a change. Maybe if there were harsher penalties for non payment then there wouldn't be so much "deadbeat" dads. Like if you miss so many payments you have a certain consequences, like example If there isn't

payments made the parent has to spend weekends in jail or they're automatically get their license revoked. But in order for anything to happen it's a process to take the parent to court. Kids need the support now not months later to "prove contempt".



Final Report and Recommendations of the
Family Court Improvement Committee
Child Support Guidelines Review Subcommittee

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April 2021

ARIZONA CHILD SUPPORT GUIDELINE

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SECTION I. GENERAL INFORMATION

A. EXECUTIVE SUMMARY

The Arizona Child Support Guidelines follow the Income Shares Model, which considers the income of both parents. Under the model, the total child support amount approximates the amount that would have been spent on the children if the parents and children were living together. Each parent contributes his or her proportionate share of the total child support amount.

Information regarding the Guideline's development, including economic data and assumptions upon which the Schedule of Basic Support Obligations is based, is contained in the [REDACTED] report of Center for Policy Research, entitled "Economic Review of the Arizona Child Support Schedule."

By state and federal law, courts make all child support determinations using the Arizona Child Support Guidelines. This determination is a multi-step process resulting in a specific amount. That amount becomes the court-ordered child support obligation unless the court finds that amount is unfair or unjust.

The calculation itself is most often performed by using a computer-based program. The information that affects the child support amount is identified on the computer-based Child Support Worksheet, which has fields of information that must be completed.

Step 1: Child Support Income of Each Parent

Each parent's Child Support Income is inserted into the corresponding fields in the computer-based Child Support Worksheet. When deciding the amount of income to assign to a parent, Section II.A of the Guidelines provides comprehensive assistance.

Step 2: Adjustments to Child Support Income

Once Child Support Income is established, that amount may need to be adjusted because of other circumstances. Section II.B of the Guidelines details those adjustments and when those adjustments are appropriate.

Step 3: Determining the Basic Child Support Obligation

The total of both parent's Adjusted Child Support Income is the Combined Adjusted Child Support Income. The Combined Adjusted Child Support Income will be used to determine the Basic Child Support Obligation using the Schedule of Basic Support Obligation. The computer-based Child Support Worksheet will insert this amount upon entry of Combined Adjusted Child Support Income. Further information can be found in Sections II.C and III.A of the Guidelines.

Step 4: Adjustments to the Basic Child Support Obligation

The Basic Child Support Obligation is not the total amount the court will use to determine the Final Child Support Obligation. The court also factors in additional child-related costs, such as medical insurance premiums, childcare costs, and other expenses. Section III.B of the Guidelines sets forth the nature of these costs and the method for determining the amount to be added to the calculation on the computer-based Child Support Worksheet. These additional amounts are the Adjustments to the Basic Child Support Obligation.

Step 5: The Combined Adjusted Child Support Obligation

The computer-based Child Support Worksheet will calculate the Combined Child Support Obligation by adding the Adjustments to Basic Child Support Obligation to the Basic Child Support Obligation. This total represents the total amount of costs that the court must consider for a child support determination. Further information can be found in Section III.B of the Guidelines.

Step 6: The Allocation of the Combined Child Support Obligation

The Combined Child Support Obligation (Step 5) must be allocated between the parties in proportion to their Adjusted Child Support Income (Step 2). The resulting amounts are each parent's proportionate share of the Combined Child Support Obligation. Once again, the computer-based Child Support Worksheet will perform this calculation, which is explained in Sections IV and VI of the Guidelines.

Step 7: The Adjustment for Costs Associated with Parenting Time

When a child spends time with each parent, some of the expenses of the child may shift between the parents. The parenting time adjustment accounts for this shift. Section V.B. of the Guidelines provides the step-by-step process to determine the number of days the child is with each parent. Use the Parenting Time Table (Section V.C) to convert the number of days to a percentage. Multiply the parenting time percentage by the Basic Child Support Obligation (Step 3) and subtract that amount from the appropriate parent's proportionate share of the Combined Child Support Obligation (Step 5). The computer-based Child Support Worksheet will perform this calculation.

Step 8: Presumptive Child Support Obligation

The Presumptive Child Support Obligation is each parent's percentage share of the Combined Adjusted Child Support Income times the Combined Child Support Obligation. The computer-based Child Support Worksheet calculates each parent's Presumptive Child Support Obligation. This amount is what each party is obligated to contribute toward the support of their common child. Section VII explains the process for determining the Presumptive Child Support Obligation.

Step 9: Adjustments for Actual Payments

When one parent actually covers the expenses associated with the Adjustments to the Basic Child Support Obligation that were addressed in Step 4 above, that parent receives a credit against the Presumptive Child Support Obligation. Section IV.E of the Guidelines explains the process. The computer-based Child Support Worksheet makes this calculation based on who actually covers the expense.

The amount calculated in Step 9 is the Presumptive Child Support Award.

Step 10: The Self-Support Reserve Test

This “test” applies to low-income parents who are ordered to pay child support. It is designed to ensure that a parent can meet his or her own basic needs while also contributing to the child’s support. This calculation is performed against the Presumptive Child Support Award in Step 9. The computer-based Child Support Worksheet performs this calculation, and Section VIII explains how it is done.

Step 11: Deviation

The calculations discussed above result in the Presumptive Child Support Award. The court orders this amount to be paid unless the court determines a deviation is appropriate based on a request from either parent, an agreement of the parties, or the discretion of the court. Before granting a deviation, the court must find that the strict application of the guidelines is inappropriate or unjust and must consider the child’s best interests when determining the amount of any deviation. Section IX addresses deviations.

Step 12: The Child Support Award

The calculations discussed above result in the Child Support Award.

Special Circumstances

The Guidelines offer further direction for special circumstances. This direction can be found in Section XII.

B. PURPOSES

1. To establish a standard of support for children consistent with their reasonable needs and the parents’ ability to pay.
2. To make child support orders consistent for persons in similar circumstances.
3. To give parents and courts guidance in establishing child support orders and to promote settlements.

4. To comply with federal law (42 United States Code, Section 651 et seq., 45 Code of Federal Regulations, Section 302.56) and state law (Arizona Revised Statutes Section 25-320) and any amendments.

C. PREMISES

1. These guidelines apply to all children for whom there is a legal obligation to support. The “support” of other persons, such as stepchildren, is considered voluntary and does not impact the child support determined under the Guidelines.
2. The child support obligation has priority over all other financial obligations.
3. Non-support financial obligations generally do not affect the child support obligation except as provided in these Guidelines.
4. The fact that a parent receives child support does not mean that he or she may not also be entitled to spousal maintenance. If the court is establishing both child support and spousal maintenance, the court must first determine the appropriate amount of spousal maintenance and then adjust the Child Support Income as provided in Section II.B.2.a below. The spousal maintenance adjustment applies for the duration of the spousal maintenance award. When spousal maintenance ends, it may be necessary to modify the child support obligation.
5. In some circumstances, a parent who has more parenting time than the other parent may be ordered to pay child support, as discussed Section V.D.2 below.
6. The obligation to pay and the right to receive child support is separate from any rights or responsibilities relating to legal decision-making and parenting time. A violation of court-ordered legal decision-making or parenting time does not serve as a defense to—nor an excuse for—not paying child support.
7. Throughout these Guidelines there are numerous examples. Varying names of fictional parents have been used.

D. APPLICATION

If the court has jurisdiction over child support, these Guidelines apply in all actions or proceedings brought under Title 25 of the Arizona Revised Statutes (including maternity and paternity) and juvenile court actions in which a child support order is established or modified. The court must consider child support in any action to establish or modify legal decision making, parenting time, and child support or past support, whether temporary or final and whether intrastate or interstate.

E. PRESUMPTION

The amount resulting from application of these Guidelines is presumed to be the amount of child support that a court will order.

SECTION II. DETERMINING INCOME

A. DETERMINING THE PARENTS' INCOMES FOR PURPOSES OF CALCULATING CHILD SUPPORT

1. What is included in Child Support Income?

- a. The terms “Child Support Income” does not have the same meaning as “Gross Income” or “Adjusted Gross Income” for tax purposes. The effect of taxes has been considered in the Schedule of Basic Support Obligations.
- b. Child Support Income includes income from any source before any deductions or withholdings. Child Support Income may include salaries, wages, commissions, bonuses, dividends, severance pay, military pay, pensions, interest, trust income, annuities, capital gains, social security benefits (subject to Section VII.B), worker’s compensation benefits, unemployment insurance benefits, disability benefits, military disability benefits, recurring gifts, prizes, and spousal maintenance.
- c. Seasonal or fluctuating income within a year are annualized to determine the average monthly Child Support Income.

Example: Shawn is a teacher and is paid only 9 months a year. Shawn is paid \$7,000 a month from September through May and is not paid for the months of June, July, and August. The earnings must be annualized as follows: Multiply the monthly income by the number of months the parent is paid to arrive at the annual earnings ($\$7,000 \times 9 \text{ months} = \$63,000$); and then divide the annual salary by 12 to arrive at the average monthly Child Support Income ($\$63,000 \div 12 = \$5,250$).

- d. The court has discretion to consider whether non-continuing or non-recurring income is considered income for purposes of calculating child support. The court also has discretion to average fluctuating income over periods exceeding 1 year.
- e. Child Support Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, means gross receipts minus ordinary and necessary expenses as determined by the court to be required to produce the income. Ordinary and necessary expenses include one-half of the self-employment tax actually paid.
- f. Expense reimbursements or benefits a parent receives in the course of employment, self-employment, or the operation of a business are included as Child Support Income

if they are significant and reduce personal living expenses. Cash value is assigned to in-kind or other non-cash employment benefits.

- g. Continuing or recurring military entitlements, including but not limited to BAH and BAS (Basic Allowance Housing, Basic Allowance Subsistence), are Child Support Income under Section II.A.1.f above. Military-provided housing is an in-kind or other non-cash employment benefit under Section IIA.1.f above.

2. What is not included in Child Support Income?

- a. Child Support Income does not include:
 - i. Sums a parent receives as child support;
 - ii. Benefits from means-tested public assistance programs including, but not limited to, Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Nutrition Assistance and General Assistance; and
 - iii. Sums a parent receives by or for the benefit of a minor child, including adoption subsidies, Supplemental Security Income (SSI), and subsidies arising from the disability of a child, are not Child Support Income but may affect a parent's child support obligation as explained in Section VII.B below.
- b. The court does not consider how marital property is distributed between the parents except to the extent that such property generates income to a parent.
- c. If a person does not have a legal duty to support a child, that person's income is not included as Child Support Income. For example, income of a parent's new spouse, a stepparent, is not included in any calculations.

3. When is overtime included in Child Support Income?

- a. The court generally does not include more income than earned through full-time employment.
 - i. Each parent should have the choice of working additional hours through overtime or at a second job without increasing the child support obligation.
 - ii. A parent who historically worked overtime when the family was intact may choose to reduce or not to work overtime hours to ensure the parent has meaningful interaction with the child during that parent's parenting time.
- b. The court may consider income actually earned if it is greater than would have been earned by full-time employment if that income was historically earned and is anticipated to continue into the future. The court generally does not attribute additional income to a parent if it would require an extraordinary work regimen. Determination

of what constitutes an extraordinary work regimen depends upon all relevant circumstances, including the choice of jobs available within a particular occupation, working hours, and working conditions. It also may depend upon the parent's relevant medical or personal circumstances.

4. When is Child Support Income attributed even if not actually being earned?

- a. Generally, attributed Child Support Income is not income actually earned or received but instead is an assigned income based on a court finding regarding the amount that should be used to calculate child support.
- b. In accordance with Arizona Revised Statutes Section 25-320(N), the court presumes that a parent is capable of full-time employment of at least “the applicable state or federal adult minimum wage, whichever is higher.” When the court attributes minimum wage earnings to a person, it usually considers “full-time” employment to consist of 40 hours per week. Minimum wage is attributed in this manner as a result of the self-support reserve test. (Section VIII below.) However, a court may consider fewer hours to be “full-time” if a person is earning more than minimum wage.
- c. If the court attributes income for purposes of calculating child support, the Child Support Worksheet and the court order must state that all or a portion of the income is attributed.
- d. Factors the court considers when attributing income include:
 - i. The parents’ assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work; and
 - ii. The local job market, the availability of employers willing to hire the parents, the prevailing earnings level in the local community, standards for number of hours considered as full-time based on a particular field of employment.
- e. When a parent is unemployed or underemployed, whether voluntarily or involuntarily, the court must consider the reasons. In determining whether to attribute income, the court considers the child’s best interests and all other relevant factors, including:
 - i. If involuntary, whether it is reasonable for that parent to find replacement income above actual earnings;
 - ii. If voluntary with reasonable cause, whether the parent’s decision and its benefits outweigh the effect that the reduced income has on the child’s best interests;
 - iii. If voluntary and without good cause, income attribution is appropriate; and

- iv. If the parent has the ability to find suitable work in the marketplace at a greater income based on the parent's current educational level, training and experience, and physical capacity.

5. When is income not attributed for purposes of calculating Child Support Income?

a. Incarceration

The court does not attribute income to a person who is incarcerated, but the court may establish or modify support based on actual ability to pay.

b. Additional Examples

The court may decline to attribute income to either parent. Examples of cases in which it might be inappropriate to attribute income include, but are not limited to, the following:

- i. A parent is physically or mentally disabled;
- ii. A parent is engaged in reasonable career or occupational training to establish basic skills or that is reasonably calculated to enhance earning capacity;
- iii. Unusual emotional or physical needs of a natural or adopted child common to the parties if that child requires that parent's presence in the home; or
- iv. A parent is the caretaker of a young child common to the parties and the cost of childcare is prohibitive.

B. ADJUSTMENTS TO CHILD SUPPORT INCOME FOR SPOUSAL MAINTENANCE AND SUPPORT OF CHILDREN OF OTHER RELATIONSHIPS

- 1. For purposes of this Section II.B, "children of other relationships" means natural or adopted children who are not the subject of this particular child support determination.
- 2. Adjustments to Child Support Income for other support obligations are made as follows:
 - a. If a parent is actually paying court-ordered spousal maintenance resulting from this marriage, the amount is deducted from that parent's Child Support Income. The court may consider the tax consequences of the spousal maintenance payment under applicable federal and state income tax regulations. Court-ordered spousal maintenance arrearage payments are not included as an adjustment to Child Support Income,
 - b. Federal law currently provides spousal maintenance orders originally entered after December 31, 2018, are no longer deductible from the paying parent's income—and are excluded from the recipient parent's taxable income.

Example: For purposes of this example, a party is ordered to pay \$1,000 per month to the other party as spousal maintenance. Spousal maintenance is not deductible. Evidence is presented at the hearing that the paying party's tax rate is 20%. If the party paying spousal maintenance is using taxable income to fund the spousal maintenance payments, the paying parent will need gross income of \$1,250 to pay the \$1,000 monthly spousal maintenance obligation. In this circumstance, the adjustment to income for the party paying spousal maintenance would be \$1,250 rather than \$1,000 per month.

- c. If a parent is actually paying a court-ordered amount of child support for a child of other relationships, the amount is deducted from the parent's income for purposes of calculating child support. To obtain such a deduction, the parent must demonstrate he or she is actually paying the order, or if the parent historically has not paid the order, changed circumstances demonstrate the parent likely will pay the order in the future, such as through the issuance of an income withholding order. Court-ordered child support arrearage payments are not included as an adjustment to Child Support Income, and
- d. If a parent is the primary residential parent of a child from other relationships, that parent's Child Support Income is reduced based on a simplified application of the Guidelines as illustrated in the example below,

Example: A parent has monthly Child Support Income of \$3,000 and supports a natural or adopted minor child who lives exclusively with that parent and who is not the subject of the child support case before the court and for whom no child support order exists. Using the Simplified Application of the Guidelines, locate \$3,000 in the Combined Adjusted Child Support Income column of the Schedule of Basic Support Obligation. Select the amount in the column for 1 child, \$574. The parent's income may be reduced up to \$574, resulting in an Adjusted Child Support Income of \$2,426 ($\$3,000 - \$574 = \$2,426$). The computer-based Child Support Worksheet will perform this calculation.

- e. For purposes of this Section II, when a parent has essentially equal parenting time with a child of another relationship, the adjustment for the support of that child may be made under either Section II.B.2.b or II.B.2.c above, whichever produces the higher adjustment.
- f. If after adjusting for other children and applying the Self-Support Reserve Test (Section VIII below), the child support amount determined under the Guidelines results in no child support to be paid, the adjustment for other children should be reduced to the extent necessary to ensure that the ordered support amount treats all of the paying parent's children equitably.

Example 1: Child support is being calculated for 1 child. The parent responsible for paying child support has monthly Child Support Income of minimum wage (presently $\$12.15/\text{hour} \times 40 \text{ hours} \times 52 \text{ weeks} = \$25,272 \div 12 \text{ months} = \$2,106$ per month). That

parent also supports another biological or adopted child in that parent's household, so there are 2 children total for whom the paying parent is responsible.

- The Basic Child Support Obligation Schedule for 1 child for a parent who earns \$2,106 a month is \$413 based on a simplified application of the guidelines.
- The Self-Support Reserve amount (Section VIII below) is presently \$1,685 (80% of minimum wage, presently \$2,106).
- The paying parent's total available funds to satisfy all child support obligations after application of the Self-Support Reserve amount for minimum wage earnings is \$421 ($\$2,106 - \$1,685 = \$421$). The total support obligation for all children—whether subject to this order or not—should not exceed this amount for a person earning minimum wage.
- In this example, the paying parent's Adjusted Child Support Income is only \$1,693 ($\$2,106 - \$413 = \$1,693$).
- Because the difference between the Adjusted Child Support Income and the Self-Support Reserve amount is only \$8 ($\$1,693 - \$1,685 = \$8$), the Guidelines would result in almost no support for the child for whom support is being determined and allocating \$413 per month for the child in the household.
- This nominal number is solely the result of the adjustment for other children who are not the subject of this child support order. Under such circumstances, the adjustment for the support of other children is reduced to ensure that the ordered support amount treats all of the paying parent's children equitably.
- The \$421 (the amount available for child support after application of the Self-Support Reserve above) is divided by 2 (the number of children for whom the parent who pays child support is financially responsible—the child who is the subject of the order and the child who is living in the paying parent's home).
- Dividing \$421 by 2 results in a reduced child support adjustment for the child in the household from \$421 to \$210.50 ($\$421 \div 2 = \$210.50$).
- \$210.50 (or \$210 rounded off) becomes the total child support obligation for the 1 child who is the subject of this order.

Example 2: Child support is being calculated for 2 children. A parent has income of \$15 per hour (\$2,600 per month), an amount greater than minimum wage. That parent also supports 2 children in that parent's household, so there are 4 children total for whom the paying parent is responsible.

- The Basic Child Support Obligation Schedule for 2 children for a parent who earns \$2,600 a month is \$765 based on a simplified application of the guidelines.
- The Self-Support Reserve amount (Section VIII below) is presently \$1,685 (80% of minimum wage of presently \$2,106).

- The paying parent's total available funds to satisfy all child support obligations after application of the Self-Support Reserve amount for earnings of \$2,600 is \$915. ($\$2,600 - \$1,685 = \$915$). The total support obligation for all children—whether subject to this order or not—should not exceed this amount for a person earning \$2,600.
- In this example, the paying parent's Adjusted Child Support Income is only \$1,852 ($\$2,600 - \$765 = \$1,835$), which is more than the Self-Support Reserve. (The \$765 is the Basic Child Support Obligation for two children from above.)
- The difference between the Adjusted Child Support Income and the Self-Support Reserve amount is a positive number ($\$1,835 - \$1,685 = \$150$), so the Guidelines would result in support of \$150 for the 2 children for whom support is being determined
- The \$150 is \$615 less than the Basic Child Support Obligation of \$765 as noted above ($\$765 - \$150 = \$615$).
- The available funds should be distributed equally among the children. $\$915 \div 4 = \$228.75$ (\$229 rounded) per child. Therefore, the adjustment for the two children would be \$458.

C. DETERMINING COMBINED ADJUSTED CHILD SUPPORT INCOME

The Combined Adjusted Child Support Income for each parent is the income determined in Section II.A above minus the adjustments calculated in Section II.B above. The Adjusted Child Support Incomes for the parents are added together. The sum is the Combined Adjusted Child Support Income.

SECTION III. DETERMINING THE COMBINED CHILD SUPPORT OBLIGATION

A. DETERMINING THE BASIC CHILD SUPPORT OBLIGATION

1. Locate the income closest to the parents' Combined Adjusted Child Support Income figure on the Schedule of Basic Support Obligation and select the column for the number of children involved.
 - a. If the parents' income falls exactly in between 2 Combined Adjusted Child Support Income amounts, round up to the nearest Combined Adjusted Child Support Income entry on the Schedule of Basic Support Obligations.

Example: The Combined Adjusted Child Support Income of the parents' is \$8,125, which is exactly between \$8,100 and \$8,150. Round up to the nearest Combined Adjusted Child Support Income entry of \$8,150 and use this amount as the Basic Child Support Obligation.

- b. If there are more than 6 children, the amount derived from the Schedule of Basic Support Obligations for 6 children is the presumptive amount. The party seeking a higher sum bears the burden of proving the children's needs require a higher sum.
- c. If the Combined Adjusted Child Support Income of the parties is greater than \$30,000 per month:
 - i. If no party requests consideration of a higher amount, the amount for Combined Adjusted Child Support Income of \$30,000 is the Basic Child Support Obligation; or
 - ii. Upon a party's request, the court determines whether the evidence shows that an amount higher than the Basic Child Support Obligation for the Combined Adjusted Child Support Income of \$30,000 per month is in the child's best interests. The court takes into account the child's needs in excess of the presumptive amount, any significant disparity in the respective percentages of Child Support Income for each party, and any other factors which, on a case-by-case basis, demonstrate that the increased amount is appropriate.

2. The amount determined under this Section III.A.2 is the Basic Child Support Obligation.

B. DETERMINING THE COMBINED CHILD SUPPORT OBLIGATION

- 1. The Combined Child Support Obligation is the Basic Child Support Obligation as calculated in Section III.A above combined with the adjustments in this Section III.B.
- 2. Older Child Adjustment
 - a. The average expenditures for children age 12 or older exceed the average expenditures for all children by approximately 10%.
 - b. The Basic Child Support Obligation is adjusted upward by 10% for the total number of children over 12 years of age. A child qualifies for this adjustment on the day after the child reaches the age of twelve.

Example: The Basic Child Support Obligation for 1 child, age 12, is \$458. Add \$46 ($\$458 \times .10 = \$45.80$ or \$46 rounded) to the Basic Child Support Obligation, for a total of \$504.

- c. If not all children subject to the order are age 12 or over, the increase is prorated.

Example: Assume the Basic Child Support Obligation for 3 children is \$810. If 1 of the 3 children is age 12 or over, assign 1/3 of the Basic Child Support Obligation to the older child ($\$810 \div 3 = \$270$). Up to 10% of that portion of the Basic Child Support Obligation may be added as an older child adjustment ($\$270 \times .10 = \$27$), increasing

the obligation to \$837 ($\$810 + \$27 = \$837$). NOTE: This prorating method applies only to this Section III.B.2 and should not be used elsewhere in the Guidelines.

3. Medical Insurance Adjustment

- a. An order for child support assigns responsibility for providing medical insurance for the child who is the subject of the child support order.
- b. In determining the amount to be added, to the extent possible, only the amount of the insurance cost attributable to the child subject of the child support order is included. If coverage is applicable to the child and other persons, the total cost is prorated by the number of persons covered.
 - i. If the exact cost for the child is known, that amount is used.

Example: A parent purchases insurance for the child only through a private provider or the health insurance marketplace. The cost of coverage is \$250.00 per month. That amount is used on the child support worksheet as the cost of insurance coverage for the child.

- ii. If the exact cost for the child is not known and there is sufficient information to calculate the costs for insuring the child, use the costs of adding dependents to the plan and divide by the total number of dependents covered.

Example: A parent provides insurance through a plan that covers the parent, 1 child subject of the child support order, and 2 other children. Under the plan, the cost of an employee's individual insurance coverage would be \$120.00. This parent instead pays a total of \$270.00 for the "Employee plus children" plan that provides coverage for the employee and any number of dependents. Calculate the adjustment for medical insurance as follows: Subtract the \$120.00 cost of individual coverage from the \$270.00 paid for the "Employee plus children" plan to find the total cost of the dependent coverage. This \$150.00 cost for dependent coverage is divided by 3—the number of covered dependents. In our example there is 1 child. Therefore, \$50 would be used on the child support worksheet as the cost of the insurance coverage for the 1 child who is the subject of the child support order.

- iii. If the exact cost of adding dependents to the plan is not known, use the total cost of coverage and divide by the number of individuals covered. This method is used only if the parent providing coverage cannot provide a breakdown of the cost of medical individual care versus the cost of care for multiple household members.

Example: A parent provides insurance through a plan that covers the parent, 1 child subject of the child support order, and 2 other children. Under the plan, the

coverage cost is \$300.00 per month. Divide the total coverage cost by the number of people covered to find the coverage cost per person. For a cost of \$300.00 per month for 4 people, \$75.00 is used on the child support worksheet for the cost for the child on the order.

- c. Unless otherwise agreed, if medical insurance of comparable benefits and cost is available to both parents, the order assigns responsibility to the parent who has the greater amount of parenting time. If the parents share essentially equal parenting time, the court assigns responsibility after considering all relevant factors.
- d. If a parent is assigned the obligation to provide medical insurance, that responsibility may be fulfilled by family coverage provided by a stepparent or domestic partner. In such a case, adjustment under this Section III.B.3.c for the cost to the stepparent is appropriate.
- e. A parent is not obligated to provide dental and vision insurance for a child, but if a parent provides such insurance for the child, it is included in the medical insurance adjustment.
- f. The court may decline to credit a parent for medical, dental, or vision insurance coverage obtained for the child if the coverage is not valid in the geographic region where the child resides.

4. Childcare Expenses

- a. The amount paid for childcare so a parent can work or seek employment may be added to the Basic Child Support Obligation. If both parents incur childcare expenses, the amount each incurs may be added to the Basic Child Support Obligation.
- b. Unless the court orders otherwise, expenses must be paid to someone who is not being claimed as a dependent as defined in Internal Revenue Service Publication 501.
- c. The childcare adjustment must be appropriate to the parents' financial abilities.
- d. Childcare expenses are annualized in accordance with Section III.B.7 below.

5. Education Expenses

- a. The Basic Child Support Obligation may be adjusted based on any reasonable and necessary expenses for attending private or special schools or necessary expenses to meet particular educational needs of a child, if such expenses are incurred by agreement of both parents or court ordered.
- b. Education Expenses are annualized in accordance with Section III.B.7 below.

6. Extraordinary Child Expenses

- a. These Guidelines are designed to fit the needs of most children. The Basic Child Support Obligation may be adjusted to provide for costs incurred for a gifted or special needs child.
- b. If benefits are paid to a parent to assist in meeting a child's needs, such as those described in Section II.A.2.a.ii above, adjustment for the costs may not be appropriate.
- c. Extraordinary Child Expenses are annualized in accordance with Section III.B.7 below.

7. Annualizing Monthly Expenses

Adjustments to the Basic Child Support Obligation are annualized so that each month's child support obligation is increased or decreased in an equal monthly amount, instead of the obligation for particular months being abated, increased, or decreased.

Example: At a child support hearing, a parent requests an adjustment for childcare costs. The parent incurs childcare costs of \$100 per month during the school year (9 months) and \$400 per month during the summer (3 months). The adjustment for childcare costs is annualized as follows:

- Multiply the \$100 monthly cost during the school year times the 9 months in which it is incurred ($\$100 \times 9 = \$900$);
- Multiply the \$400 monthly cost during the summer times the 3 months in which it is incurred ($\$400 \times 3 = \$1,200$);
- Add the total school year cost to the total summer cost to arrive at the annual child care expense ($\$900 + \$1,200 = \$2,100$);
- Divide the annual child care expense by 12 to arrive at the annualized monthly child care expense ($\$2,100 \div 12 = \$175$); and
- Add \$175 to the Basic Child Support Obligation when determining the child support order.

SECTION IV. DETERMINING EACH PARENT'S PROPORTIONATE SHARE OF THE COMBINED CHILD SUPPORT OBLIGATION

The court divides the Combined Child Support Obligation (as determined in Section III above) between the parents in proportion to their Adjusted Child Support Incomes. The parent's proportionate share is determined by dividing each parent's Adjusted Child Support Income by the Combined Adjusted Child Support Income from Section II. Each parent's obligation is computed by multiplying each parent's share by the Combined Child Support Obligation from Section III above. The computer-based Child Support Worksheet will perform this calculation.

Example: Cameron and Pat have 1 child. Cameron's Adjusted Child Support Income is \$3,000 and Pat's Adjusted Child Support Income is \$2,000 for a Combined Adjusted Child Support Income of \$5,000. Divide Cameron's Adjusted Child Support Income by the Combined Adjusted Child Support Income. The result is Cameron's share of the Combined Adjusted Child Support Income. ($\$3,000 \div \$5,000 = .60$ or 60%). Cameron's share is 60%; Pat's share is 40%.

SECTION V. ADJUSTMENT FOR COSTS ASSOCIATED WITH PARENTING TIME

A. Because the Schedule of Basic Support Obligations is based on expenditures for children of intact households, the Schedule does not consider the costs associated with parenting time.

1. When both parents exercise parenting time, the costs for the child normally expended in one household transfer to the other household.
2. When parenting time is or is expected to be exercised by both parents, an adjustment is made to the proportionate share of the Combined Child Support Obligation.
3. The methods for calculating parenting in these Guidelines are directions for determining child support. They do not alter parenting time orders and must not be used to interpret parenting time orders.

B. Parenting time is calculated based upon the segments of time that are assigned to each parent. The parenting time for either parent begins at the time of exchange of the child from one parent to the other. Unless otherwise provided in the court order, if the exchange occurs at school or with a caregiver, the receiving parent's time commences at the end of the end of the day. Conversely, the other parent's segment ends at the same time.

Example: Riley and Blair have 1 child. School days for this example begin with a drop off at school at 8:30 am and the school day ends at 3:00 p.m. The exchange of the child between Riley and Blair occurs at school and is tied to the school day.

Riley is entitled to parenting time beginning at the end of the school day on Monday through drop off at school on Wednesday morning, which is 8:30 a.m. Blair's parenting time begins at the end of the school day on Wednesday, which is 3 p.m. In determining Riley's parenting time segment, Riley is deemed to have the child from 3 p.m. on Monday until 3 p.m. on Wednesday. Riley therefore has two days of parenting time in this segment.

C. To adjust for the costs of parenting time, first determine the total annual amount of parenting time indicated in a court order or parenting plan or by the parents' expectation or historical practice. Using the following for guidance, add together each block of parenting time to arrive at the total number of parenting-time days per year. Calculate the number of parenting-time

days arising from any block of time the child spends with the parent with less parenting time in the following manner:

1. Count 1 day of parenting time for each 24 hours within any block of time; and
2. To the extent there is a period of less than 24 hours remaining in the block of time, after all 24-hour days are counted or for any block of time which is in total less than 24 hours in duration:
 - a. A period of 12 hours or more counts as 1 day;
 - b. A period of 6 to 11 hours counts as a $\frac{1}{2}$ -day;
 - c. A period of 3 to 5 hours counts as a $\frac{1}{4}$ -day; and
 - d. Periods of less than 3 hours may count as a $\frac{1}{4}$ -day if, during those hours, the parent with less parenting time pays for routine expenses of the child, such as meals.

Example 1: Bailey and Jules have 1 child. Bailey has less parenting time than Jules. In alternating weeks, Bailer receives the child at 8:00 p.m. on Thursday and returns the child to Jules at 7:00 a.m. on Monday.

- 8:00 p.m. Thursday to 8:00 p.m. Sunday is 3 days.
- 8:00 p.m. Sunday to 7:00 a.m. Monday is 11 hours, which equals a $\frac{1}{2}$ day.
- Total parenting time for Bailey is 3 $\frac{1}{2}$ days for that alternating week.

Example 2: Alex and Kendall have 1 child. Alex has less parenting time than Kendall. Alex picks the child up at 3:00 p.m. Friday and returns the child to Kendall at 8:00 a.m. on Monday.

- 3:00 p.m. Friday to 3:00 p.m. Sunday is 2 days.
- 3:00 p.m. Sunday to 8:00 a.m. Monday is 17 hours, which equals 1 day.
- Total parenting time for Alex is 3 days for that week.

Example 3: Angel and Harper have 1 child. Angel has less parenting time than Harper. Angel picks up child at noon on Saturday and returns the child to Harper at 9:00 p.m. on Sunday.

- Noon Saturday to noon Sunday is 1 day.
- Noon Sunday to 9:00 p.m. Sunday is 9 hours, which equals $\frac{1}{2}$ day.
- Total parenting time for Angel is 1 $\frac{1}{2}$ days for that week.

- D.** If all the children have the same parenting time schedules, refer to the Parenting Time Table below. The left column of the table sets forth ranges of parenting time days. Adjacent to each range is an adjustment percentage. The Adjustment for Costs Associated with Parenting Time

is calculated as follows: determine the total number of parenting-time days in a year; locate the total number of parenting-time days per year in the left column of Parenting Time Table; and select the adjustment percentage from the adjacent column. Multiply the Basic Child Support Obligation determined in Section III.A above by the appropriate adjustment percentage. The number resulting from this multiplication then is subtracted from the proportionate share of the Total Child Support Obligation of the parent who exercises parenting time.

PARENTING TIME TABLE	
Number of Parenting Time Days	Adjustment Percentage
0-19	0
20-34	.025
35-49	.050
50-69	.075
70-84	.10
85-99	.15
100-114	.175
115-129	.20
130-142	.25
143-152	.325
153-163	.40
164 or more	.50

Example: Charlie and Drew have 2 children. Charlie's Adjusted Child Support Income is \$4,000 per month and Drew's Adjusted Child Support Income is \$2,000 per month. The Basic Child Support Obligation from the Schedule for a Combined Adjusted Child Support Income of \$6,000 for 2 children is \$1,429. Charlie's proportionate share is 67%, or \$957 ($\$1,429 \times .67 = \$957$). Charlie has parenting time with the children a total of 110 days. On the Parenting Time Table, the range of days for this amount of parenting time is from 100 to 114 days. The corresponding adjustment percentage is .175. Multiply the \$1,429 Basic Child Support Obligation by .175 ($\$1,429 \times .175 = \$250$). The resulting \$250 is subtracted from \$957 (Charlie's proportionate share of the Combined Child Support Obligation), reducing Charlie's child support obligation to \$707 ($\$957 - \$250 = \$707$).

- E. If the children have different parenting-time schedules, then see Section V.F below to determine the parenting-time adjustment or to determine if separate worksheets are required.

- F. As the number of parenting-time days approaches equal time sharing, certain costs usually incurred only in the household of the parent with more parenting time are presumed to be substantially or equally shared by both parents. These costs are for items such as the child's food, clothing, personal care items, and entertainment and reading materials. If this presumption is rebutted, the court may order a deviation under Section IX below.

Even if the parents share essentially equal parenting time, a parent may still owe child support to the other parent if:

1. One parent's Adjusted Child Support Income is higher than the other parent's Adjusted Child Support Income; or

Example: Taylor and Kennedy have 2 children and share essentially equal parenting time. Taylor's Adjusted Child Support Income is \$5,000 per month and Kennedy's Adjusted Child Support Income is \$3,000 per month. Taylor's proportionate share of Child Support Income is 62.5% ($\$5,000 \div \$8,000 = .625$ or 62.5%) and Kennedy's proportionate share of Combined Adjusted Child Support Income is 37.5% ($\$3,000 \div \$8,000 = .375$ or 37.5%).

The Basic Child Support Obligation from the Schedule for a Combined Child Support Income of \$8,000 for 2 children is \$1,622. Taylor's proportionate share of the Combined Child Support Obligation is 62.5% of \$1,622, or \$1,014 ($\$1,622 \times .625 = \$1,014$), and Kennedy's proportionate share of the Combined Child Support Obligation is 37.5% of \$1,622, or \$608 ($\$1,622 \times .375 = \$608$).

On the Parenting Time Table, the range of days for this amount of parenting time is from 164 or more days. The corresponding adjustment percentage is .5. Multiply the \$1,622 Basic Child Support Obligation by .5 or 50% ($\$1,622 \times .5 = \$811$). The resulting \$811 is subtracted from Taylor's proportionate share of the Combined Child Support Award, reducing Taylor's Presumptive Child Support Award to \$203 ($\$1,014 - \$811 = \$203$). Note that when Kennedy receives \$203 from Taylor, that amount is combined with Kennedy's share of the support obligation (\$608) giving Kennedy an equal share of the total support ($\$608 + \$203 = \$811$) which aligns with the parenting time.

2. The expenses for the children listed in Section III.B above are not equally shared.

Example: Hayden and Sasha have 2 children and share essentially equal parenting time. Hayden's Adjusted Child Support Income is \$5,000 per month and Sasha's Adjusted Child Support Income is \$3,000 per month. Hayden pays for the children's medical insurance coverage, costing \$400 per month. Hayden's proportionate share of Combined Adjusted Child Support Income is 62.5% ($\$5,000 \div \$8,000 = .625$ or 62.5%) and Sasha's proportionate share of Combined Adjusted Child Support Income is 37.5% ($\$3,000 \div \$8,000 = .375$ or 37.5%).

The Basic Child Support Obligation from the Schedule for a combined Child Support Income of \$8,000 for 2 children is \$1,622. The medical insurance cost of \$400 is added to the Basic Child Support Obligation Parent to determine the Adjusted Basic Child Support

Obligation ($\$1,622 + \$400 = \$2,022$). Hayden's proportionate share of the Adjusted Basic Child Support Obligation is 62.5% of $\$2,022$ or $\$1,264$ ($\$2,022 \times .625 = \$1,264$), and Sasha's proportionate share of the Combined Child Support Obligation is 37.5% of $\$2,022$, or $\$758$ ($\$2,022 \times .375 = \$758$).

On the Parenting Time Table, the range of days for this amount of parenting time is from 164 or more days. The corresponding adjustment percentage is .5. Multiply the $\$1,622$ Basic Child Support Obligation by .5 or 50%, and not the Combined Child Support Obligation. The resulting $\$811$ ($\$1,622 \times .50 = \$811$) is subtracted from each parent's proportionate share of the Combined Child Support Award, reducing Hayden's Adjusted Basic Child Support Obligation to $\$453$ ($\$1,264 - \$811 = \$453$). Because Hayden pays the cost of medical insurance directly, the cost of insurance is also subtracted, further reducing Hayden's obligation owed to Sasha to $\$53$ ($\$453 - 400 = \$53$).

G. MULTIPLE CHILDREN, DIFFERENT PARENTING PLANS

1. If the parents have multiple children and each parent exercises more than half of the parenting time with at least one, 2 child support worksheets are prepared. Each worksheet will calculate the child support owed based on which parent has the most parenting time with the child. The amount of child support to be paid by the parent having the greater child support obligation is reduced by the amount of child support owed to that parent by the other parent.

Example: Parker and Logan have 3 minor children. Parker has more than half of the parenting time with the first, and Logan has more than half of the parenting time with the second and third. Parker's Adjusted Child Support Income is $\$2,000$ per month. Logan's Adjusted Child Support Income is $\$4,000$ per month. Combined Adjusted Child Support Income is $\$6,000$ per month of which Parker's share is 33.3% ($\$2,000 \div \$6,000 = .333$) and Logan's share is 66.7% ($\$4,000 \div \$6,000 = .667$).

Prepare a Parent's Worksheet to determine child support for the 2 children in Logan's household. Locate the Combined Adjusted Child Support Income figure of $\$6,000$ on the Schedule. Select the child support figure in the column for the 2 children in this household, $\$1,429$. Parker's share is 33.3% of $\$1,429$, or $\$476$ ($\$1,429 \times .333 = \$476$).

Prepare a Parent's Worksheet to determine child support for the 1 child in Parker's household. Locate the Combined Adjusted Child Support Income figure of $\$6,000$. Select the child support figure in the column for the 1 child in this household, $\$953$. Logan's share is 66.7% of $\$953$, or $\$635$ ($\$953 \times .667 = \$635$).

Logan's obligation to pay Parker $\$635$ is reduced by Parker's $\$476$ obligation to pay Logan. Thus, Logan pays $\$159$ per month to Parker.

2. If the parents have multiple children with different parenting plans but one parent does not have more than half of the parenting time with any of the children, prepare only one worksheet. The child support obligation is determined by using an average of the total

number of parenting days by adding the total amount of parenting days for each child and dividing that number by the total number of children.

Example: Kyle and Micah have 2 minor children, one for whom Kyle has no parenting time and one with whom Kyle and Micah share essentially equal parenting time. Prepare 1 worksheet. When entering the parenting time cost adjustment for Kyle, divide Kyle 's total number of parenting days for both children, 182, by the total number of children, 2. Thus, Kyle 's parenting time cost adjustment is calculated for 91 days, which under the Parenting Time Table is .15.

SECTION VI. DETERMINING THE PROPORTIONATE SHARE OF THE PRESUMPTIVE CHILD SUPPORT OBLIGATION BY ACCOUNTING FOR OTHER COSTS

If a parent pays any cost under Sections III.B.3 through III.B.6 above, deduct those costs from that parent's Proportionate Share of the Combined Child Support Obligation. The result is that parent's Proportionate Share of the Presumptive Child Support Obligation, which is then used in the Self-Support Reserve Test process in Section VIII.B below.

Example: Sage pays for medical insurance through Sage's employer. This cost is added to the Basic Child Support Obligation under Section III.B, then prorated between the parents to arrive at each parent's proportionate child support obligation. Because Sage has paid the cost to a third party (the insurance company), the cost is deducted from Sage 's child support obligation because this portion of Sage's child support obligation has already been paid.

SECTION VII. PRESUMPTIVE CHILD SUPPORT AWARD

The Preliminary Child Support Obligation is the amount arrived at after completing Sections II (Determining Income), III (Determining the Combined Child Support Obligation), IV (Determining Each Parent's Proportionate Share of the Adjusted Basic Child Support Obligation), V (Adjustment for Costs Associated with Parenting Time), and VI (Determining the Presumptive Child Support Obligation), above.

SECTION VIII. APPLYING THE SELF-SUPPORT RESERVE TEST

- A. A Self-Support Reserve Test is used to verify that the paying parent is financially able to pay the child support order and to maintain at least a minimum standard of living.
- B. The Self-Support Reserve is an amount equal to 80% of the monthly full-time earnings at the state minimum wage for the year for which child support is calculated (the Self-Support Reserve amount).

- C. For purposes of the Self-Support Reserve Test only, deduct the Self-Support Reserve amount from the paying parent's Adjusted Child Support Income.
- D. The amount from Section VIII.C above is the Self-Support Reserve Test result. For the parent who pays child support, subtract the Self-Support Reserve Test result from that parent's Proportionate Share of the Presumptive Child Support Obligation as determined in Section VI above.
1. If the resulting amount is the same or more than the Proportionate Share of the Presumptive Child Support Obligation for the parent who pays child support, the court orders the Guidelines' amount.

Example: The Proportionate Share of the Presumptive Child Support Obligation for the parent who pays child support is \$400. The Adjusted Child Support Income of the parent who pays child support is \$2,106 (minimum wage of \$12.15 per hour). The Self-Support Reserve amount is \$1,685 ($\$12.15 \times 40 \text{ hours} \times 52 \text{ weeks} = \$25,272 \div 12 \text{ months} = \$2,106 \times .80 = \$1,685$). Subtracting the Self-Support Reserve amount of \$1,685 from the paying parent's Adjusted Child Support Income of \$2,106 leaves \$421.

Because this resulting amount of \$421 is greater than the \$400 Proportionate Share of the Presumptive Child Support Obligation for the parent who pays child support, the court orders the Guidelines' child support of \$400.

2. If the resulting amount is less than the Proportionate Share of the Presumptive Child Support Obligation for the parent who pays child support but more than zero, the court may reduce the child support order to the resulting amount.

Example: The proportionate share of the Presumptive Child Support Obligation for the parent who pays child support is \$500. The Adjusted Child Support Income of the parent who pays child support is \$2,106 (minimum wage of \$12.15 per hour). The Self-Support Reserve amount is \$1,685 ($\$12.15 \times 40 \text{ hours} \times 52 \text{ weeks} = \$25,272 \div 12 \text{ months} = \$2,106 \times .80 = \$1,685$). Subtracting the Self-Support Reserve amount of \$1,685 from the paying parent's Adjusted Child Support Income of \$2,106 leaves \$421.

Because this resulting amount of \$421 is less than the \$500 proportionate share of the Presumptive Child Support Obligation for the parent who pays child support, the court may reduce the child support order to the resulting amount of \$421. However, under Section VIII.F below, before making any reduction, the court considers the self-support capability of the parent who receives child support by applying the same Self-Support Reserve Test.

3. Reduce the child support order based on the Self-Support Reserve Test in Section II.B.2.F and Section VIII above.

Example: Dakota and Alex have 1 child, who resides with Alex. Dakota does not exercise any parenting time with the child.

Dakota receives \$1,400 per month as Child Support Income due to a disability. Alex's Child Support Income is \$4,000 per month. The Combined Child Support Income is \$5,400 of which Dakota's share is 25.93% ($\$1,400 \div \$5,400 = 25.93\%$). The Basic Child Support Obligation is \$914 for 1 child. Dakota's proportionate share of the Presumptive Child Support Obligation is \$237 ($\$914 \times .2593 = \$237$).

The self-support reserve amount is \$1,685 ($\$12.15 \times 40 \text{ hours} \times 52 \text{ weeks} = \$25,272 \div 12 \text{ months} = \$2,106 \times .80 = \$1,685$). Subtracting the self-support reserve amount of \$1,685 from Dakota's Adjusted Child Support Income of \$1,400 leaves a negative \$237 ($\$1,400 - \$1,685 = -\$237$).

Because this resulting amount leaves a negative, the result is zero for Dakota. In that event, the court may order no child support or may enter a nominal child support award to be paid by Dakota. However, under Section VIII.F below, before making any reduction, the court considers the self-support capability of Alex by applying the same self-support reserve test.

- E. In deciding whether to reduce the child support amount under Sections VIII.D.2 and VIII.D.3 above, the court considers the financial impact the reduction would have on the receiving parent's household.
- F. The Self-Support Reserve Test in this Section VIII applies only to the current child support obligation and does not prohibit the court from ordering an additional amount to reduce child support arrears for the parent who pays child support.
- G. The computer-based Child Support Worksheet will perform all the Self-Support Reserve Test calculations.
- H. Application and adjustment for the Self-Support Reserve Test amount is not a deviation under Section IX.

SECTION IX. DEVIATIONS

- A. A deviation occurs when a court orders child support in an amount different from the amount determined under Sections I through VIII of these Guidelines.
- B. The court must deviate if, after considering all relevant factors, including those set forth in Arizona Revised Statutes Section 25-320 and applicable case law, it finds all of the following criteria are met:
 - 1. Applying the Guidelines is inappropriate or unjust in the particular case;

2. The court has considered the child's best interests in determining the amount of a deviation. A deviation that reduces the amount of child support paid is not, by itself, contrary to the child's best interests;
 3. The court makes written findings regarding 1. and 2. above in the Child Support Order, Minute Entry, or Child Support Worksheet;
 4. The court shows what the order would have been without the deviation; and
 5. The court shows what the order is after deviating.
- C. The court may deviate from the Guidelines based on the parties' agreement if it finds all of the following criteria are met:
1. The agreement is in writing or stated on the record under **Rule 69, Arizona Rules of Family Law Procedure**;
 2. All parties have entered into the agreement with knowledge of the amount of child support that would have been ordered under the Guidelines but for the agreement;
 3. All parties have entered the agreement free of duress and coercion; and
 4. The court complies with the requirements of Section VI.B above.
- D. Circumstances that may warrant a deviation include, but are not limited to, cases in which:
1. A significant disparity of income exists between the parents and each parent has significant parenting time;
 2. The combined income exceeds \$30,000.00 monthly and there is a significant disparity in income between the parents;
 3. One parent is paying a disproportionate share of the child's expenses and there is significant parenting time for each parent;
 4. The parenting plan will require a parent to incur significant travel expenses related to parenting time and the cost thereof in combination with child support may impede the parent's ability to exercise parenting time;
 5. The payment of child support would compromise the parent's ability to receive and afford out-of-pocket necessary and extraordinary health care or mental health services; or
 6. Unusual emotional or physical needs of a natural or adopted child not common to the parties if that child requires that parent's presence in the home.

E. It is not a deviation to:

1. Round off the monthly child support amount for ease of accounting;
2. Compromise on any individual figure incorporated in the Guidelines' calculation (such as a parenting time adjustment or a parent's Child Support Income);
3. Reduce the child support order based on the Self-Support Reserve Test in Section VIII above; or
4. Order zero child support if the monthly child support amount would be less than the monthly support clearinghouse fee in Section X.A.5 below.

SECTION X. THE CHILD SUPPORT ORDER

A. DETERMINING THE FINAL CHILD SUPPORT ORDER

1. The amount determined under Sections I through IX above is the Final Child Support Obligation, subject to reduction under Section X.B below.
2. Who pays the Final Child Support Award is determined as follows:
 - a. If the Final Child Support Award is a positive number;
 - i. The parent with less parenting time pays child support to the parent with more parenting time, or

Example: Rory and Finley have 1 child, who is 15 years old. Rory earns \$4,000 per month, and Finley earns \$3,000 per month. The Combined Child Support Income is \$7,000 per month of which Rory earns 57% ($\$4,000 \div \$7,000 = .57$). Finley earns 43% ($\$3,000 \div \$7,000 = .43$). Rory has 110 days of parenting time with the child each year, which results in a .175 parenting adjustment.

- On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Child Support Income of \$7,000 for 1 child is \$1,031.
- Add 10% or \$103 ($\$1,031 \times .10 = \$103$) because the child is over 12 years of age.
- The Adjusted Basic Child Support Obligation is \$1,134 ($\$1,031 + \$103 = \$1,134$).
- Rory's share is 57% of \$1,134, or \$646 ($\$1,134 \times .57 = \$646$). Finley's share is 43% of \$1,134, or \$488 ($\$1,134 \times .43 = \$488$).
- The court-approved parenting plan results in an adjustment of \$198 to Rory's

share of the Adjusted Basic Child Support Obligation ($\$1,134 \times .175 = \$198$ for 110 days).

- After adjusting for parenting time, Rory's share is \$448 ($\$646 - \$198 = \$448$).
- Rory pays child support to Finley in the amount of \$448 per month.

- ii. When the parents have essentially equal parenting time, the parent with the higher adjusted child support income pays child support to the parent with the lower adjusted child support income.

Example: Quinn and Billie have 1 child, who is 8 years old. Quinn earns \$4,000 per month, and Billie earns \$3,000 per month. The Combined Child Support Income is \$7,000 per month of which Quinn earns 57% ($\$4,000 \div \$7,000 = .57$). Billie earns 43% ($\$3,000 \div \$7,000 = .43$). Quinn pays for medical insurance coverage for the child, costing \$250 per month, as well as \$200 per month for child care expenses. Quinn and Billie have essentially equal parenting time.

- On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Child Support Income of \$7,000 for 1 child is \$1,031.
- Added to Basic Child Support Obligation are the medical insurance (\$250) and child care expenses (\$200) ($\$1,031 + \$250 + \$200 = \$1,481$).
- The Adjusted Basic Child Support Obligation is \$1,481.
- Quinn's share is 57% of \$1,481, or \$844 ($\$1,481 \times .57 = \$844$). Billie's share is 43% of \$1,481, or \$637 ($\$1,481 \times .43 = \$637$).
- The court-approved parenting plan results in an adjustment of \$515.50 to Quinn's share of the Basic Child Support Obligation ($\$1,031 \times .50$ for essentially equal parenting time).
- After adjusting for parenting time, Quinn's share is \$328.50 ($\$844 - \$515.50 = \$328.50$).
- Quinn's preliminary child support obligation of \$328.50 is reduced by \$250 for medical insurance and \$200 for child care expenses paid by Quinn, resulting in a negative number ($\$328.50 - \$250 - \$200 = -\$121.50$).
- Billie pays child support to Quinn in the amount of \$121.50 (\$122 rounded) per month.

- b. If the final child support amount is a negative number; or

- i. The parent with more parenting time pays child support to the parent with less parenting time, or

Example: Leslie and Jamie have one child, who is 15 years of age. Leslie earns

\$3,000 per month, and Jamie earns \$6,000 per month.

The Combined Child Support Income is \$9,000 per month of which Leslie earns 33.3% ($\$3,000 \div \$9,000 = .333$). Jamie earns 66.7% ($\$6,000 \div \$9,000 = .667$). Leslie pays for medical insurance coverage for the child, costing \$200 per month. Leslie has 145 days of parenting time with the child each year.

- On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Child Support Income of \$9,000 for 1 child is \$1,188.
- Add 10% or \$119 ($\$1,188 \times .10 = \$118.80$ or \$119 rounded) because the child is over 12 years of age, as well as \$200 for the cost of medical insurance coverage.
- The Adjusted Basic Child Support Obligation is \$1,507 ($\$1,188 + \$119 + \$200$).
- Leslie's share is 33% of \$1,507, or \$497 ($\$1,507 \times .333 = \$497$). Jamie's share is 67% of \$1,507, or \$1,010 ($\$1,507 \times .667 = \$1,010$).
- The court-approved parenting plan results in an adjustment of \$386 to Leslie's share of the Adjusted Basic Child Support Obligation ($\$1,188 \times .325 = \$386$ for 145 days).
- After adjusting for parenting time, Leslie's share is \$111 ($\$497 - \$386 = \$111$).
- Subtract from Leslie's share \$200 for the cost of the medical insurance for the child, which is paid by Leslie ($\$111 - \$200 = -\$89$). The resulting obligation is negative \$89.
- Jamie is ordered to pay \$89 to Leslie, despite Jamie having the more parenting time than Leslie.

- ii. When the parents have essentially equal parenting time, the parent with the lower Adjusted Child Support Income pays child support to the parent with the higher Adjusted Child Support Income.

Example: Reese and Blake have 1 child, who is 15 years of age. Reese earns \$5,000 per month, and Blake earns \$4,000 per month.

The Combined Child Support Income is \$9,000 per month of which Reese earns 55.55% ($\$5,000 \div \$9,000 = .5555$). Blake earns 44.45% ($\$4,000 \div \$9,000 = .4445$). Reese pays for medical insurance for the child, costing \$500 per month. Reese and Blake have essentially equal parenting time.

- On the Schedule, the Basic Child Support Obligation for a Combined Adjusted Child Support Income of \$9,000 for 1 child is \$1,188.

- Add 10% or \$119 ($\$1,188 \times .10 = \$118.80$ or \$119 rounded) because the child is over 12 years of age, as well as \$500 for the cost of the medical insurance.
- The Adjusted Basic Child Support Obligation is \$1,807 ($\$1,188 + \$119 + \$500 = \$1,807$).
- Reese's share is 55.55% of \$1,807, or \$1,004 ($\$1,807 \times .5555 = \$1,003.78$ or \$1,004 rounded). Blake's share is 44.45% of \$1,807, or \$803 ($\$1,807 \times .4445 = \$803.21$ or \$803 rounded).
- The court-approved parenting plan results in an adjustment of \$594 to Reese's share of the Adjusted Basic Child Support Obligation ($\$1,188 \times .50$ for essentially equal parenting time).
- After adjusting for the parenting time, Reese's share of the Adjusted Basic Child Support Obligation is \$410 ($\$1,004 - \$594 = \$410$).
- Subtract from Reese's share \$500 for the cost of the medical insurance for the child, which is paid by Reese. The resulting obligation is negative \$90 ($\$410 - \$500 = \$-90$).
- Blake is ordered to pay \$90 to Reese, despite Reese having more income than Blake and essentially equal parenting time.

c. If the final child support amount is a zero, no child support is ordered.

3. The parent receiving child support is presumed to spend his or her share directly on the child.
4. For all awards, the Final Child Support Award is rounded to the nearest whole dollar. A rounded amount is not a deviation under Section IX.E.1 above.
5. If the amount of child support is less than the current clearinghouse fee, the court does not impose a child support award unless a deviated award is warranted under Section IX.B. It is not a deviation under Section IX.E.4 if an award is not imposed because it is less than the clearinghouse fee.

B. CREDITS AGAINST CHILD SUPPORT ORDER: INCOME AND BENEFITS RECEIVED BY OR ON BEHALF OF CHILDREN

1. If a parent receives benefits on behalf of a child, as a result of contributions made by the other parent who is ordered to pay child support arising from the paying parent's eligibility for benefits such as Social Security Retirement and Disability Insurance, those benefits are credited to reduce the paying parent's child support obligation as follows:

- a. If the amount of the child's benefit for a given month is equal to or greater than the paying parent's Presumptive Child Support Obligation, then that parent's obligation is satisfied;
 - b. Any benefit received by the child for a given month in excess of the Presumptive Child Support Obligation is not treated as an arrearage payment nor as a credit toward future child support payments; and
 - c. If the amount of the child's benefit for a given month is less than the paying parent's Presumptive Child Support Obligation, the paying parent pays the difference unless the court, in its discretion, modifies the child support order to equal the benefits being received at that time.
2. If a parent earns income or receives money by or for the benefit of an adult child for whom child support is ordered to continue past the age of majority under Arizona Revised Statute Sections 25-320.E and 25-809.F, that amount may be credited to reduce any child support obligation.
 3. Other than court-ordered child support payments, if a parent earns income or receives money by or for the benefit of a minor child, including adoption subsidies, Supplemental Security Income (SSI), and subsidies arising from the disability of a child, that amount is not credited to reduce either parent's child support obligation.

C. NON-COVERED MEDICAL EXPENSES

1. For this paragraph's purposes, a non-covered medical expense means medically necessary medical, dental, or vision care as defined by Internal Revenue Service Publication 502. It includes uninsured medical expenses and unreimbursed medical expenses, such as copays and insurance deductibles incurred for care of the child.
2. The Adjusted Basic Child Support Obligation is not adjusted for a child's non-covered medical expenses.
3. The child support order specifies the percentage each parent pays for non-covered "medical" expense.
4. Unless good cause is shown, any request for payment or reimbursement of uninsured or unreimbursed medical, dental, or vision expenses must include date of service, name of provider, and a brief description of the goods or services rendered; and be provided to the other parent within 180 days of the date when the cost was incurred.
 - a. The parent responsible for payment or reimbursement must pay his or her share or make acceptable payment arrangements with the provider or person entitled to reimbursement within 45 days after receiving the request unless the court orders otherwise.

- b. A parent who is entitled to receive reimbursement from the other parent for non-covered medical costs must, upon the other parent's request, provide receipts or other evidence of payments actually being made.

5. Both parents should use their best efforts to obtain services that the insurance covers.

D. COURT FINDINGS

1. The court must make findings in the record as to: Child Support Income, Adjusted Child Support Income; Basic Child Support Obligation; Adjusted Basic Child Support Obligation; each parent's Proportionate Share of the Adjusted Basic Child Support Obligation; and the Final Child Support Order.
2. The court may make the findings by incorporating a worksheet containing this information into the order.
3. If the court attributes income above minimum wage income, the court must explain the reason for its decision.
4. The child support order must be for a monthly amount certain and due on the first of a specified month.
5. A new child support order must be filed upon any change in the amount or due date of the child support obligation.

E. EXCHANGE OF INFORMATION

1. The court must order the parents to exchange financial information—such as tax returns, financial affidavits, and earning statements—at least every 24 months.
2. Unless the court orders otherwise, when the parents exchange financial information, they also must exchange residential addresses and their employers' names and addresses.

SECTION XI. TAX BENEFITS ASSOCIATED WITH MINOR CHILDREN

A. HISTORY OF FEDERAL AND STATE TAX BENEFITS

Under federal and state tax law, there are potential tax benefits associated with minor children. To the extent the law allows for allocation of those benefits, the Guidelines are designed to allow for the tax benefits to be assigned between the parents proportionate to their Child Support Income.

Historically, parents were entitled to claim children as personal exemptions on income tax returns, but the deduction for personal exemptions was suspended for tax years 2018 through 2025 by the federal Tax Cuts and Jobs Act. For these years, taxpayers cannot claim a deduction for

exemptions, but may be eligible to claim the child tax credit and the additional child tax credit. For the purpose of this Section XI, these tax credits are referred to as the “tax benefits.” These changes in tax law do not affect other tax benefits, such as the earned income credit, dependent care credit, or head of household filing status.

B. ALLOCATION OF THE TAX BENEFITS

1. When a child support order is established or modified, the federal and state tax benefits related to the child tax credit(s) for the minor children are allocated between the parents by agreement or by court order.
 - a. Unless otherwise agreed, the federal and state tax benefits are allocated in a manner that allows each parent to claim allowable tax benefits in proportion to the combined Child Support Income of both parents.
 - b. This allocation may be done by allocating the federal and state tax benefits for the child in a single tax year or by allocating the federal and state tax benefits for the child in specific tax years. A tax year is one calendar year from January 1 through December 31. An income tax return is filed in the months following that tax year.

Example 1: Emerson and Kai have 1 child in common who is subject of this child support order. Assume Emerson earns \$6,000 per month and Kai earns \$3,000 per month, for a combined Child Support Income of \$9,000 per month. Emerson earns 2/3 of the total monthly income (\$6,000 divided by the total combined income of \$9,000 per month) and Kai earns 1/3 of the total monthly income (\$3,000 divided by the total combined income of \$9,000). Emerson is entitled to claim the child in 2 consecutive tax years and Kai is entitled to claim the child every third tax year. This pattern would continue for the duration of the child’s minority, unless modified by further court order.

Example 2: Assume the same set of facts as Example1 above relating to income but instead of having 1 child in common, assume Emerson and Kai have 3 children in common who are the subject of this child support order. Emerson is entitled to claim 2 of the 3 children each tax year. Kai is entitled to claim 1 of the 3 children each tax year, unless modified by further court order.

- c. A parent paying for childcare may be eligible for a tax benefit for child care costs, such as the child and dependent care credit. If evidence is presented, the court may consider this tax benefit when determining the total child support award.
2. If a parent otherwise entitled to a proportionate share of a tax benefit would derive no tax benefit from claiming the child on income tax returns in any given tax year, then the tax benefit may be allocated by agreement or by court order to the parent who would derive a tax benefit for that tax year.

3. If a parent otherwise entitled to a proportionate share of a tax benefit has demonstrated a historical pattern of non-payment of child support and unless changed circumstances demonstrate the parent will likely pay the order in the future such as through the issuance of an income withholding order, the court may deny that parent the right to present or future tax benefits.
4. To avoid adverse financial and legal consequences, parents should consult their own tax advisor if they are uncertain about their responsibility to release the tax credit to the other parent or to receive the tax credit in any given year.
5. Subject to the provisions in Section XI.C below, an Internal Revenue Service Form 8332 needs to be signed by the parent who is releasing the tax benefit by no later than January 31 of the year immediately following the tax year. The completed Form 8332 may then be filed by the other parent with their income tax return to claim the tax benefit.

Example: Arden and Harper have 1 child. Arden has the majority of parenting time and would be entitled to claim the child under applicable tax law in that tax year. However, the court order allocates the tax benefit to Harper in that tax year and Harper has paid in full the child support obligation for that tax year. Subject to the provisions in Section XI.C below, Arden would be required to execute and deliver the required tax forms that release the tax benefit to Harper by no later than January 31 of the year that immediately follows the tax year.

C. CONDITION FOR ENTITLEMENT TO TAX BENEFIT

1. The court may condition the claiming of the tax benefit as ordered for that taxable year upon a parent's payment of the "child support obligation" by December 31 of the tax year. Certain payments of child support are facilitated through wage assignment and are withheld in equal amounts from each pay period earning. As a result, any amounts withheld from the pay period that includes the last days of the calendar year and received by the Child Support Clearinghouse by January 15 of the following year are credited for the prior year's total child support payments.
2. For the purpose of this Section XI only, the "child support obligation":
 - a. Is defined as the total ordered monthly payments for current child support due to the parent who receives child support for that tax year as well as any ordered monthly payment for child support arrears (including past care and support) due to the parent who receives child support for that tax year. Ordered monthly payments include those required by court order or required by administrative income withholding order; and
 - b. Does not include any past due or unpaid reimbursements, such as a parent's proportionate share of non-covered medical expenses, contributions toward activity expenses, or any other child-related costs that are not ordered monthly payments for

current child support and any ordered monthly payment for child support arrears. Nothing in this Section XI.C limits a parent's ability to collect those other reimbursement obligations through appropriate available procedures separate from the allocation of the tax benefit process.

3. The following examples illustrate the method for determining whether the condition has been met for any tax year:

$$(A \times B) + (C \times D) = \$ \underline{\hspace{2cm}}$$

A - Ordered monthly payment for current child support obligation;

B - Number of months the order for payment of current child support has been in place;

C - Ordered monthly payment for child support arrears obligation;

D - Number of months the order for payment for child support arrears has been in place;
and

\$ - Total "child support obligation" that should have been paid by year-end

	A	B	C	D	\$	Total Amount Received by Clearinghouse by January 15	Entitled to Tax Benefit?
Example 1	\$400	12	\$0	0	\$4,800	\$4,800	Yes
Example 2	\$400	12	\$100	12	\$6,000	\$6,000	Yes
Example 3	\$400	8	\$0	0	\$3,200	\$1,500	No
Example 4	\$400	8	\$100	8	\$4,000	\$3,200	No

4. If a parent who is required to pay monthly child support is entitled by court order to claim the tax benefit in a given tax year but has not fully paid the "child support obligation" for that tax year, the parent entitled to receive child support may become entitled to claim the tax benefit for that tax year, and may elect to pursue those tax benefits. To claim the tax benefit in a tax year not otherwise assigned to the parent who receives child support, the following procedure applies:
 - a. If either parent believes there is an issue regarding the allocation of the tax benefit for the prior year, the parties are expected to communicate by no later than January 20 following the tax year and attempt to resolve the issue. The parties should confirm any agreement or failure to reach an agreement in writing;
 - b. If no agreement is reached and the parent who receives child support elects to pursue the tax benefits that were otherwise allocated to the parent who pays child support for that tax year, the parent who receives child support must provide written notice to the parent who pays child support by no later than January 31 following the tax year, detailing the amount that was court-ordered to have been paid for the child support obligation for that tax year and the total dollar amount of the purported shortfall;
 - c. Following such notice and if the parent who pays child support objects and believes the tax benefit should remain as previously ordered by the court, the parent who pays child

support has 20 calendar days from the date of the written notice to file an enforcement petition with the court. The petition must identify the facts that are in dispute and must include a “request for hearing” on the issue;

- i. If the dollar amount of shortfall is nominal, the court may affirm the prior order regarding the allocation of tax benefits, or
 - ii. If the dollar amount of shortfall is not nominal, the court must set a timely hearing through an order to appear. The parent who pays child support must ensure that service of process of the petition and order to appear is accomplished under the Arizona Rules of Family Law Procedure.
- d. If no enforcement petition is filed within the required 20 calendar days, the parent who receives child support is entitled to claim the tax benefit for that prior tax year only. The tax benefit for all future years is allocated consistent with the prior court order unless there is a subsequent failure to meet the total child support obligation or the court orders otherwise;
 - e. If the parent who pays child support files a timely enforcement petition and a contested hearing is conducted, the burden of proof is on the parent who pays child support to establish that the parent has met condition for claiming the tax benefit; and
 - f. Following the hearing, if the court determines that either parent acted unreasonably by ignoring this procedure or in bringing or defending this action, the court may award attorney fees and costs associated with filing or defending against the petition under Arizona Revised Statutes Section 25-324. The court also may consider further sanctions, including costs associated with a parent having to file an amended tax return and reallocation of future tax benefits.

SECTION XII. SPECIAL CIRCUMSTANCES

A. TRAVEL EXPENSES ASSOCIATED WITH PARENTING TIME

1. The court may allocate travel expenses of the child associated with parenting time in cases where one-way travel exceeds 100 miles. In doing so, the court considers the means of the parents and may consider how their conduct (such as a change of residence) has affected the costs of parenting time. To the extent possible, any allocation must ensure that the child has continued contact with each parent.
2. A parent who is entitled to receive reimbursement from the other parent for the child’s allocated travel expenses must, upon the other parent’s request, provide receipts or other evidence of payments actually being made.

3. Absent a deviation under Section XI above, the allocation of the child's travel expenses does not change the amount of the child support ordered.

B. GIFTS IN LIEU OF MONEY

Once the court orders child support, the child support must be paid in money. Gifts of clothing, etc. in lieu of money are not to be offset against the child support order unless the court orders otherwise.

C. THIRD-PARTY CAREGIVERS

If a child lives with a third-party caregiver under a court order, an administrative placement by a state agency, or other color of authority, the third-party caregiver is entitled to receive child support payments from each parent on the child's behalf. When calculating the amount of child support to be awarded to a third-party caregiver, the third-party caregiver's expenses are considered under Section III.B.3 through III.B.6 above, but not the third-party caregiver's income.

Example: Charlie and Drew have 1 child together who is living with a grandparent. Neither parent exercises parenting time.

Charlie has an Adjusted Child Support Income of \$3,000 per month and Drew has an Adjusted Child Support Income of \$2,000 per month. The Combined Child Support Income is \$5,000 per month of which Charlie earns 60% ($\$3,000 \div \$5,000 = .60$). Drew earns 40% ($\$2,000 \div \$5,000 = .40$). The grandparent pays \$250 per month in childcare costs.

- The Basic Child Support Obligation for 1 child and combined child support income of \$5,000 is \$883.
- Add the childcare costs paid by the grandparent (\$250) to the Basic Child Support Obligation, resulting in a total obligation of \$1,133 ($\$883 + \$250 = \$1,133$).
- Charlie's share is 60% of \$1,133, or \$680 ($\$1,133 \times .60 = \$679.80$ or \$680 rounded), which Charlie is ordered to pay to the grandparent.
- Drew's share is 40% of \$1,133, or \$453 ($\$1,133 \times .40 = \$453.20$ or \$453 rounded), which Drew is ordered to pay to the grandparent.

SECTION XIII. STATE INVOLVEMENT IN CHILD SUPPORT CASES

A. TITLE IV-D CHILD SUPPORT PROGRAM

The Arizona Division of Child Support Services (DCSS), the Arizona Title IV-D agency, provides services to any person who needs assistance in establishing paternity and establishing, modifying, or enforcing support, without regard to whether any party has received public assistance. Assistance may be provided to either parent or a caretaker with physical custody of a child. The parent or someone seeking support may ask DCSS for assistance in pursuing child support by

applying for services (<https://des.az.gov/dcss>). These Guidelines apply to all child support cases, including those brought under Title IV-D.

B. CHILD SUPPORT ASSIGNED TO THE STATE

A person who receives cash assistance assigns their right to child support during the time period the person receives assistance. These Guidelines, and not the amount of public assistance expended, control the amount of child support to be paid. However, if child support has been assigned to the state under Arizona Revised Statutes Section 46-407, a parent's obligation to pay child support may not be waived by a parent or offset by child support arrearages that may be owed to that parent.

SECTION XIV. MODIFICATION

A. GENERAL INFORMATION

Child support modification is governed by Arizona Revised Statutes Sections 25-327 and 25-503 and by the Arizona Rules of Family Law Procedure Rules 91 and 91.1. To qualify for a modification, the parent seeking to modify child support must show a substantial and continuing change in circumstances. The modification can be sought in one of two ways: (1) the standard procedure; or (2) the simplified procedure.

B. STANDARD PROCEDURE

A parent, any party who is entitled to receive child support (such as a third-party caregiver described in Section XII.C above), or the Title IV-D agency may petition the court to modify an existing child support order. The petitioning party bears the burden of showing of a substantial and continuing change of circumstances from the date when the existing child support order was filed.

C. SIMPLIFIED PROCEDURE

1. A parent, any party who is entitled to receive child support (such as a third-party caregiver described in Section XII.C above), or the Title IV-D agency may request the court to modify a child support order through a simplified procedure:
 - a. To modify the child support amount if application of the guidelines results in an order that varies 15% or more from the existing amount. A 15% percent variation in the amount of the order is considered evidence of substantial and continuing change of circumstances; or
 - b. To modify child support order to assign or alter the responsibility to provide medical insurance for a child who is subject of a child support order. A modification of the

medical assignment or responsibility does not need to vary by 15% or more from the existing amount to use the simplified procedure.

2. A party seeking modification by simplified procedure under this Section XIV.C must use forms provided by the Arizona Supreme Court (<https://www.azcourts.gov/selfservicecenter/Forms>) or substantially similar forms, including a Petition to Modify (Change) Child Support (Simplified Process), Request for Hearing (Simplified Process), Parent's Worksheet for Child Support Amount, Affidavit of Financial Information, and Child Support Order. The Clerk of the Superior Court can help locate the forms for this process.
3. A request for modification of the child support amount must be accompanied by a completed and sworn Child Support Worksheet, and documentation supporting the incomes if different from the court's most recent findings regarding income of the parents. If the party requesting the modification is unable to provide documentation supporting the other party's income, the requesting party must indicate that the income amount is attributed/estimated and state the basis for the amount listed. The Title IV-D agency may submit a Child Support Worksheet.
4. A copy of the request for modification of child support and the Child Support Worksheet, including supporting documentation, must be served on the other parent, or on both parents if filed by the state Title IV-D agency, under Rule 27(d), Arizona Rules of Family Law Procedure.
5. If the parent receiving service disputes the requested modification, that parent must request a hearing:
 - a. Within 20 days of service if service is made in Arizona, as provided in Rules 24.1(b) and 41(a)(3), Arizona Rules of Family Law Procedure; or
 - b. Within 30 days of service if service is made outside the state, as provided in Rules 24.1(c) and 41(a)(4), Arizona Rules of Family Law Procedure.
6. A party requesting a hearing must file a written request for hearing accompanied by a completed and sworn "Child Support Worksheet." Copies of the documents filed, together with the notice of hearing, must be served by first-class mail not less than 10 judicial days before the hearing on the other party and, if appropriate, the Title IV-D agency.
7. If any party seeks a hearing within the time allowed, the court must conduct such hearing. No order may be modified without a hearing if a hearing is properly and timely requested.
8. If no hearing is sought within the time allowed, the court reviews the proof of service and the request for modification and enters an appropriate order or sets the matter for hearing.
9. The notice provision of Rule 44, Arizona Rules of Family Law Procedure, does not apply to this simplified modification procedure.

D. EFFECT OF CESSATION OF CHILD SUPPORT FOR ONE CHILD

1. If child support for more than 1 child was ordered and the duty to support 1 or more but not all of the children later stops, the order is not automatically reduced by that child's share.
2. To modify a child support order based upon the cessation of the child support obligation for any child, the party must seek to modify the child support order using either the standard procedure or the simplified procedure as discussed in Sections XIV.B and XIV.C above.
3. To determine the new child support amount, apply the Guidelines for the remaining minor children.

SECTION XV. DURATION AND TERMINATION

- A. Duration of child support is governed by Arizona Revised Statutes Sections 25-320 and 25-501, except as provided in Arizona Revised Statutes Section 25-1304.
- B. A presumptive termination date must be set to facilitate the orderly termination of current monthly support obligation, particularly if there is an income withholding order in the case. For orders originating in Arizona, the computer-based Child Support Worksheet will perform this calculation. For orders originating outside of Arizona, the termination date is controlled by the issuing state or jurisdiction.
- C. For the purposes of determining the presumptive termination date, it is presumed:
 1. That a child not yet in school will enter 1st grade if the child reaches age 6 on or before September 1 of the year in which the child reaches age 6; otherwise, it is presumed that the child will enter 1st grade the following year; and
 2. That a child will graduate in the month of May after completing the 12th grade.
- D. The presumptive termination date is the last day of the month of the 18th birthday of the youngest child included in the order unless the court finds that it is projected that the youngest child will not complete high school by age 18. In that event, the presumptive termination date is the last day of the month of the anticipated graduation date or age 19, whichever occurs first. The computer-based Child Support Worksheet will perform this calculation.
- E. Upon entry of an initial or modified child support order, the court must, or in any subsequent action relating to the child support order, the court may, establish a presumptive date for the termination of the current child support obligation. The presumptive termination date:
 1. Must be included in an income withholding order; and

2. May be modified upon changed circumstances.

SECTION XVI. CHILD SUPPORT ARREARS

- A. Arrears accrue when a parent fails to pay the court-ordered amount of monthly child support as it becomes due. Interest accrues on the arrears at the rate set under Arizona Revised Statutes Section 25-510(E)-(F).
- B. When setting an amount for a payment on arrears, the court must consider all factors, including the accrual of interest on the arrears. If the court sets a payment on arrears at less than the amount of the accruing monthly interest, the court must make a finding as to why the amount is less than the accruing monthly interest.
- C. Upon a showing of substantial and continuing changed circumstances, the court may adjust the amount of payment on arrears.
- D. When a parent's current child support obligation terminates but the parent still owes arrears, the income withholding order may remain in effect until the arrears and any accruing interest are paid. The court may modify the income withholding order to an amount less than the current child support amount and the payment on arrears. Before making any modification, the court must consider the total amount of arrears and the accruing interest, and the time that it will take the obligor to pay these amounts.

SECTION XVII. EFFECTIVE DATE AND GROUNDS FOR MODIFICATION

- A. All child support orders entered after January 1, 2022_ are made under these Guidelines, whether they be original orders or modifications of pre-existing orders, except in the following circumstances:
 1. The parties agree to use the Guidelines in effect at the time of filing the action;
 2. The court determines there is good cause to use the Guidelines in effect at the time of filing the action; or
 3. The court enters a default, the Guidelines in effect at the time of filing the action apply.
- B. A substantial variance between an existing child support order and an amount resulting from application of these guidelines may be considered evidence of a substantial and continuing change of circumstances for the purposes of a modification. A variance of at least 15% is evidence of a substantial and continuing change of circumstances.

SCHEDULE OF BASIC SUPPORT OBLIGATION

APPENDIX C: PROPOSED, UPDATED SCHEDULE

Arizona						
Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
750	159	243	293	328	360	392
800	170	258	312	349	384	417
850	180	274	331	370	407	443
900	190	290	351	392	431	468
950	201	306	370	413	454	494
1000	211	321	389	434	477	519
1050	221	337	407	454	500	543
1100	230	351	424	473	521	566
1150	239	365	441	492	542	589
1200	249	379	458	511	562	611
1250	258	393	475	530	583	634
1300	267	407	491	549	604	656
1350	276	421	508	568	625	679
1400	285	435	525	587	645	702
1450	295	449	542	606	666	724
1500	304	463	559	625	687	747
1550	313	477	576	643	708	769
1600	322	491	593	662	729	792
1650	331	504	610	681	749	815
1700	340	518	627	700	770	837
1750	350	532	644	719	791	860
1800	359	546	661	738	812	882
1850	368	560	678	757	832	905
1900	377	574	694	775	853	927
1950	386	588	711	794	873	949
2000	395	601	727	812	893	971
2050	404	615	744	831	914	993
2100	413	629	760	849	934	1015
2150	422	642	777	867	954	1037
2200	431	656	793	886	974	1059
2250	440	670	810	904	995	1081
2300	449	683	826	923	1015	1103
2350	458	697	842	941	1035	1125
2400	467	711	859	959	1055	1147
2450	476	724	875	978	1076	1169
2500	485	738	892	996	1096	1191
2550	494	751	908	1015	1116	1213
2600	502	765	925	1033	1136	1235
2650	511	779	941	1052	1157	1257
2700	520	792	958	1070	1177	1279

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
2750	529	806	974	1088	1197	1301
2800	538	820	991	1107	1218	1323
2850	547	833	1007	1125	1238	1345
2900	556	847	1024	1144	1258	1367
2950	565	861	1040	1162	1278	1389
3000	574	874	1057	1180	1298	1411
3050	583	888	1073	1198	1318	1433
3100	592	901	1089	1217	1338	1455
3150	601	915	1106	1235	1358	1477
3200	609	928	1122	1253	1379	1498
3250	618	942	1138	1271	1399	1520
3300	627	955	1155	1290	1419	1542
3350	636	968	1170	1307	1438	1563
3400	645	980	1184	1322	1454	1581
3450	654	992	1197	1337	1471	1599
3500	663	1003	1210	1352	1487	1617
3550	672	1015	1224	1367	1504	1634
3600	680	1027	1237	1382	1520	1652
3650	689	1038	1251	1397	1537	1670
3700	698	1050	1264	1412	1553	1688
3750	707	1062	1277	1427	1570	1706
3800	716	1073	1291	1442	1586	1724
3850	725	1085	1304	1457	1602	1742
3900	733	1097	1318	1472	1620	1761
3950	741	1110	1334	1490	1639	1781
4000	750	1123	1349	1507	1658	1802
4050	758	1137	1365	1524	1677	1823
4100	766	1150	1380	1542	1696	1843
4150	774	1163	1396	1559	1715	1864
4200	782	1176	1411	1576	1734	1885
4250	790	1189	1427	1593	1753	1905
4300	798	1202	1442	1611	1772	1926
4350	806	1215	1458	1628	1791	1947
4400	813	1228	1472	1644	1809	1966
4450	820	1239	1485	1659	1825	1984
4500	826	1247	1495	1670	1837	1997
4550	831	1256	1505	1681	1850	2010
4600	837	1264	1515	1693	1862	2024
4650	843	1273	1525	1704	1874	2037
4700	848	1281	1535	1715	1887	2051
4750	854	1289	1545	1726	1899	2064
4800	860	1298	1556	1738	1911	2078
4850	865	1306	1566	1749	1924	2091

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
4900	871	1315	1576	1760	1936	2104
4950	877	1323	1586	1771	1948	2118
5000	883	1332	1596	1782	1961	2131
5050	888	1340	1606	1794	1973	2145
5100	893	1347	1614	1803	1983	2155
5150	896	1352	1619	1809	1990	2163
5200	900	1357	1625	1815	1997	2170
5250	903	1362	1631	1821	2004	2178
5300	907	1367	1636	1828	2011	2185
5350	910	1372	1642	1834	2017	2193
5400	914	1377	1648	1840	2024	2200
5450	917	1382	1653	1847	2031	2208
5500	921	1387	1659	1853	2038	2216
5550	924	1392	1664	1859	2045	2223
5600	927	1397	1670	1865	2052	2231
5650	931	1402	1676	1872	2059	2238
5700	934	1407	1681	1878	2066	2246
5750	938	1411	1685	1882	2070	2251
5800	941	1414	1688	1885	2074	2254
5850	944	1418	1691	1889	2078	2258
5900	947	1421	1694	1892	2081	2262
5950	950	1425	1697	1895	2085	2266
6000	953	1429	1700	1899	2088	2270
6050	956	1432	1703	1902	2092	2274
6100	959	1436	1705	1905	2096	2278
6150	962	1439	1708	1908	2099	2282
6200	966	1443	1711	1912	2103	2286
6250	969	1447	1714	1915	2106	2290
6300	972	1450	1717	1918	2110	2293
6350	975	1454	1720	1921	2113	2297
6400	979	1461	1729	1932	2125	2310
6450	984	1468	1739	1942	2137	2322
6500	988	1475	1749	1953	2148	2335
6550	992	1483	1758	1964	2160	2348
6600	997	1490	1768	1975	2172	2361
6650	1001	1497	1778	1986	2184	2374
6700	1005	1505	1787	1996	2196	2387
6750	1010	1512	1797	2007	2208	2400
6800	1014	1519	1807	2018	2220	2413
6850	1018	1527	1816	2029	2232	2426
6900	1023	1534	1826	2040	2244	2439
6950	1027	1541	1836	2051	2256	2452
7000	1031	1548	1845	2060	2266	2464

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
7050	1034	1551	1847	2063	2269	2467
7100	1036	1554	1850	2066	2273	2470
7150	1039	1557	1852	2069	2276	2474
7200	1042	1560	1854	2071	2279	2477
7250	1044	1563	1857	2074	2282	2480
7300	1047	1566	1859	2077	2285	2483
7350	1050	1569	1862	2080	2288	2487
7400	1052	1572	1864	2082	2291	2490
7450	1055	1575	1867	2085	2294	2493
7500	1058	1578	1869	2088	2297	2497
7550	1060	1581	1872	2091	2300	2500
7600	1063	1584	1874	2093	2303	2503
7650	1066	1588	1877	2097	2307	2507
7700	1070	1593	1882	2103	2313	2514
7750	1073	1598	1887	2108	2319	2521
7800	1077	1602	1892	2113	2325	2527
7850	1081	1607	1897	2119	2331	2534
7900	1084	1612	1902	2124	2337	2540
7950	1088	1617	1907	2130	2343	2547
8000	1092	1622	1912	2135	2349	2553
8050	1095	1627	1917	2141	2355	2560
8100	1099	1631	1921	2146	2361	2566
8150	1103	1636	1926	2152	2367	2573
8200	1106	1641	1931	2157	2373	2579
8250	1110	1646	1936	2162	2379	2586
8300	1114	1652	1942	2170	2387	2594
8350	1120	1659	1951	2179	2397	2605
8400	1125	1667	1959	2188	2407	2616
8450	1130	1674	1967	2197	2417	2627
8500	1135	1681	1975	2206	2427	2638
8550	1141	1689	1984	2216	2437	2649
8600	1146	1696	1992	2225	2447	2660
8650	1151	1704	2000	2234	2457	2671
8700	1157	1711	2008	2243	2468	2682
8750	1162	1719	2017	2252	2478	2693
8800	1167	1726	2025	2262	2488	2704
8850	1173	1734	2033	2271	2498	2715
8900	1178	1741	2041	2280	2508	2726
8950	1183	1748	2050	2289	2518	2737
9000	1188	1756	2058	2299	2528	2748
9050	1194	1763	2066	2308	2539	2759
9100	1199	1771	2074	2317	2549	2770
9150	1204	1778	2083	2326	2559	2781

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
9200	1210	1786	2091	2335	2569	2792
9250	1215	1793	2099	2345	2579	2803
9300	1219	1800	2107	2354	2589	2814
9350	1223	1806	2116	2363	2599	2826
9400	1227	1813	2124	2372	2610	2837
9450	1231	1819	2132	2382	2620	2848
9500	1235	1825	2141	2391	2630	2859
9550	1239	1832	2149	2400	2640	2870
9600	1243	1838	2157	2410	2650	2881
9650	1246	1845	2165	2419	2661	2892
9700	1250	1851	2174	2428	2671	2903
9750	1254	1857	2182	2437	2681	2914
9800	1258	1864	2190	2447	2691	2925
9850	1262	1870	2199	2456	2701	2937
9900	1266	1876	2207	2465	2712	2948
9950	1270	1883	2215	2474	2722	2959
10000	1274	1889	2224	2484	2732	2970
10050	1277	1896	2232	2493	2742	2981
10100	1281	1902	2240	2502	2753	2992
10150	1285	1908	2248	2512	2763	3003
10200	1289	1915	2257	2521	2773	3014
10250	1293	1921	2265	2530	2783	3025
10300	1296	1926	2270	2536	2789	3032
10350	1299	1930	2275	2541	2795	3038
10400	1302	1934	2279	2546	2800	3044
10450	1305	1938	2284	2551	2806	3050
10500	1308	1942	2288	2556	2812	3056
10550	1311	1947	2293	2561	2817	3063
10600	1314	1951	2298	2566	2823	3069
10650	1317	1955	2302	2572	2829	3075
10700	1320	1959	2307	2577	2834	3081
10750	1323	1963	2312	2582	2840	3087
10800	1326	1968	2316	2587	2846	3093
10850	1329	1972	2321	2592	2851	3100
10900	1332	1976	2325	2597	2857	3106
10950	1335	1980	2330	2603	2863	3112
11000	1338	1984	2335	2608	2868	3118
11050	1341	1989	2339	2613	2874	3124
11100	1344	1993	2344	2618	2880	3130
11150	1347	1997	2348	2623	2885	3137
11200	1350	2001	2353	2628	2891	3143
11250	1354	2006	2358	2634	2897	3149
11300	1357	2011	2363	2640	2903	3156

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
11350	1361	2016	2368	2645	2910	3163
11400	1365	2021	2374	2651	2917	3170
11450	1369	2026	2379	2657	2923	3177
11500	1373	2032	2385	2664	2930	3185
11550	1378	2037	2390	2670	2937	3193
11600	1382	2043	2396	2677	2944	3200
11650	1386	2049	2402	2683	2951	3208
11700	1390	2054	2408	2690	2959	3216
11750	1395	2060	2414	2696	2966	3224
11800	1399	2066	2420	2703	2973	3232
11850	1403	2071	2425	2709	2980	3239
11900	1407	2077	2431	2716	2987	3247
11950	1412	2083	2437	2722	2995	3255
12000	1416	2088	2443	2729	3002	3263
12050	1420	2094	2449	2735	3009	3271
12100	1425	2100	2455	2742	3016	3278
12150	1429	2105	2461	2748	3023	3286
12200	1433	2111	2466	2755	3030	3294
12250	1437	2117	2472	2761	3038	3302
12300	1442	2122	2478	2768	3045	3310
12350	1446	2128	2484	2774	3052	3317
12400	1450	2134	2490	2781	3059	3325
12450	1454	2139	2496	2788	3066	3333
12500	1458	2144	2500	2792	3071	3339
12550	1460	2147	2503	2796	3075	3343
12600	1463	2150	2506	2799	3079	3347
12650	1466	2154	2509	2803	3083	3352
12700	1468	2157	2513	2807	3087	3356
12750	1471	2161	2516	2810	3091	3360
12800	1474	2164	2519	2814	3095	3365
12850	1477	2167	2522	2818	3099	3369
12900	1479	2171	2526	2821	3103	3373
12950	1482	2174	2529	2825	3107	3378
13000	1485	2178	2532	2829	3111	3382
13050	1487	2181	2536	2832	3115	3386
13100	1490	2185	2539	2836	3119	3391
13150	1493	2188	2542	2839	3123	3395
13200	1496	2191	2545	2843	3127	3400
13250	1498	2195	2549	2847	3131	3404
13300	1501	2198	2552	2850	3135	3408
13350	1504	2202	2555	2854	3139	3413
13400	1506	2205	2558	2858	3143	3417
13450	1509	2208	2562	2861	3147	3421

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
13500	1512	2212	2565	2865	3151	3426
13550	1515	2215	2568	2869	3155	3430
13600	1517	2219	2571	2872	3160	3434
13650	1520	2222	2575	2876	3164	3439
13700	1524	2228	2581	2883	3172	3448
13750	1529	2236	2590	2893	3183	3459
13800	1534	2243	2599	2903	3193	3471
13850	1539	2250	2608	2913	3204	3483
13900	1544	2258	2616	2923	3215	3495
13950	1549	2265	2625	2932	3226	3506
14000	1554	2273	2634	2942	3236	3518
14050	1559	2280	2643	2952	3247	3530
14100	1564	2288	2651	2962	3258	3541
14150	1569	2295	2660	2971	3268	3553
14200	1574	2302	2669	2981	3279	3564
14250	1579	2310	2678	2991	3290	3576
14300	1584	2317	2686	3001	3301	3588
14350	1589	2325	2695	3010	3311	3599
14400	1594	2332	2704	3020	3322	3611
14450	1599	2339	2712	3030	3333	3623
14500	1604	2347	2721	3040	3343	3634
14550	1609	2354	2730	3049	3354	3646
14600	1614	2362	2739	3059	3365	3658
14650	1619	2369	2747	3069	3375	3669
14700	1624	2375	2755	3077	3385	3679
14750	1628	2382	2763	3086	3394	3690
14800	1632	2389	2770	3094	3404	3700
14850	1637	2395	2778	3103	3413	3710
14900	1641	2402	2786	3112	3423	3721
14950	1646	2408	2793	3120	3432	3731
15000	1650	2415	2801	3129	3442	3741
15050	1655	2421	2809	3138	3451	3752
15100	1659	2428	2817	3146	3461	3762
15150	1663	2434	2824	3155	3470	3772
15200	1668	2441	2832	3163	3480	3783
15250	1672	2448	2840	3172	3489	3793
15300	1677	2454	2848	3181	3499	3803
15350	1681	2461	2855	3189	3508	3813
15400	1686	2467	2863	3198	3518	3824
15450	1690	2474	2871	3207	3527	3834
15500	1694	2480	2878	3215	3537	3844
15550	1699	2487	2886	3224	3546	3855
15600	1703	2493	2893	3232	3555	3864

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
15650	1707	2498	2898	3237	3561	3870
15700	1710	2502	2903	3242	3567	3877
15750	1714	2507	2907	3248	3572	3883
15800	1717	2512	2912	3253	3578	3890
15850	1721	2516	2917	3258	3584	3896
15900	1724	2521	2922	3264	3590	3902
15950	1728	2526	2927	3269	3596	3909
16000	1731	2530	2931	3274	3602	3915
16050	1735	2535	2936	3280	3608	3922
16100	1738	2540	2941	3285	3614	3928
16150	1742	2544	2946	3290	3619	3934
16200	1745	2549	2951	3296	3625	3941
16250	1749	2554	2955	3301	3631	3947
16300	1752	2558	2960	3306	3637	3954
16350	1756	2563	2965	3312	3643	3960
16400	1760	2568	2970	3317	3649	3966
16450	1763	2572	2974	3322	3655	3973
16500	1767	2577	2979	3328	3661	3979
16550	1770	2582	2984	3333	3666	3985
16600	1774	2586	2989	3338	3672	3992
16650	1777	2591	2994	3344	3678	3998
16700	1781	2596	2998	3349	3684	4005
16750	1784	2600	3003	3354	3690	4011
16800	1788	2605	3008	3360	3696	4017
16850	1791	2609	3012	3365	3701	4023
16900	1795	2614	3017	3370	3707	4030
16950	1798	2619	3022	3375	3713	4036
17000	1802	2623	3027	3381	3719	4042
17050	1805	2628	3031	3386	3725	4049
17100	1808	2632	3036	3391	3730	4055
17150	1812	2637	3041	3397	3736	4061
17200	1815	2642	3045	3402	3742	4068
17250	1819	2646	3050	3407	3748	4074
17300	1822	2651	3055	3412	3754	4080
17350	1826	2655	3060	3418	3759	4086
17400	1829	2660	3064	3423	3765	4093
17450	1833	2665	3069	3428	3771	4099
17500	1836	2669	3074	3433	3777	4105
17550	1840	2674	3078	3439	3783	4112
17600	1843	2678	3083	3444	3788	4118
17650	1847	2683	3088	3449	3794	4124
17700	1850	2688	3093	3454	3800	4130
17750	1854	2692	3097	3460	3806	4137

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
17800	1857	2697	3102	3465	3811	4143
17850	1861	2701	3107	3470	3817	4149
17900	1864	2706	3111	3476	3823	4156
17950	1868	2711	3116	3481	3829	4162
18000	1871	2715	3121	3486	3835	4168
18050	1875	2720	3126	3491	3840	4175
18100	1878	2724	3130	3497	3846	4181
18150	1882	2729	3135	3502	3852	4187
18200	1885	2734	3140	3507	3858	4193
18250	1888	2738	3144	3512	3864	4200
18300	1892	2743	3149	3518	3869	4206
18350	1895	2747	3154	3523	3875	4213
18400	1898	2752	3161	3531	3884	4222
18450	1901	2757	3168	3538	3892	4231
18500	1904	2762	3174	3546	3900	4240
18550	1907	2767	3181	3553	3909	4249
18600	1910	2772	3188	3561	3917	4258
18650	1913	2777	3195	3568	3925	4267
18700	1916	2782	3201	3576	3933	4276
18750	1918	2787	3208	3583	3942	4285
18800	1921	2792	3215	3591	3950	4294
18850	1924	2797	3221	3598	3958	4303
18900	1927	2802	3228	3606	3966	4312
18950	1930	2807	3235	3613	3975	4321
19000	1933	2812	3242	3621	3983	4330
19050	1936	2817	3248	3628	3991	4339
19100	1939	2822	3255	3636	4000	4348
19150	1942	2827	3262	3644	4008	4357
19200	1945	2832	3269	3651	4016	4366
19250	1948	2837	3275	3659	4024	4375
19300	1950	2842	3282	3666	4033	4384
19350	1953	2847	3289	3674	4041	4393
19400	1956	2852	3296	3681	4049	4402
19450	1959	2857	3302	3689	4058	4411
19500	1962	2862	3309	3696	4066	4420
19550	1965	2867	3316	3704	4074	4429
19600	1968	2872	3322	3711	4082	4437
19650	1971	2877	3329	3719	4091	4446
19700	1974	2882	3336	3726	4099	4455
19750	1977	2887	3343	3734	4107	4464
19800	1979	2892	3349	3741	4115	4473
19850	1982	2897	3356	3749	4124	4482
19900	1985	2902	3363	3756	4132	4491

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
19950	1988	2907	3370	3764	4140	4500
20000	1991	2912	3376	3771	4149	4509
20050	1994	2917	3383	3779	4157	4518
20100	1997	2922	3390	3786	4165	4527
20150	2000	2927	3397	3794	4173	4536
20200	2003	2932	3403	3801	4182	4545
20250	2006	2937	3410	3809	4190	4554
20300	2009	2942	3417	3817	4198	4563
20350	2011	2947	3423	3824	4206	4572
20400	2014	2952	3430	3832	4215	4581
20450	2017	2957	3437	3839	4223	4590
20500	2020	2962	3444	3847	4231	4599
20550	2023	2967	3450	3854	4240	4608
20600	2026	2972	3457	3862	4248	4617
20650	2029	2977	3464	3869	4256	4626
20700	2032	2982	3471	3877	4264	4635
20750	2035	2987	3477	3884	4273	4644
20800	2038	2992	3484	3892	4281	4653
20850	2041	2997	3491	3899	4289	4662
20900	2043	3002	3498	3907	4297	4671
20950	2046	3007	3504	3914	4306	4680
21000	2049	3012	3511	3922	4314	4689
21050	2052	3017	3518	3929	4322	4698
21100	2055	3022	3525	3937	4331	4707
21150	2058	3027	3531	3944	4339	4716
21200	2061	3032	3538	3952	4347	4725
21250	2064	3037	3545	3959	4355	4734
21300	2067	3042	3551	3967	4364	4743
21350	2070	3047	3558	3974	4372	4752
21400	2072	3052	3565	3982	4380	4761
21450	2075	3057	3572	3990	4388	4770
21500	2078	3062	3578	3997	4397	4779
21550	2081	3067	3585	4005	4405	4788
21600	2084	3072	3592	4012	4413	4797
21650	2087	3077	3599	4020	4422	4806
21700	2090	3082	3605	4027	4430	4815
21750	2093	3087	3612	4035	4438	4824
21800	2096	3092	3619	4042	4446	4833
21850	2099	3097	3626	4050	4455	4842
21900	2102	3102	3632	4057	4463	4851
21950	2104	3107	3639	4065	4471	4860
22000	2107	3112	3646	4072	4479	4869
22050	2110	3117	3652	4080	4488	4878

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
22100	2113	3122	3659	4087	4496	4887
22150	2116	3127	3666	4095	4504	4896
22200	2119	3132	3673	4102	4513	4905
22250	2122	3137	3679	4110	4521	4914
22300	2125	3142	3686	4117	4529	4923
22350	2128	3147	3693	4125	4537	4932
22400	2131	3152	3700	4132	4546	4941
22450	2134	3157	3706	4140	4554	4950
22500	2136	3162	3713	4147	4562	4959
22550	2139	3167	3720	4155	4571	4968
22600	2142	3172	3727	4163	4579	4977
22650	2145	3177	3733	4170	4587	4986
22700	2148	3182	3740	4178	4595	4995
22750	2151	3187	3747	4185	4604	5004
22800	2154	3192	3753	4193	4612	5013
22850	2157	3197	3760	4200	4620	5022
22900	2160	3202	3767	4208	4628	5031
22950	2163	3207	3774	4215	4637	5040
23000	2165	3212	3780	4223	4645	5049
23050	2168	3217	3787	4230	4653	5058
23100	2171	3222	3794	4238	4662	5067
23150	2174	3227	3801	4245	4670	5076
23200	2177	3232	3807	4253	4678	5085
23250	2180	3237	3814	4260	4686	5094
23300	2183	3242	3821	4268	4695	5103
23350	2186	3247	3828	4275	4703	5112
23400	2189	3252	3834	4283	4711	5121
23450	2192	3257	3841	4290	4719	5130
23500	2195	3262	3848	4298	4728	5139
23550	2197	3267	3854	4305	4736	5148
23600	2200	3272	3861	4313	4744	5157
23650	2203	3277	3868	4320	4753	5166
23700	2206	3282	3875	4328	4761	5175
23750	2209	3287	3881	4336	4769	5184
23800	2212	3292	3888	4343	4777	5193
23850	2215	3297	3895	4351	4786	5202
23900	2218	3302	3902	4358	4794	5211
23950	2221	3307	3908	4366	4802	5220
24000	2224	3312	3915	4373	4810	5229
24050	2227	3317	3922	4381	4819	5238
24100	2229	3322	3929	4388	4827	5247
24150	2232	3327	3935	4396	4835	5256
24200	2235	3332	3942	4403	4844	5265

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
24250	2238	3337	3949	4411	4852	5274
24300	2241	3342	3955	4418	4860	5283
24350	2244	3347	3962	4426	4868	5292
24400	2247	3352	3969	4433	4877	5301
24450	2250	3357	3976	4441	4885	5310
24500	2253	3362	3982	4448	4893	5319
24550	2256	3367	3989	4456	4901	5328
24600	2258	3372	3996	4463	4910	5337
24650	2261	3377	4003	4471	4918	5346
24700	2264	3382	4009	4478	4926	5355
24750	2267	3387	4016	4486	4935	5364
24800	2270	3392	4023	4493	4943	5373
24850	2273	3397	4030	4501	4951	5382
24900	2276	3402	4036	4509	4959	5391
24950	2279	3407	4043	4516	4968	5400
25000	2282	3412	4050	4524	4976	5409
25050	2285	3416	4056	4531	4984	5418
25100	2288	3421	4063	4539	4992	5427
25150	2290	3426	4070	4546	5001	5436
25200	2293	3431	4077	4554	5009	5445
25250	2296	3436	4083	4561	5017	5454
25300	2299	3441	4090	4569	5026	5463
25350	2302	3446	4097	4576	5034	5472
25400	2305	3451	4104	4584	5042	5481
25450	2308	3456	4110	4591	5050	5490
25500	2311	3461	4117	4599	5059	5499
25550	2314	3466	4124	4606	5067	5508
25600	2317	3471	4131	4614	5075	5517
25650	2320	3476	4137	4621	5084	5526
25700	2322	3481	4144	4629	5092	5535
25750	2325	3486	4151	4636	5100	5544
25800	2328	3491	4158	4644	5108	5553
25850	2331	3496	4164	4651	5117	5562
25900	2334	3501	4171	4659	5125	5571
25950	2337	3506	4178	4667	5133	5580
26000	2340	3511	4184	4674	5141	5589
26050	2343	3516	4191	4682	5150	5598
26100	2346	3521	4198	4689	5158	5607
26150	2349	3526	4205	4697	5166	5616
26200	2352	3531	4211	4704	5175	5625
26250	2354	3536	4218	4712	5183	5634
26300	2357	3541	4225	4719	5191	5643
26350	2360	3546	4232	4727	5199	5652

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
26400	2363	3551	4238	4734	5208	5661
26450	2366	3556	4245	4742	5216	5670
26500	2369	3561	4252	4749	5224	5679
26550	2372	3566	4259	4757	5232	5688
26600	2375	3571	4265	4764	5241	5697
26650	2378	3576	4272	4772	5249	5706
26700	2381	3581	4279	4779	5257	5715
26750	2383	3586	4285	4787	5266	5724
26800	2386	3591	4292	4794	5274	5733
26850	2389	3596	4299	4802	5282	5742
26900	2392	3601	4306	4809	5290	5751
26950	2395	3606	4312	4817	5299	5760
27000	2398	3611	4319	4824	5307	5769
27050	2401	3616	4326	4832	5315	5778
27100	2404	3621	4333	4840	5323	5787
27150	2407	3626	4339	4847	5332	5796
27200	2410	3631	4346	4855	5340	5805
27250	2413	3636	4353	4862	5348	5814
27300	2415	3641	4360	4870	5357	5823
27350	2418	3646	4366	4877	5365	5832
27400	2421	3651	4373	4885	5373	5841
27450	2424	3656	4380	4892	5381	5850
27500	2427	3661	4386	4900	5390	5859
27550	2430	3666	4393	4907	5398	5868
27600	2433	3671	4400	4915	5406	5877
27650	2436	3676	4407	4922	5414	5886
27700	2439	3681	4413	4930	5423	5895
27750	2442	3686	4420	4937	5431	5904
27800	2445	3691	4427	4945	5439	5913
27850	2447	3696	4434	4952	5448	5922
27900	2450	3701	4440	4960	5456	5931
27950	2453	3706	4447	4967	5464	5940
28000	2456	3711	4454	4975	5472	5948
28050	2459	3716	4461	4982	5481	5957
28100	2462	3721	4467	4990	5489	5966
28150	2465	3726	4474	4997	5497	5975
28200	2468	3731	4481	5005	5505	5984
28250	2471	3736	4487	5013	5514	5993
28300	2474	3741	4494	5020	5522	6002
28350	2476	3746	4501	5028	5530	6011
28400	2479	3751	4508	5035	5539	6020
28450	2482	3756	4514	5043	5547	6029
28500	2485	3761	4521	5050	5555	6038

Arizona Proposed Updated Schedule of Basic Support Obligations						
Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
28550	2488	3766	4528	5058	5563	6047
28600	2491	3771	4535	5065	5572	6056
28650	2494	3776	4541	5073	5580	6065
28700	2497	3781	4548	5080	5588	6074
28750	2500	3786	4555	5088	5597	6083
28800	2503	3791	4562	5095	5605	6092
28850	2506	3796	4568	5103	5613	6101
28900	2508	3801	4575	5110	5621	6110
28950	2511	3806	4582	5118	5630	6119
29000	2514	3811	4588	5125	5638	6128
29050	2517	3816	4595	5133	5646	6137
29100	2520	3821	4602	5140	5654	6146
29150	2523	3826	4609	5148	5663	6155
29200	2526	3831	4615	5155	5671	6164
29250	2529	3836	4622	5163	5679	6173
29300	2532	3841	4629	5170	5688	6182
29350	2535	3846	4636	5178	5696	6191
29400	2538	3851	4642	5186	5704	6200
29450	2540	3856	4649	5193	5712	6209
29500	2543	3861	4656	5201	5721	6218
29550	2546	3866	4663	5208	5729	6227
29600	2549	3871	4669	5216	5737	6236
29650	2552	3876	4676	5223	5745	6245
29700	2555	3881	4683	5231	5754	6254
29750	2558	3886	4690	5238	5762	6263
29800	2561	3891	4696	5246	5770	6272
29850	2564	3896	4703	5253	5779	6281
29900	2567	3901	4710	5261	5787	6290
29950	2569	3906	4716	5268	5795	6299
30000	2572	3911	4723	5276	5803	6308

CORRELATION TABLE

Child Support Guidelines Correlation Table 2020 Revisions

Section- 2018 Version	Section- 2020 Version
1	I(B)
2(A), (B), (C), (E)	I(C)
2(D)	II(A)(2)(c)
3	I(D), (E)
4	XV
5	II(A)
6	II(B)
7	II(C)
8	III(A)
9	III(B)
10	IV
11	V
12	Deleted (see Section V)
13	VI
14	X(A)
15	VIII
16	V(G)
17	XIII
18	XII(A)
19	XII(B)
20	IX
21	XII(C)
22	X(D)

Child Support Guidelines Correlation Table 2020 Revisions

Section- 2018 Version	Section- 2020 Version
23	X(E)
24	XIV
25	XIV(D)
26	II(A)(2) and X(B)
27	XI
28	XVI
29	XVII



Meeting Date: February 4, 2021

Subject: Commission on Minorities in the Judiciary
Code Revision Proposal ACAJ § 1-107

Type of action requested:

- ☒ Formal action or request
- ☐ Information only
- ☐ Other

From: Commission on Minorities in the Judiciary (COM)

Presenters: William H. Knight, Los Abogados Hispanic Bar Association and Member of Commission on Minorities in the Judiciary

Discussion: This proposal will align the Commission on Minorities in the Judiciary (COM) with other state court commissions and national organizations that are working towards racial justice, equity and inclusion in the justice system. The name change and general purpose updates will more accurately list the current goals and policies the commission hopes to collaborate on with its judicial branch partners and other stakeholders in Arizona's justice system. At their November 5, 2020 meeting, COM members voted unanimously to recommend a name and General Purpose change to the Arizona Judicial Council (AJC). The new name of The Commission on Diversity, Equity and Justice (DEJ) reflects the goals of the commission and is aligned with many other state court commissions such as Florida, Massachusetts, New Jersey, New Mexico, North Carolina and Washington. Since the commission was created in 1990, several of the projects listed in the General Purpose section of the code have been implemented. The proposed General Purpose section outlines the updated objectives of the commission as it seeks initiatives that promote racial justice, equity and inclusion.

Recommended motion: Motion to support the ACAJ § 1-107: Commission on Minorities in the Judiciary code revision proposal as written.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 1: Judicial Branch Administration
Chapter 1: Leadership
Section 1-107: Commission on Minorities in the Judiciary

- A. General Purpose.** The Commission on Minorities in the Judiciary (COM) is established as a standing committee of the Arizona Judicial Council (AJC). The commission assists the Council in carrying out its concerns for the status of minorities in the judicial department and in the legal profession in Arizona. These concerns include a desire to accelerate progress in removing barriers to achieving racial equality and equal justice, to increase the number of qualified minority applicants available for service as judicial officers, including pro tems and commissioners, and to expand the number of minorities employed as staff and professionals in the judicial department. The commission will devise strategies and develop programs with short- and long-term goals that will:
1. Promote the use of treatment providers who are competent to meet the needs of a diverse population of court supervised individuals;
 2. Where appropriate, encourage a meaningful increase in the number of minorities employed throughout the judicial department as clerical, administrative and professional staff, with priority given to efforts to recruit qualified minority juvenile and adult probation officers and staff;
 3. Coordinate with other public and private sector programs that seek to address the problems created by the over-representation of minority youth in the juvenile justice system;
 4. Institute a judicial candidates' career conference to provide information and training for minority applicants who are seeking judicial positions;
 5. Encourage minority group members to obtain internships, clerkships, and participate in other career development and training programs for judicial, legal and law-related positions; and
 6. Make recommendations to the Arizona Judicial Council that help the judicial department become more accessible to all people.
- B. Membership.** Members shall be selected from among the following: judicial officers in the state courts; juvenile probation, detention, and corrections; diversity bar associations; the Administrative Office of the Courts (AOC); universities and community colleges; community relations offices; the Governor's Office for Children, Youth, and Families; and such other categories as the chief justice may deem appropriate.
- C. Terms.** The chief justice will appoint a chair, vice chair and members of the commission for terms of varying lengths to encourage continuity. Commission members may be reappointed for successive terms.

- D. Responsibilities of Members.** Commission members will attend and actively participate in commission meetings and shall serve on advisory subcommittees as deemed necessary.
- E. Organization.** The chair may appoint members to advisory subcommittees to assist the commission in carrying out its responsibilities.
- F. Meetings.** The commission will meet no less than twice a year. Additional meetings may be called at the discretion of the commission chair. All meetings will comply with the judicial department's public meeting policy, ACJA § 1-202, and the following requirements:
1. **Quorum.** A simple majority (50% +1) of the current commission membership shall constitute a quorum.
 2. **Virtual Attendance** (attendance by remote electronic means). The commission chair may designate a meeting as a virtual attendance meeting. Otherwise commission members may virtually attend a meeting with prior approval of the chair. Staff shall ensure public access to the virtual meeting.
- G. Actions.** Approval of a majority of those voting shall constitute an action of the commission. A commission member may designate a proxy in accordance with ACJA § 1-104 and the following requirements:
1. Members may not use the proxy provision more than once every 12 months.
 2. If a member needs to designate a proxy, the member must submit a written request to the chair for approval. If approved by the chair, the designated proxy must comply with the provisions of ACJA § 1-104(D) and commission policies.
- H. Staff.** Under the direction of the chief justice, the AOC shall provide staff for the commission and as feasible, may conduct or coordinate research as recommended by the commission.
- I. Funding.** The commission, with the assistance of the AOC, may seek grant funding from local, state and national organizations for its expenses of operation, including expert advice and consultations. To the extent funds are allocated by the director of the AOC for this purpose, supreme court funds may also be used to partially or fully fund the commission's expenses.

Adopted by Administrative Order 2001-110, effective November 7, 2001. Amended by Administrative Order 2009-113, effective November 6, 2009.

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 1: Judicial Branch Administration

Chapter 1: Leadership

Section 1-107: Commission on ~~Minorities~~ Diversity, Equity and Justice in the Judiciary

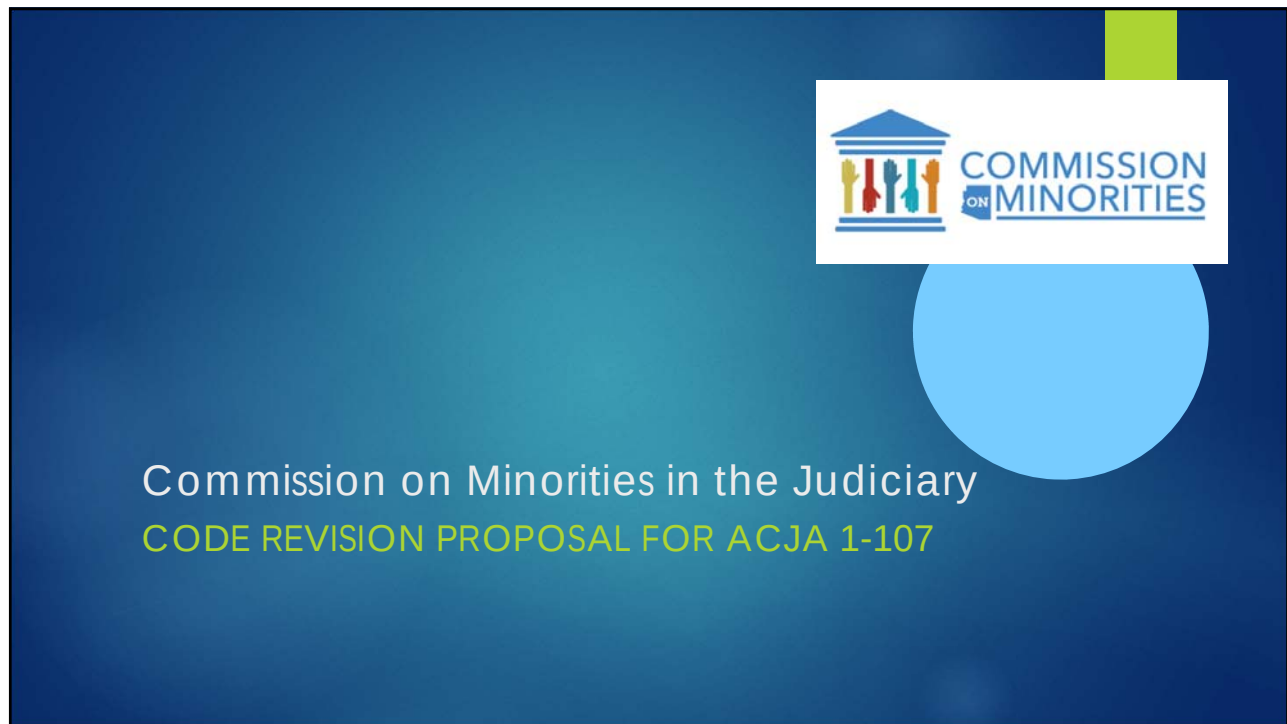
[Added text is shown underlined, deleted text by ~~strikethrough~~.]

A. General Purpose. The Commission on ~~Minorities~~ Diversity, Equity and Justice in the Judiciary (~~COMDEJ~~) is established as a standing committee of the Arizona Judicial Council (AJC). The commission assists the Council in ~~carrying out its concerns for the status of minorities~~ the development and implementation of policies designed to promote diversity, equity and justice in the judicial department and in the legal profession in Arizona. ~~These concerns include a desire to accelerate progress in removing barriers to achieving racial equality and equal justice, to increase the number of qualified minority applicants available for service as judicial officers, including pro tems and commissioners, and to expand the number of minorities employed as staff and professionals in the judicial department. The commission will devise strategies and develop programs with short and long term goals that will~~ The commission will work collaboratively across the Judicial Branch to advance efforts to improve justice, eliminate bias from court operations, promote equal access to courts, and inspire a high level of trust and public confidence. The commission will strive to identify and to eliminate the effects of racial, ethnic and cultural bias in our state court system by:

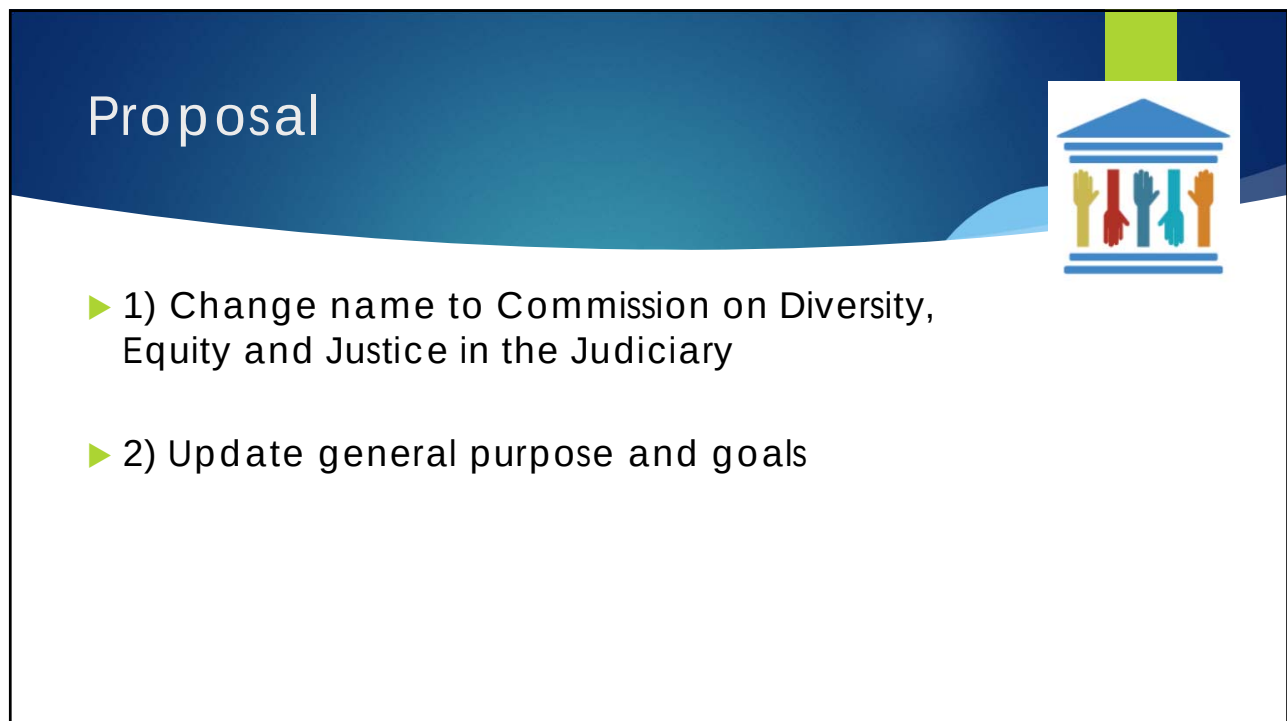
- ~~Promote the use of treatment providers who are competent to meet the needs of a diverse population of court supervised individuals~~ Developing recommendations to promote diversity, equity and inclusion in the recruitment, hiring and training of judicial officers and court and probation department employees;
- ~~Where appropriate, encourage a meaningful increase in the number of minorities employed throughout the judicial department as clerical, administrative and professional staff, with priority given to efforts to recruit qualified minority juvenile and adult probation officers and staff~~ Promoting racial inclusion and fairness in the Arizona Judicial Branch by coordinating efforts with other justice system partners, the legal community and non-governmental organizations;
- ~~Coordinate with other public and private sector programs that seek to address the problems created by the over-representation of minority youth in the juvenile justice system~~ Identifying court policies and procedures that disproportionately affect communities of color and advancing solutions to ensure racial equity in Arizona's criminal justice, juvenile justice and child welfare systems;
- ~~Institute a judicial candidates' career conference to provide information and training for minority applicants who are seeking judicial positions~~ Developing programs that encourage diverse group members to obtain internships, clerkships, and to participate in other career development and training programs for judicial, legal, court and law-related positions;

5. ~~Encourage minority group members to obtain internships, clerkships, and participate in other career development and training programs for judicial, legal and law related positions~~ Monitoring and assisting in the implementation of goals and strategies identified in the Arizona Judicial Branch Strategic Agenda regarding diversity, equity and justice; and
6. ~~Make recommendations~~ Providing reports on the commission's work and recommendations to the Arizona Judicial Council ~~that help the judicial department become more accessible to all people.~~

B. – I. [No change]



1



2

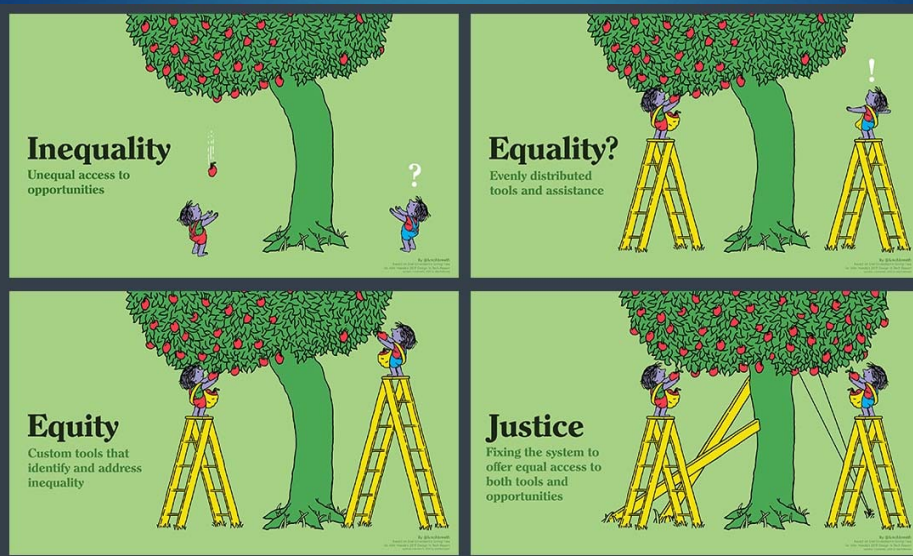
Why the name change?

- Update “minorities” to align with other state court commissions and national organizations that are working towards:
 - Diversity
 - Equity
 - Justice



3

Why equity and justice?



4

Judge Gass is cooler than me.

► Equity according to Black's Law:

- Fairness; impartiality; evenhanded dealing;
- The body of principles constituting what is fair and right; natural law;
- The recourse to principles of justice to correct or supplement the law as applied to particular circumstances.

► Equity according to Webster:

- Justice according to natural law or right; specifically freedom from bias or favoritism;
- The money value of a property or of an interest in a property in excess of claims or liens against it;
- A system of law originating in the English chancery and comprising a settled and formal body of legal and procedural rules and doctrines that supplement, aid, or override common and statute law and are designed to protect rights and enforce duties fixed by substantive law

► BREAKING IT DOWN: Sitting in LAW vs. sitting in EQUITY

► Modern Jurisprudential Equity: (1) Bankruptcy; (2) Family; (3) Sentencing

5

Why the purpose updates?

- Two of the goals have been implemented (#1 and #4)
- Other wording changed to more clearly state the need for diversity, equity and inclusion in policies, procedures and projects for the Judicial Branch



6

I wasn't
kidding,
Judge Gass
is *much*
cooler than
me.



7

Action Item



- ▶ We are requesting the Arizona Commission on Access to Justice support our code revision proposal
- ▶ Worth mentioning: every AOC commission that has heard this request has voted *unanimously* to support . . . just sayin'

8



Meeting Date: February 4, 2021

Subject: Review of the City of Phoenix Tenant Eviction Assistance Project

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Community Legal Services

Presenters: Pamela Bridge

Discussion: Ms. Bridge will describe the Tenant Eviction Assistance project, accomplishments to date, and the plan for the future.

Recommended motion: None.



Meeting Date: February 4, 2021

Subject: Introducing the Arizona Housing Coalition's Eviction Policy Recommendations Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: The Arizona Housing Coalition

Presenters: Joanna Carr

Discussion: The Arizona Housing Coalition's Eviction Policy Recommendations Workgroup convened in January 2021. The group is comprised of stakeholders representing community legal services, constables, health providers, data teams, advocacy groups, and community foundations. The purpose of the workgroup is to craft a list of policy recommendations to present to the Arizona Commission on Access to Justice in future meetings. The ultimate goal of the workgroup is to reduce evictions statewide and therefore to address homelessness with an upstream approach.

Recommended motion: None.



Meeting Date: February 4, 2021

Subject: Information regarding the U.S. Department of Health and Human Services Report – Civil Legal Advocacy to Promote Child and Family Well-being

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Maurice Portley (ret'd.)

Presenters: Same

Discussion: On January 12, 2021, the Children's Bureau of U.S. Department of Health and Human Services (DHHS) issued a memorandum to highlight the importance of civil legal advocacy in advancing the well-being of families and their children, and encouraging state, territorial and tribal human services to support to work together to support civil legal advocacy.

The memorandum identifies the various means of funding civil legal advocacy; highlights models and partnership approaches to providing civil legal advocacy; and emphasizes the value of civil legal advocacy as a proactive, preventive, and restorative support to families and children.

Judge Portley will provide a brief overview of this timely information to the ACAJ membership.

A copy of the DHHS informational memorandum is included in the meeting materials.

Recommended motion: None at this time.

ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families	
	1. Log No: ACYF-CB-IM-21-02	2. Issuance Date: January 12, 2021
	3. Originating Office: Children's Bureau	
	4. Key Words: Civil Legal Advocacy; Preventive Legal Services; Family Integrity; Family Stability; Economic Mobility; Well-being; Access.	

TO: State, Tribal, and Territorial Agencies Administering or Supervising the ACF grants and programs.

SUBJECT: Civil Legal Advocacy to Promote Child and Family Well-being, Address the Social Determinants of Health, and Enhance Community Resilience

PURPOSE: The purpose of this information memorandum (IM) is to highlight the importance of civil legal advocacy in advancing child and family well-being; addressing the social determinants of health; enhancing community resiliency; and to strongly encourage state, territorial, and tribal human services entities to work together to support access to civil legal advocacy.

INFORMATION

This IM emphasizes the importance of civil legal advocacy in advancing the well-being of children and families and maximizing the impact of the Administration for Children and Families (ACF) administered programs and grants that serve children, families, and individuals. This memorandum identifies the various means of funding civil legal advocacy; highlights models and partnership approaches to providing civil legal advocacy; and emphasizes the value of civil legal advocacy as a proactive, preventive, and restorative support to families and children.

ACF and its component offices and bureaus¹ speak in unison strongly encouraging all jurisdictions to work together to ensure that families have access to high-quality, civil legal advocacy.

¹ See <https://www.acf.hhs.gov/about/offices>. ACF Program Offices include: Administration on Children, Youth and Families (ACYF); Children's Bureau (CB); Early Childhood Development (ECD); Family and Youth Services Bureau (FYSB); Office of Child Care (OCC); Office of Child Support Enforcement (OCSE); Office of Community Services (OCS); Office of Family Assistance (OFA); Office of Head Start (OHS); Office of Human Services Emergency Preparedness and Response (OHSEPR); Office of Regional Operations (ORO); Office of Refugee Resettlement (ORR); and Office on Trafficking in Persons (OTIP).

Background

There is a growing consensus among human services leaders, researchers, professional membership organizations, advocates, and individuals with lived-expertise that human services programs, services, and supports should center on promoting the social determinants of health² and enhancing protective factors³, in order to achieve positive outcomes for children, families, and individuals, and promote community resiliency. Developing and supporting human services that advance these goals requires a commitment to well-being throughout the branches of government, and across funding streams and sectors. It also requires ensuring that families are aware of and have access to existing opportunities and can benefit from participation.

Most families participating in or receiving services from ACF administered programs and grants are economically fragile. They are often in the midst of or recovering from familial, health, or economic challenges or crises. This may include loss of employment, inadequate income, unstable housing or homelessness, food insecurity, mental health and/or substance misuse disorder, and intimate partner violence. Such crises can be caused by or lead to civil justice problems, such as unfair housing practices, loss of benefits, identity theft, unfair debt collection practices, unestablished paternity, and other issues. These obstacles can impede a family's ability to provide a safe and stable environment for their children. For example, civil legal challenges can interfere with a parent's ability to maintain suitable housing, gain access to credit to make vital purchases, restrict the ability to enroll a child in school or child care, find or maintain employment, or make important health care decisions for a child or loved one.

The systems that families and individuals must navigate to access supports are often complex and comprised of underlying regulations across multiple agencies. These regulations govern not only what is available to families, but how families must access them and maintain eligibility. The range of systems and laws a caregiver or individual may need to navigate include the Social Security Administration, state social service agencies, local education systems, federal and local housing authorities, local health agencies, family and housing courts, and many more. A complex web of federal statutes governs many aspects of these systems, including the Social Security Act (SSA); Medicaid; Americans with Disabilities Act; Individuals with Disabilities Education Act; Fair Housing Act; Uniform Residential Landlord Tenant Act; and the Fair Debt

² Social determinants of health are conditions in the environments in which people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks. See <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health>; Office of Disease Prevention and Health Promotion, US Department of Health and Human Services. (2020) <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health>; National Research Council and the Institute of Medicine. (2009) *Preventing mental, emotional, and behavioral disorders among young people: Progress and possibilities*. Washington, D.C.: National Research Council and the Institute of Medicine of the National Academies. http://www.nap.edu/catalog.php?record_id=12480

³Protective factors and capacities refer to the presence of supports in a community or characteristics of a parent that allow or help them to maintain social connections, develop resiliency, gain parenting skills and knowledge, seek or receive concrete supports in time of need, and support the healthy development of their children. See [https://library.childwelfare.gov/cwig/ws/library/docs/capacity/Blob/107035.pdf?r=1&rpp=10&upp=0&w=+NATIVE\(%27recno=107035%27\)&m=1](https://library.childwelfare.gov/cwig/ws/library/docs/capacity/Blob/107035.pdf?r=1&rpp=10&upp=0&w=+NATIVE(%27recno=107035%27)&m=1); see also <https://cssp.org/wp-content/uploads/2018/11/About-Strengthening-Families.pdf>; Merrick MT, Ford DC, Ports KA, et al. (2019). *Vital Signs: Estimated Proportion of Adult Health Problems Attributable to Adverse Childhood Experiences and Implications for Prevention — 25 States, 2015–2017*. MMWR Morb Mortal Wkly Rep 2019; 68:999-1005. 15Center for the Study of Social Policy, Strengthening Families, A Protective Factors Framework, <https://cssp.org/wp-content/uploads/2018/11/About-Strengthening-Families.pdf>

Collection Practices Act. Adding to this complexity for families, states have their own regulatory structures to complement the federal framework. These systems and laws can be very challenging to understand and intimidating, which can limit a parent or caregivers' ability to avail themselves or their family of these critical well-being supports.

Access to an attorney or multidisciplinary legal team⁴ that provides civil legal advocacy can empower, support, and restore agency to parents, caregivers, young people, and individuals to help them maintain well-being, preserve family integrity, and promote economic mobility. Civil legal advocacy can also be preventive, especially in the child welfare context, serving as a tool to stop unnecessary family separation. When a family is improperly denied access to public benefits on procedural or substantive grounds, or has another unmet civil legal need, legal professionals can assist the family or individual with enforcing their rights or accessing the supports to which they are entitled.

This IM is organized as follows:

- I. The Benefits of Civil Legal Advocacy to Well-being
- II. Sources of Funding For Civil Legal Advocacy
- III. Models and Approaches to Provide Civil Legal Advocacy
- IV. Conclusion

I. The Benefits of Civil Legal Advocacy to Child, Family, and Individual Well-being

Civil legal advocacy entails an array of supports, including but not limited to, legal representation by an attorney to enforce procedural or substantive rights. In addition to direct representation by an attorney, civil legal advocacy can simply be an opportunity to speak with a legal professional or legal team member to receive information and improve one's understanding of rights, eligibility for services, available supports, or the benefits of participating in a program or service. It can be assistance in completing an application for a benefit or service or advice from a peer with lived-expertise on what to expect from a program, how to access it, or other important considerations to keep in mind. Civil legal advocacy may also entail challenging and working to dismantle unjust community conditions that might contribute to a family's instability.

The need for civil legal advocacy is prevalent, especially in low-income families.⁵ A national research effort in 2017 found that in the previous calendar year, 71 percent of all low-income families experienced at least 1 civil legal issue that would benefit from representation, 54 percent

⁴ multi-disciplinary teaming approaches to provide legal advocacy pair a well-trained child attorney with a social worker, peer partner or navigator. Evidence of the value of multi-disciplinary models of legal representation and its association with expedited permanency and other positive outcomes continues to grow.

⁵ Legal Services Corporation (2017), The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans, <https://www.lsc.gov/media-center/publications/2017-justice-gap-report#:~:text=Common%20civil%20legal%20problems%20among,%2C%20income%20maintenance%2C%20and%20disability>

experienced at least 2, and 24 percent experienced 6 or more.⁶ Americans reported receiving inadequate or no legal help to resolve 86 percent of the civil legal problems they faced.⁷

The study also found that civil legal issues are often not recognized as legal matters and consequently many individuals may be unaware that legal advocacy can help resolve such issues.⁸ Similarly, in a 2014 survey of 668 individuals who experienced civil legal problems, just 9 percent reported characterizing the problem as legal and 56 percent described their situations as “bad luck” or “part of life.”⁹ Despite reporting negative consequences due to their situation — including feelings of fear, loss of income, adverse effects on physical or mental health, or verbal or physical violence or threats of violence — 46 percent of those surveyed attempted to resolve their civil legal problems without legal assistance, and only 22 percent sought assistance from individuals outside their immediate social circle, including lawyers, social workers, law enforcement officers, and others.¹⁰

Common civil legal issues include, but are not limited to:

- Housing, access to adequate housing, habitability, eviction, and foreclosure;
- Unemployment;
- Immigration;
- Custody and marriage or civil partner dissolution;
- Fair Wage and hour matters in employment;
- Disability rights;
- Education and special education;
- Identity or wage theft;
- Unfair debt collection;
- Certain moving violations, and unpaid fines and fees;
- Expunging an old criminal record;
- Public benefits (i.e., TANF, SSI)
- Paternity;
- Intimate partner violence; and
- Child support.

Any one of these issues, if left unresolved, can become a major impediment to gainful employment, stable housing, education for a child, or the ability of a family to stay together. For example, within the child welfare setting, the following data related to the reasons children enter

⁶ Id at page 21.

⁷ Id at page 30.

⁸ Id. at page 33.

⁹ Rebecca L. Sandefur (2014), Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study,

http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa_aug_2014.pdf. See also Rebecca L. Sandefur (2017), What We Know and Need to Know about the Legal Needs of the Public, South

Carolina Law Review Vol. 67, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2949010

¹⁰ Id at page 11.

care illustrate the extent to which unmet civil legal issues pull children and families closer to the child welfare system.¹¹ Of the approximately 250,000 children that entered care in FY19:

- Sixty-four percent entered care in part due to neglect (includes issues related to poverty, educational neglect, inadequate housing, failure to provide adequate nutrition, and failure to safeguard mental health due to domestic violence);
- Ten percent entered care in part due to inadequate housing;
- Eight percent entered care in part due to a child's behavior problems; and
- Two percent entered care in part due to a child's disability.¹²

Civil legal advocacy can be preventive when it works to address issues that could lead to family separation and the placement of children in foster care. The human and financial costs of prolonged foster care placement can be significant.¹³ Researchers have identified a higher likelihood of experiencing learning disabilities, developmental delays, and adverse health impacts including asthma and obesity among children who have been in foster care compared to those who have not.¹⁴ Short-term and prolonged foster care placement can also result in "complex trauma" and emotional distress for children that interferes with healthy development, requiring intensive interventions and treatment to resolve.¹⁵ Several studies have found that those on the margin of foster care placement have better outcomes when they remain at home compared to when they are placed into foster care.¹⁶ Researchers have also found that mothers whose children are taken into care by child protection services are two to three times more likely to be diagnosed with mental illness, change residences, and utilize welfare programs compared to women whose children remained in their custody.¹⁷

It is possible to address some contributing factors of foster care placements with the provision of civil legal advocacy.¹⁸ Conversely, civil legal advocacy is also a form of preventive support that increases families and individuals awareness of existing services, supports, rights, and resources.

¹¹ <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport27.pdf>

¹² Id at page 2.

¹³ See, Church, C., Mitchell, M., and Sankaran, V. (2019). A CURE WORSE THAN THE DISEASE? THE IMPACT OF REMOVAL ON CHILDREN AND THEIR FAMILIES, 102 Marq. L. Rev. 1163. See also Sugrue, E. (2019). *Evidence Base for Avoiding Family Separation in Child Welfare Practice: An Analysis of Current Research*. Commissioned by Alia. <https://protect2.fireeye.com/url?k=65d4abfc-3980b280-65d49ac3-0cc47adc5fa2-09cda7b346d2009a&u=https://researchbrief.aliainnovations.org/>

¹⁴ Kristin Turney & Christopher Wildeman (2016), Mental and Physical Health of Children in Foster Care, *Pediatrics*, Vol. 138, No. 8, <https://pediatrics.aappublications.org/content/138/5/e20161118>

¹⁵ See Sankaran, Vivek. "Using Preventive Legal Advocacy to Keep Children from Entering Foster Care." *Wm. Mitchell L. Rev.* 40, No. 3 (2014): 1036-47.

¹⁶ Joseph J. Doyle, Jr. (2013), Causal Effects of Foster Care: An Instrumental Variables Approach, *Children and Youth Services Review* Vol. 35, No. 7, <https://www.sciencedirect.com/science/article/abs/pii/S0190740911000983>. See also Joseph J. Doyle, Jr. (2007), Child Protection and Child Outcomes: Measuring the Effects of Foster Care, *American Economic Review* Vol. 97, No. 5, <https://www.aeaweb.org/articles?id=10.1257/aer.97.5.1583>

¹⁷ Elizabeth Wall-Wieler et al. (2017), Maternal Health and Social Outcomes After Having a Child Taken into Care: Population-based Longitudinal Cohort Study Using Linkable Administrative Data, *J. Epidemiol Community Health* Vol. 71, No. 12, <https://pubmed.ncbi.nlm.nih.gov/28983064/>

¹⁸ See Sankaran, Vivek. "Using Preventive Legal Advocacy to Keep Children from Entering Foster Care." *Wm. Mitchell L. Rev.* 40, no. 3 (2014): 1036-47. See also <https://www.casey.org/preventive-legal-support/#:~:text=Pre%2Dpetition%20or%20preventive%20legal,prevent%20child%20maltreatment%20and%20extended>

This increased awareness can enhance personal agency and improve access to and participation in an array of opportunities that build skills and competencies, and promote health, wellness, and self-sufficiency. In the long-term, utilization of these types of proactive supports may also mitigate the need for mandated reporters to make so many unnecessary reports of suspected maltreatment to child protective services.¹⁹

When preventive services fail, or if true emergency situations arise and necessitate a child's removal from the home, civil legal services can help speed reunification by eliminating barriers to parents participating in or focusing on the primary capacities needed to safely parent. Studies show that when children are removed from the home, having access to legal representation earlier in a case can improve the rate of reunification,²⁰ nearly double the speed to legal guardianship or adoption,²¹ and result in more permanent outcomes for children and families.²²

Outside of the child welfare context, research shows that civil legal advocacy can help resolve a number of common challenges that may otherwise destabilize lives and jeopardize the well-being of individuals and families.²³ For example, helping victims of intimate partner violence obtain restraining orders against their abusive partners can help them secure custody of their children, find safe places to reside, forge connections with counseling services, and begin on the road to healing.²⁴ Other examples include expunging a juvenile or minor criminal matter that opens the door for more employment opportunities, or assistance with immigration matters that may allow an individual to legally participate in the workforce.²⁵ Evidence of the financial benefits of civil legal advocacy is growing as evaluations and studies are increasingly identifying return on investment and cost saving from avoiding costly forms of treatment, intervention, or government assistance that may have been necessary had civil legal advocacy not been provided to ameliorate challenges before they become more severe.²⁶

¹⁹ Of the more than 3.5 million children who received an investigative or alternative response, less than 17% of the reports were substantiated. In other words, CPS investigates considerably more non-victims than victims. See Child Maltreatment Report, at 18-19, <https://www.acf.hhs.gov/cb/resource/child-maltreatment-2018>

²⁰ Elizabeth Thornton & Betsy Gwin (2012), High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost Savings, *Family Law Quarterly* Vol. 26, No. 1, <https://www.jstor.org/stable/23240377?seq=1>

²¹ Mark E. Courtney & Jennifer L. Hook (2012), Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care, available at https://partnersforourchildren.org/sites/default/files/2011_evaluation...impact_of_enhanced_parental_legal_representation....discussion_paper.pdf

²² Steve M. Wood et al. (2016), Legal Representation in the Juvenile Dependency System: Travis County, Texas' Parent Representation Pilot Project, *Family Court Review* Vol. 54, No. 2, <https://onlinelibrary.wiley.com/doi/full/10.1111/fcre.12218>

²³ Casey Family Programs (2020), How Can Pre-Petition Legal Representation Help Strengthen Families and Keep Them Together?, <https://www.casey.org/preventive-legal-support/>. See also Karlee M. Naylon & Karen A. Lash, Using Legal Aid to Keep Families together and Prevent Child Welfare Involvement, *The Guardian*, Vol 42, No. 1, Spring 2020. https://cdn.ymaws.com/www.naccchildlaw.org/resource/resmgr/guardian/2020_spring/guardian_2020_v42n01_r7.pdf

²⁴ Jacqueline G. Lee & Bethany L. Backes (2018), Civil Legal Aid and Domestic Violence: a Review of the Literature and Promising Directions, *Journal of Family Violence* Vol. 33, <https://link.springer.com/article/10.1007/s10896-018-9974-3>. See also Karlee M. Naylon & Karen A. Lash, How can Civil Legal Help Keep Families Together and Keep Kids out of Foster Care, Karlee M. Naylon, and Karen A. Lash *CBX* Vol. 21 No. 3. "Studies show the effectiveness of civil legal interventions to stabilize a family experiencing domestic violence, such as helping survivors file a protection order, secure child custody, finalize a divorce, and obtain employment and housing."

²⁵ J.J. Prescott & Sonja B. Starr (2019), Expungement of Criminal Convictions: An Empirical Study, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620

²⁶ See How can Civil Legal Help Keep Families Together and Keep kids out of Foster Care, Karlee M. Naylon, and Karen A. Lash *CBX* Vol. 21 no. 3 "many states have published reports documenting legal aid organizations' effectiveness in helping

Civil legal advocacy is an essential tool to remove obstacles to family and individual success, prevent or mitigate harm, and maximize opportunities that help families remain healthy, stable, and self-sufficient.

II. Sources of Funding For Civil Legal Advocacy

The primary source of funding for civil legal advocacy for low-income people in the United States is the Legal Services Corporation (LSC). However, a lack of available resources leaves LSC-funded organizations unable to address the vast majority (85 - 97 percent) of civil legal problems.²⁷ Because of this, legal aid nonprofits providing free legal help, and their civil justice partners, must seek additional funding sources including both private philanthropy and other public funds. Outlined here are federal funding sources a state, tribe, or territory may use to support legal advocacy efforts within the human services domain. Some innovative efforts utilize a combination of public and private funding. The need for and benefit of civil legal advocacy is recognized across multiple federal agencies and programs---many of which are health and well-being oriented, including: the Health Resources Service Administration (HRSA), the Maternal and Child Health Bureau (MCHB), Substance Abuse Mental Health Services Administration (SAMHSA), the Children's Bureau (CB), the Office of Family Assistance (OFA), the Department of Housing and Urban Development, the Centers for Medicare and Medicaid Services, and the Department of Justice Office for Victims of Crime (DOJ OVC). That each of these agencies administer funding sources that may be used to support states and tribes to fund civil legal advocacy, demonstrates a broad and unified understanding that civil legal issues directly impact health, well-being, and stability in the lives of children, families, and individuals.²⁸

a. Federal funding sources

- **TANF**

TANF is the federal government's primary cash assistance program for needy families. The federal government gives states block grants to design and operate programs that accomplish one of the four purposes of the TANF program: Provide assistance to needy families so that children can be cared for in their own homes; Reduce the dependency of needy parents by promoting job preparation, work, and marriage; Prevent and reduce the incidence of out-of-wedlock pregnancies; and encourage the formation and maintenance of two-parent families.

people access benefits by helping families apply for or appeal erroneous denials of services and benefits, such as the Children's Health Insurance Program, home energy assistance, Medicaid, Supplemental Nutrition Assistance Program, Social Security Disability Insurance, Supplemental Security Income, and Temporary Assistance for Needy Families (TANF).” See also <https://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/PhiladelphiaEvictionsReport.pdf>

²⁷ Legal Services Corporation (2017), The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans, <https://www.lsc.gov/media-center/publications/2017-justice-gap-report#:~:text=Common%20civil%20legal%20problems%20among,%2C%20income%20maintenance%2C%20and%20disability>

²⁸ See Grants Matrix for examples of federal pass-through funds that can include legal aid, <https://www.american.edu/spa/jpo/toolkit/module-2.cfm#Grants>.

Legal aid can further the TANF program’s goals of helping needy families achieve self-sufficiency and provide support for job preparation and employment alongside other social services. OFA indicated in its TANF Program Policy Questions and Answers that states can use TANF funds to support legal help for needy families pursuing SSI benefits and to resolve personal or family legal problems, “e.g., where legal problems are a threat to family stability or undermine the employment of needy parents.”²⁹

- Medicaid

Medicaid and related federal funding for healthcare has been used to provide families with access to civil legal aid that promotes the social determinants of health. There are at least two options that have been utilized in the past. First, Medicaid Managed Care Organizations coordinate community-based non-medical services and have discretion to include services that are designed to improve quality and health outcomes and/or reduce health care costs.³⁰ Medical-Legal Partnerships, described below, have been funded, at least in part, through the “value-added services” provision to provide legal aid to enrollees that has been documented to improve health and reduce healthcare costs.³¹

Second, federal law allows for experimental, pilot, or demonstration projects that may promote the objectives of the Medicaid program, commonly referred to as §1115 waivers. If a state pursues a §1115 waiver for the purposes of addressing enrollee’s social determinants of health, legal services would be an appropriate and important inclusion in the waiver. The Los Angeles County Department of Health was approved for a §1115 demonstration waiver that included a partnership with Neighborhood Legal Services of Los Angeles County to address legal barriers to enrollees that are negatively impacting their health and well-being.³²

- Title IV-B of the Social Security Act (SSA)

ACF’s CB has determined that states and tribal grantees may use kinship navigator funds provided under title IV-B, subpart 2 of the Act to provide brief legal services to “assist kinship caregivers in learning about, finding and using programs and services to meet the needs of the children they are raising and their own needs,” which may include “support[ing] any other activities designed to assist kinship caregivers in obtaining benefits and services to improve their caregiving.”³³ See section 427(a)(1) of the Act.

Service Decision-Making process for Family Support Services (45 CFR 1357.15(r))

The Family Support Services component of the MaryLee Allen Promoting Safe and Stable Families program represents an important source of funding for community-based prevention

²⁹ See <https://www.acf.hhs.gov/ofa/resource/q-a-use-of-funds?page=all>. See also Question 10 in The Justice in Government Project’s FAQs About Legal Aid & TANF (last updated May 2020) for examples of states and counties that fund civil legal advocacy using TANF funds, <https://www.american.edu/spa/jpo/upload/faqs-about-tanf-11-1-19.pdf>

³⁰ 42 C.F.R. § 438.3(e)(1)(i)

³¹ National Center for Medical-Legal Partnerships, Fact Sheet: Financing Medical-Legal Partnerships, at 6 (2019), *available at*, <https://medical-legalpartnership.org/wp-content/uploads/2019/04/Financing-MLPs-View-from-the-Field.pdf>

³² <https://dhs.lacounty.gov/more-dhs/departments/whole-person-care/medical-legal-partnership/>

³³ <https://www.acf.hhs.gov/cb/resource/technical-bulletin-faqs-legal-representation>

efforts. The statute specifically requires that these services be community-based (section 431(a)(2)(A)) of the SSA. Family Support Services may include offering information and referral services to afford families access to other community services, including legal services to help families prevent evictions, loss of benefits or other issues that may make them vulnerable to entry into the child welfare system.

- HRSA Health Center Program

HRSA has been a leader in support of medical-legal partnerships (MLPs). Under the Health Center Program,³⁴ health centers may use their federal funding to support on-site civil legal aid to address the health-harming legal concerns of their patients.³⁵ Health centers and potential health centers also have access to training and technical assistance resources to assist them in adopting and enhancing MLPs through a HRSA-funded cooperative agreement with the National Center for Medical-Legal Partnership.³⁶

- Title V Maternal and Child Health Services Block Grant

Authorized under Title V of the Social Security Act, the Title V Maternal and Child Health (MCH) Services Block Grant Program³⁷ is a formula grant under which funds are awarded to 59 states and jurisdictions to address the health services needs within a state for mothers, infants and children, which includes children with special health care needs (CSHCN), and their families. HRSA's Title V MCH Services Block Grant, administered by HRSA's MCHB, aims to increase access to quality health care for mothers and children, especially for people with low incomes and/or limited availability of care; promote efforts that seek to reduce infant mortality and the incidence of preventable disease; increase primary and preventive care services for children as well as rehabilitative services for CSHCN; increase access to comprehensive prenatal and postnatal care for women; and assure a family-centered, community-based systems of coordinated care for children with special health care needs.

Each state conducts a needs assessment every 5 years to identify seven to ten priority needs and build a state action plan to address those needs through evidence-based or –informed strategies and programming. As a federal-state partnership, the Title V MCH Services Block Grant consists of federal funding which is matched with state funding. At a state's direction and discretion, these funds are allocated to address its priority and emerging needs through direct, enabling, and population-based and system services for its MCH populations. A state could choose to support civil legal advocacy efforts through its Title V MCH Services Block Grant funds, if such efforts were consistent with state needs/priorities and the purpose/requirements of the Block Grant.

- HRSA's Early Childhood Programs

³⁴ [Health Center Program](#)

³⁵ <https://bphc.hrsa.gov/sites/default/files/bphc/programrequirements/scope/form5aservicedescriptors.pdf>

³⁶ <https://bphc.hrsa.gov/qualityimprovement/strategicpartnerships/ncapca/national-training>

³⁷ [Title V Maternal and Child Health \(MCH\) Services Block Grant Program](#)

HRSA's early childhood systems programs within MCHB support states and communities to build and sustain multigenerational systems for prevention and intervention, focusing on the prenatal-to-3 years old period to promote family and young child well-being. These programs address systemic barriers in coordination, equity, and reach that are necessary for all children to achieve their optimal potential, including systemic approaches to improve social determinants of health and reduce caregiver stress, such as civil legal challenges. Partnerships and alignment with these programs can help reach and engage families in need of civil legal advocacy and provide them with wraparound services.

Early childhood systems programs can support the following: a) state and local level partnership-building between maternal and child health, child welfare, and legal aid; b) coordination of screening and referral related to legal needs through health systems and other providers or systems, such as infant-toddler courts and coordinated intake and referral systems; and c) integration of civil legal advocacy, and related planning for financing and policy development, into state and local early childhood strategic plans.

Specific program examples highlight potential opportunities. The Early Childhood Comprehensive Systems (ECCS) Health Integration Prenatal-to-Three program³⁸ supports state capacity and infrastructure to develop or expand community integrated service systems, with a focus on connecting services such as legal assistance with the health system. The Infant-Toddler Court program³⁹ provides training and technical assistance to guide legal and other family-serving professionals in providing effective, trauma-informed services for families involved in the child welfare system and in building multidisciplinary community teams that can effectively meet families' needs to prevent or mitigate child maltreatment. Through the Maternal, Infant, and Early Childhood Home Visiting program,⁴⁰ home visitors assess the needs of pregnant women and families with children up to kindergarten entry, and provide referrals to appropriate services, including legal services.

- HRSA's Ryan White HIV/AIDS Program (RWHAP)

HRSA's RWHAP⁴¹ provides a comprehensive system of HIV primary medical care, essential support services, and medications for low-income people with HIV. Essential support services are defined as needed for individuals with HIV/AIDS to achieve their medical outcomes, which includes legal services. Among the essential support services allowable under RWHAP are professional services. Such services may include legal services provided to and/or on behalf of the individual living with HIV and involving legal matters related to or arising from their HIV disease, permanency planning to help clients/families make decisions about the placement and care of minor children after their parents/caregivers are deceased or are no longer able to care for them, and income tax preparation services to assist clients in filing federal tax returns that are required by the Affordable Care Act for all individuals receiving premium tax credits.⁴² Legal services allowable under RWHAP exclude criminal defense and class-action lawsuits unless

³⁸ [Early Childhood Comprehensive Systems \(ECCS\) Health Integration Prenatal-to-Three Program](#)

³⁹ [Infant-Toddler Court Program](#)

⁴⁰ [Maternal, Infant, and Early Childhood Home Visiting Program](#)

⁴¹ [RWHAP](#)

⁴² https://hab.hrsa.gov/sites/default/files/hab/Global/service_category_pcn_16-02_final.pdf

related to access to services eligible for funding under RWHAP.

- SAMHSA Block Grants

The goal of the State Opioid Response (SOR) formula grant program is to address the opioid crisis by increasing access to medication-assisted treatment; reducing unmet treatment need; and providing prevention, treatment, and recovery activities to reduce opioid overdose-related deaths. SOR grants are awarded based on an allocation formula weighing the state's proportion of people with abuse or dependence on opioids who need but do not receive treatment, and the state's proportion of overdose deaths. There is also a 15 percent set-aside for states with the highest rate of drug overdose deaths.

The FY 2020 SOR Funding Opportunity Announcement explains that grantees are “required to employ effective prevention and recovery support services to ensure that individuals are receiving a comprehensive array of services across the spectrum of prevention, treatment, and recovery.” Civil legal advocacy can potentially help advance these goals through prevention, service delivery, and comprehensive recovery support services that facilitate effective treatment outcomes and long-term recovery.⁴³

The Substance Abuse Prevention and Treatment Block Grant (SABG) and Community Mental Health Services Block Grant (MHBG) programs provide funds and technical assistance to grantees in order to treat substance abuse and provide mental health services within coordinated, comprehensive public health systems. The SABG program seeks to “help plan, implement, and evaluate activities that prevent and treat substance abuse” among different populations, including pregnant women and parents with a substance use and/or mental disorder; individuals with communicable diseases; persons living with or at risk of HIV/AIDS; and persons who experience homelessness and involvement in the criminal justice system. MGBG's goal is to provide comprehensive mental health services to adults with serious mental illness and children with serious emotional disturbance.⁴⁴

SAMHSA's joint SABG and MHBG FY 2020-2021 Block Grant Application states that grantees “may wish to develop and support partnerships and programs to help address social determinants of health and advance overall health equity. For instance, some organizations have established medical-legal partnerships to assist persons with mental and substance use disorders in meeting their housing, employment, and education needs.”⁴⁵

- Victims of Crime Act Victim Assistance Formula Grant Program

⁴³ <https://www.samhsa.gov/sites/default/files/grants/pdf/fy-2020-sor-foa.pdf>

⁴⁴ <https://www.samhsa.gov/grants/block-grants/mhbg>

⁴⁵ Id

The Victims of Crime Act (VOCA)⁴⁶ of 1984 established the Crime Victims Fund, the nation's primary funding source to help victims of all types of crimes.⁴⁷ Among the VOCA-authorized grant programs are the state administered Victim Assistance Formula Grants, which provide funding to groups and direct services for victims. The DOJ OVC awards VOCA Victim Assistance Formula Grants in accordance with VOCA and the Victim Assistance Rule and related guidance.⁴⁸ States' and tribes' administering agencies, in turn, provide sub-grants to local public agencies and community service providers that help individuals, families, and communities recover from the short- and long-term impacts of victimization.

The DOJ OVC VOCA Assistance rule became effective August 8, 2016, and included the clarification that state VOCA administrators have the freedom and flexibility to use their funds for a broad array of legal needs beyond the immediate aftermath of a crime, and that an individual's eligibility to receive VOCA-funded services is not dependent on immigration or citizen status.⁴⁹ DOJ OVC has also identified a non-exhaustive list of legal services that state VOCA administrators could fund, including to help intimate partner violence survivors, and abused and neglected children.⁵⁰

- U.S. Department of Housing and Urban Development:

Community Development Block Grant (CDBG) funds can be spent on legal services, such as legal representation of tenants facing eviction, walk-in legal counseling, landlord/tenant matters, and foreclosure mitigation and prevention.⁵¹

b. Non-federal sources of funding

It is also common for civil legal advocacy programs to receive state, local, and philanthropic funding. A few examples of additional funding sources include:

- State and county general funds: One source of potential state general funds is reimbursement dollars for expenditures on legal representation for children who are candidates for or currently in foster care and their parents under Title IV-E of the SSA.⁵² Investing reimbursement dollars in civil legal advocacy is a strategy to help prevent the need for intensive government intervention and can lead to cost savings.

⁴⁶ To learn more about VOCA visit [VOCAPedia](https://www.american.edu/spa/jpo/toolkit/upload/faqs-about-voca-1-7-19.pdf). See also [The Justice in Government Project's FAQs About Legal Aid & VOCA \(last updated May 26, 2020\)](https://www.american.edu/spa/jpo/toolkit/upload/faqs-about-voca-1-7-19.pdf), <https://www.american.edu/spa/jpo/toolkit/upload/faqs-about-voca-1-7-19.pdf>

⁴⁷ <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/pubs/crimevictimsfundfs/intro.html#FundSupport>

⁴⁸ <https://www.federalregister.gov/documents/2016/07/08/2016-16085/victims-of-crime-act-victim-assistance-program>

⁴⁹ Id

⁵⁰ <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/comparison-VOCA-victim-assistance-guidelines-and-final-rule.pdf>

⁵¹ See Chapter 7: Public Services in Basically CDBG for States and Basically CDBG for Entitlements.

<https://www.hudexchange.info/sites/onecpd/assets/File/Basically-CDBG-State-Chapter-7-Public-Services.pdf><https://files.hudexchange.info/resources/documents/Basically-CDBG-Chapter-7-Public-Services.pdf>

⁵² Federal guidance on how a Title IV-E agency may claim federal reimbursement for independent legal representation for children who are candidates for or in foster care and their parents is provided in this [technical bulletin](#).

- Health care funding: In a survey of nearly 350 medical-legal partnerships, approximately half identified their health care organizational partner as contributing financial support, most often in direct support of legal representation of patients that promotes the social determinants of health.⁵³
- Interest on Lawyers Trust Accounts (IOLTA) and state bar grants for representing low-income clients: Legal advocacy programs may also receive funding from local bar associations that provide grants or funding to support civil legal aid.⁵⁴ These programs may be funded in a variety of ways, including IOLTA funds or portions of membership dues.⁵⁵
- Law schools: Many law schools around the country operate clinical programs that provide civil legal advocacy in a variety of areas.⁵⁶ Such efforts are funded in a variety of ways and allow for students to gain experience providing civil legal advocacy under the supervision of staff attorneys.

III. Models and Approaches to Provide Civil Legal Advocacy

There are a number of different approaches and models human service delivery systems are utilizing to support the provision of civil legal advocacy to promote health and well-being and reduce the occurrence of poor outcomes for children, families, and young people. Descriptions of three common types of agreements or partnerships are below.

a. MLP

A MLP conceptualizes lawyers and multi-disciplinary legal teams as core members of a health care team. Similar to how a doctor in a hospital or outpatient clinic may refer a child with severe asthma to a sub-specialty clinic such as pulmonology, an MLP empowers health care staff to refer families to a legal team to address and promote the social determinants of health. Consider the pulmonologist's treatment of a child with severe asthma: options might include various medications and lifestyle management recommendations. However, if the child is living in an apartment with severe mold, their asthma is not likely to improve despite clinical treatment. As part of an MLP, the lawyer can assist the family with enforcing their rights under federal, state, and local housing laws to remedy the mold growth and ensure the family has a safe and habitable home.

MLP's are growing in popularity: according to the National Center for Medical Legal Partnership, there are at least 450 existing MLP's.⁵⁷ MLP's are funded in a variety of ways,

⁵³ See National Center for Medical-Legal Partnerships, Fact Sheet: Financing Medical-Legal Partnerships, (2019), *available at*, <https://medical-legalpartnership.org/wp-content/uploads/2019/04/Financing-MLPs-View-from-the-Field.pdf>

⁵⁴ See, e.g., <https://www.gabar.org/aboutthebar/lawrelatedorganizations/iolta/iolta.cfm>; <https://www.scbarr.org/lawyers/bar-programs/pro-bono-program/>

⁵⁵ See National Center for Medical-Legal Partnerships, Fact Sheet: Financing Medical-Legal Partnerships, (2019), *available at*, <https://medical-legalpartnership.org/wp-content/uploads/2019/04/Financing-MLPs-View-from-the-Field.pdf>

⁵⁶ See https://www.americanbar.org/groups/center-pro-bono/resources/directory_of_law_school_public_interest_pro_bono_programs/definitions/pi_pi_clinics

⁵⁷ <https://medical-legalpartnership.org/about-us/faq/>

including a mix of federal, state, charitable, and private resources. MLP's have a growing evidence base that demonstrates they reduce health care costs, improve family and community health, and help raise awareness about the impact of conditions in a home or community on children's health.⁵⁸ At least one scholar has outlined how pediatric MLP's present an opportunity for child welfare to realize the impact legal services may have on reducing the need for child welfare involvement in many families.⁵⁹ HRSA supports implementation of MLP's at its HRSA-funded community health centers.⁶⁰

b. Agreements and partnerships between child welfare agencies and legal services providers

An increasing number of child welfare agencies have established relationships with legal services providers to help divert families struggling with poverty issues from making unnecessary contact with child protective services or to provide civil legal advocacy to families that are involved with the child welfare system to address issues that may delay reunification, guardianship, or other permanency goals. Representation to reduce the likelihood of contact with formal child protective services is commonly referred to as preventive legal services. Such relationships are implemented in a range of ways and can include an informal or formal agreement for the child welfare agency to make direct referrals to legal services organizations via hotline workers, investigators, or caseworkers to memorandums of understanding and in some instances formal fee for service contracts. Some arrangements include embedding or co-locating legal services staff physically (attorneys, peer partners, or other members of legal teams) in family serving nonprofits, family resource centers, or other human services offices or hubs where families may seek support.

c. Targeted legal services in high-risk communities

In areas where an acute civil legal need is prevalent, there are also civil legal advocacy programs and approaches that focus on one particular issue such as housing, immigration, education, or labor. Such efforts are highly specialized on issues that are disproportionately impacting families or individuals in a community. Legal teams that operate a targeted legal services program are deeply experienced in resolving a very discrete number of issues, often only one, and are also often involved with system and law reform work.

One such example is the Standing With our Neighbors program in Atlanta, GA. In 2016, the Atlanta Volunteer Lawyers Foundation saw the need to address housing instability for students attending Thomasville Heights Elementary School, a school in a high-poverty neighborhood. By embedding supportive legal services focused on living conditions and housing stability in Thomasville Heights Elementary, the program was able to reduce the student transiency rate by 14 percent and improve children's health, and has since expanded to operate in 8 other Atlanta schools.⁶¹

⁵⁸ <https://medical-legalpartnership.org/impact/>

⁵⁹ Kara Finck, Medical Legal Partnerships and Child Welfare: An Opportunity for Intervention and Reform, 28 Widener Commw. L. Rev. 23 (2019).

⁶⁰ <https://medical-legalpartnership.org/wp-content/uploads/2016/07/Building-Resources-to-Support-Civil-Legal-Aid-at-Health-Centers.pdf>

⁶¹ <https://avlf.org/standing-with-our-neighbors/>

IV. Conclusion

Well-being is the common denominator and fundamental charge across federal agencies that administer programs that serve low-income families and individuals in states, tribes, and territories. Each federal program plays a critical role in addressing the social and structural determinants of health and enhancing protective factors in communities. This includes working to create positive environments, conditions, and opportunities for children, families, and individuals so that they may reach their best potential as well as addressing and sometimes providing redress to remove or reduce risks of harm or threats to family stability and family integrity. It can also be preventive, especially in the child welfare context, as a powerful means for preserving family integrity. Civil legal advocacy is vital to ensuring access to and participation in programs and services that benefit children, young people, families, and individuals, and promoting community resiliency and stability. It is a tool for helping parents, caregivers, and individuals build knowledge of and gain access to programs and services that promote health, well-being, and build protective capacities. As such, civil legal advocacy is a critical strategy to help ensure federally administered programs are successful. We strongly encourage all human services entities to consider and explore the models, partnerships, and approaches included in this memorandum and examine current federal, state, local, and philanthropic funding streams and sources to support civil legal advocacy to help achieve positive outcomes for children and families.

Inquiries: [CB Regional Program Managers](#)

/s/

Lynn A. Johnson
Assistant Secretary
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Attachment

Appendix A: Examples of Civil Legal Advocacy Programs and Approaches to Promote Well-being

Resources:

[Legal Aid & TANF FAQs](#)

[Legal Aid & VOCA FAQs](#),

[National Center for Medical Legal Partnership](#)

[National Legal Aid and Defender Association: Addressing the Opioid Crisis presentation](#)

[Chapin Hall Research Brief No. 6](#)

<https://www.casey.org/quality-parent-representation/>

Appendix A: Examples of Civil Legal Advocacy Programs and Approaches to Promote Well-being

This section includes descriptions of an array of efforts to provide civil legal advocacy to help promote child and family well-being. The examples presented offer a range of approaches and models that a state, tribe, or territory may consider implementing to help maximize access to participation in civil legal advocacy programs and increase the effectiveness of programs, services, and supports, and position families and children for ongoing health and success.

Iowa Legal Aid Parent Representation Project Pre-Petition Advocacy

The Iowa Legal Aid Parent Representation Project uses a multidisciplinary team approach to work with parents and caregivers involved in the child welfare system. The Project Team, comprised of a lawyer, case manager, and parent advocate, holistically supports the caretaker to achieve positive outcomes for the family. The team receives referrals from the Iowa Department of Human Services (IDHS) for a parent or caretaker with a civil legal issue that if resolved would stabilize the family, prevent juvenile court intervention, and reduce the chances of out of home placement. Parents and caretakers are offered legal and social work advocacy to address matters including custody, orders of protection, affordable housing, and other issues faced by those in poverty. To get assistance through the project, IDHS identifies that a family has a civil legal need and a referral is made to the project. Project staff make contact with the client, gather background information, and provide advice concerning the presenting issue. If additional assistance is needed, such as obtaining a protective order or preventing an eviction, project staff discuss the case to determine if this legal intervention will allow their case to close with IDHS and/or lessen the chances of juvenile court intervention or out of home placement. If so, they provide representation and advocacy to resolve the legal issue. Project staff meet once a week to discuss all cases to ensure that all of clients' needs are met. The Parent Representation Project receives funding through a variety of state and private funding sources.

The Legal Services of New Jersey (LSNJ) Model for Removal Prevention

LSNJ has a relationship with the New Jersey Department of Child Protection and Permanency (DCPP) establishing an intake and referral process whereby DCPP has the option of making referrals directly to LSNJ to activate a legal team to advocate on behalf of parents and address issues that may make removal to foster care likely. The Model takes a comprehensive approach to addressing child welfare concerns, empowering clients, and providing multidisciplinary support through a team of legal advocates, social workers, and a parent ally mentor. The process begins with DCPP caseworkers, supervisors, and investigators identifying a family with safety concerns rooted in poverty. If DCPP is unable to resolve these concerns with the available tools and services, it refers the case to LSNJ for intake and advice. Each case is assessed by an LSNJ Family Representation Project attorney for its specific needs and based on that initial assessment, the client receives advice on the child welfare process within 24 hours from that initial contact. The client learns their rights and have the comfort of knowing that DCPP and LSNJ are supporting their efforts to keep their family together. The LSNJ advocate also asks the client about their concerns and goals and then utilizes this information to refer the case to other members of LSNJ's multi-sectoral team. LSNJ advocates, social workers, parent ally, and other team members regularly check in with the

client, ensuring that they feel supported in achieving their goals. LSNJ's work under the model operates exclusively on state funds.

Legal Aid Services of Oklahoma (LASO)

LASO employs nearly 150 attorneys, half of which are embedded within other non-profits. The non-profits provide shelter and services for the homeless and survivors of violence, assist formerly incarcerated persons with successful reentry, provide substance abuse treatment and provide health care. In each example, the non-profit was experiencing frustration by the ability of civil legal problems to extend and create homelessness, continue violence, increase recidivism, sabotage substance abuse treatment and perpetuate bad health. Connecting a person needing access to civil legal services is not as easy as a referral from a nonprofit service provider. Referral connections often missed due to fear, transportation, intimidation, and the ongoing belief that all lawyers charge fees. LASO attorneys need to be where clients already congregate for needed services. LASO's presence on site provides immediate access, prevention of future problems, and the resolution of existing problems as part of an overall client improvement strategy with the non-profit. <https://www.legalaidok.org/> is the LASO website. All of the LASO embedded attorneys are funded through collaborative resource development efforts with the non-profit. Funders include federal, state, and local government and private funders. Every embedded relationship is governed by a Memorandum of Understanding (MOU) between LASO and the non-profit. MOU's establish commitments from the non-profit to provide space and referrals.

Legal Aid of West Virginia

Since 2003, Legal Aid of West Virginia (LAWV) has jointly operated a project with the state's Department of Health and Human Resources in order to assist Temporary Assistance for Needy Families (TANF) recipients with pressing legal needs. In each of LAWV's 12 offices, the WV WORKS Legal Support Project is staffed with paralegal advocates and a number of regional attorneys. Up until 2017, the Project primarily focused on issues impeding self-sufficiency and safety (e.g., housing, domestic violence, and employment). However as the opioid epidemic unfolded, LAWV staff reported that the composition of WV's caseload was shifting. Consequently, since 2018, LAWV's staff funded by the WV WORKS Legal Support Grant has included a Kinship Resource Attorney and the Project has offered an array of legal services to meet the specific needs of children and their caretaker relatives who have been impacted by the opioid epidemic.

The goal of LAWV's Lawyer in the School Project is to stabilize the lives of elementary school children who attend Title I schools in some of WV's most challenged communities by providing onsite legal help to their families on issues such as eviction, disrupted income, and legal custody for caregivers.¹ While the lawyer in the school service model was initially developed as a Legal Services Corporation (LSC) pro bono grant, project staff quickly identified substance use disorder as a major issue for the families they served, many of whom

¹ See <https://www.lawv.net/Get-Informed/Blog/Article/77/Lawyer-in-the-School>. See also Legal Services Corporation & Legal Aid of West Virginia (2018), Lawyer in the School Start Up Guide, <http://www.nlada.org/sites/default/files/LAWV%20Digital%20Lawyer%20in%20the%20School%20Guide.pdf> and National Legal Aid & Defender Association (2019), Lawyer in the School and WV WORKS Legal Support Project, <https://www.american.edu/spa/jpo/toolkit/upload/legal-aid-of-west-virginia-s-lawv-lawyer-in-the-school-project.pdf>

were headed by kinship caregivers. LAWV Applied for and received a Department of Justice Office for Victims of Crime (DOJ OVC) grant earmarked for assisting children impacted by the opioid epidemic, Enhancing Community Responses to the Opioid Crisis: Serving Our Youngest Crime Victims. With this funding, the Project provides onsite legal help to affected children and their caregivers at regular school-based clinics in Marion, Cabell, and Wayne counties, screens families to determine whether they are in need of longer term direct representation, provides legal information presentations to families, and participates in a community response network.

Tennessee Alliance for Legal Services

Tennessee Alliance for Legal Services (TALS) is a statewide non-profit that aims to increase collaboration, support, training opportunities, resource development, and monitoring within a broad network of civil legal assistance providers throughout Tennessee. In collaboration with the Tennessee Department of Human Services (TDHS), TALS and its partner legal aid firms are working to halt intergenerational poverty and help families achieve economic stability through the Cycles of Success program. With the help of unused state TANF funds and TDHS's Two-Generation (2Gen) Approach, Cycles of Success provides legal assistance to children and caregivers while offering other wraparound services tailored to the needs of participating families. The 2Gen framework engages partners across the public and private sectors and employs experience and expertise with a focus on education, economic supports, health and wellbeing, and social capital.²

Chicago Law and Education Foundation (CLEF) School-Based Civil Legal Clinic

The Chicago Law and Education Foundation (CLEF) provides Chicago Public School students and families access to free and direct legal services and education related to housing, juvenile criminal expungement, intimate partner violence, and immigration at nine partner high schools and libraries.³

Atlanta Volunteer Lawyers Foundation (AVLF) Standing with Our Neighbors Program

The Standing with Our Neighbors program is a partnership between Atlanta Volunteer Lawyers Foundation (AVLF), area schools, and other community allies to provide direct outreach and legal services to low-income families experiencing housing instability or habitability problems in Atlanta.⁴ The program first launched at a single elementary school in 2016, and has since expanded and embedded AVLF staff attorneys and community advocates in nine Atlanta schools and partners with nine local law firms. AVLF currently retains a staff of approximately 600 attorney volunteers and law students. Each year, more than 15,000 potential clients contact AVLF for assistance and 5,000 of these individuals receive legal advice or representation from volunteer staff.

²For more information, see <https://www.tn.gov/humanservices/building-a-thriving-tennessee-through-2gen/2gen-partners.html>, <https://www.american.edu/spa/jpo/toolkit/upload/tennessee-cycles-of-success-model.pdf>, and <https://www.tn.gov/humanservices/building-a-thriving-tennessee-through-2gen/about-2gen-in-tennessee.html>.

³ See <http://lawclef.org/>. See also <http://lawclef.org/testimonials/> for examples of legal services CLEF has provided.

⁴ See <https://avlf.org/standing-with-our-neighbors/>. See also <https://avlf.org/programs/> for descriptions of AVLF's other programs.

Moran Center for Youth Advocacy School-Based Civil Legal Clinic (Evanston, IL)

Moran Center for Youth Advocacy's School-Based Civil Legal Clinic (SBCLC) provides free information and legal assistance to families with children in Evanston/Skokie School District 65 in Illinois on a variety of non-criminal topics that may impact a student's ability to stay in school, including adoption and guardianship, family law, housing, public benefits, immigration, and consumer protection.⁵

Healthy Together Medical Legal Partnership (Washington, DC)

Healthy Together is a pediatric Medical Legal Partnership (MLP) based out the Children's Law Center in Washington, D.C.⁶ As one of the oldest MLP's in existence, the Children's Law Center's partnership with the Children's National Medical Center Utilizing a multi-disciplinary legal team, Health Together staff promotes children's well-being by ensuring parents have access to the skills, supports, and services they need to safely care for their children.

In 2015, the Association of American Medical Colleges selected Healthy Together as one of three MLP's to participate in an evaluation to evaluate MLP's impact on patient and community health, cost savings and institutional benefits, and medical student/staff education. While that evaluation is still underway, a number of studies demonstrate that MLPs are a promising innovation for addressing social, legal, and health challenges for underserved and vulnerable populations.⁷

Civil Legal Advocacy Involving Tribes

Eastern Band of Cherokee: The Eastern Band of Cherokee operate a strong long running civil legal aid office. The office prioritizes any cases referred from child welfare. Coordination is overseen through Tribal IV-B.

The Confederated Salish & Kootenai Tribes has been strengthening partnerships and working to transition their child welfare practice from filing court petitions for "Children in Need of Care" to a Court Diversion Program for "Families in Need of Care." The partnership includes the Tribal Court, Child Welfare, the University of Montana's Department of Education, and the Tribal Public Defenders Office Civil Division which seeks to provide holistic representation to clients in civil matters.

⁵ See https://moran-center.org/what-we-do/school-based-civil-legal-clinic/#CLC_Volunteer

⁶ <https://www.childrenslawcenter.org/resource/healthy-together-glance>

⁷ See pages 6-7 at <https://medical-legalpartnership.org/wp-content/uploads/2014/03/Medical-Legal-Partnership-Literature-Review-February-2013.pdf>



Meeting Date: February 4, 2021

Subject: Legal Paraprofessional Licensure and the Initial Appearance Crisis

Type of action requested:

- ☒ Formal action or request
- ☐ Information only
- ☐ Other

From: Will Knight

Presenters: Will Knight

Discussion: The Judicial Council recently approved the licensure of limited scope, non-attorney practitioners to improve access to justice in certain practice areas where the private and public sector fail to adequately provide for litigants' representation needs. In addition to the access to justice issues the legal paraprofessional (LP) program is poised to improve, LPs can also help the nearly 100,000 criminal defendants who currently face initial appearances (and bond determinations) without access to counsel. The Administrative Office of the Courts recently filed a petition (attached) to update the administrative code and applicable rules of procedure to narrowly expand LP scope of representation to include initial appearance advocacy in felony cases. Will Knight will provide a brief update on those efforts and answer any questions or concerns this Commission might have.

Recommended motion: Move that the ACAJ file a formal comment in support of this petition.



Arizona State Courts' Racial Justice Initiatives

While the Arizona Judicial Branch has ongoing initiatives to improve racial justice, more can be done to improve diversity and equality in the judicial system. Planned initiatives include improving the bail system, striving to have a racially and culturally diverse bench and court workforce, ensuring representative juries, and addressing racial disparities in the adult and juvenile justice systems.

To this end, the Arizona Judicial Council and the Commission on Minorities in the Judiciary met on December 17, 2020. The resulting joint session recommendations are targeted for implementation in the Arizona state courts in 2021.

Bail Reform

File Supreme Court rule petitions and amendments to Arizona Code of Judicial Administration (ACJA):

- Allow representation of a defendant by a legal paraprofessional (LP) at an initial appearance hearing to assist with determining the amount of bail and other release conditions
- Require a review hearing if a defendant remains in jail after a judge sets a cash bond
- Modify the current rule clarifying that failure to post the required bail would be grounds for a review hearing



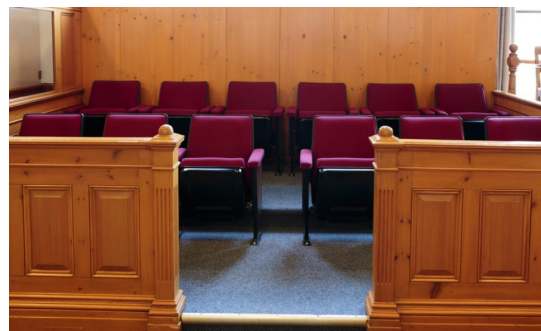
“No-Knock” (Unannounced) and Nighttime Warrants:

- Create a task force to make recommendations regarding no-knock and nighttime warrants, addressing:
 - Statutory and rule changes to clarify requirements to issue a no-knock warrant. As an example, require that requests for no-knock warrants must be approved by a command-level officer or prosecutor.
 - Updated bench scripts and additional judicial training on no-knock and nighttime warrants, including training and materials at new judge orientation.
- Incorporate task force recommendations into bench books and other judicial training platforms

Representative Juries and Juror Service:

Create a jury task force to study and make recommendations regarding:

- Increased racial and ethnic minority participation on juries
- Economic roadblocks that prevent citizens with low incomes from serving on juries, such as juror pay and associated costs such as parking, public transportation, and lost wages
- Sufficiency of prospective juror source lists
- Coordination with tribal nations on improving prospective juror source lists
- Distance issues that present challenges for rural residents to participate in jury service
- Use of the statewide jury management system for collection of demographic information and statistical reporting
- Peremptory challenges to jurors



Plea Bargains:

- Encourage County Attorneys to develop and publish plea bargain guidelines for their county
- Create a task force to make recommendations regarding plea bargains, sentencing and dispositions, addressing:
 - Ways to compile, analyze, and publish demographic data on plea bargains, sentencing, and dispositions
 - Judicial training on plea agreements (improving bias awareness, tracking of dispositions, sufficiency of facts, county attorney plea guidelines, probation discretion, and data entry integrity)
 - Judicial training on best practices in criminal sentencing to ensure that all required assessments and data entry fields are populated and appear on sentencing orders
 - The deployment of public defenders, legal paraprofessionals, or both, to advise defendants about collateral consequences of pleading guilty
 - Clarify by rule, statute, or both, that small bond amounts (\$1-\$100) are not required to ensure that the defendant receives credit for time served when the defendant is also being held on another case.



Disproportionate Minority Contact in Juvenile Justice System:

- Adoption of the juvenile detention screening instrument in all counties
- Adoption of the dispositional matrix tool that determines supervision level based on risk and most serious adjudicated offense in all counties
- Continuing work of the Juvenile Detention Alternative Initiative (JDAI) committees to research, define, and decrease identified racial disparities in their counties
- Publish the *Seventh Arizona Statewide Report Card on Equitable Treatment of Minority Youth* (FY17-19) and present findings to stakeholders
- Research the creation of a data dashboard with demographic breakdowns of juvenile case data to be published on www.azcourts.gov

Enhance the Diversity of the Bench and Court Personnel:

- Explore the establishment of a law student intern/extern program to encourage diverse law school students to gain experience in the courts and encourage them to apply for law clerkships at the Arizona Court of Appeals and Supreme Court
- Encourage the American Bar Association Section of Legal Education and Admissions to the Bar to explore ways to strengthen Standard 206, to promote increased diversity of law school faculty, staff and student bodies
- Modify the Arizona attorney admission application to collect demographic data
- Urge the State Bar of Arizona to identify ways to improve the collection of racial and ethnic membership data
- Collect racial and ethnic demographic data workforce composition on judicial officers and court employees, including probation officers and detention officers





Meeting Date: February 4, 2021

Subject: Legislative Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Elise Kulik, Legislative Liaison

Presenters: Same

Discussion: Legislative Session update and pertinent legislation

Recommended motion: None.



ACAJ February 2021

55th Legislature - 1st Regular Session, 2021

Tuesday, Feb 2 2021 8:55 AM

Bill summaries and histories copyright 2021 Arizona Capitol Reports, L.L.C.

Posted Calendars and Committee Hearings

H2141: APPROPRIATIONS; ALTERNATIVE PROSECUTION; DIVERSION PROGRAM

Hearing: House Judiciary (Wednesday 02/03/21 at 9:00 AM, House Rm. 4)

H2164: COORDINATED REENTRY PLANNING SERVICES PROGRAMS

Hearing: House Criminal Justice Reform (Wednesday 02/03/21 at 2:00 PM, House Rm. 4)

H2189: COORDINATED REENTRY PLANNING SERVICES PROGRAMS

Hearing: House Judiciary (Wednesday 02/03/21 at 9:00 AM, House Rm. 4)

H2599: JAIL; HOME CONFINEMENT ELECTRONIC MONITORING

Hearing: House Criminal Justice Reform (Wednesday 02/03/21 at 2:00 PM, House Rm. 4)

S1249: CONVICTION; SET ASIDE; TRAFFIC VIOLATIONS

Hearing: Senate Judiciary (Thursday 02/04/21 at 9:00 AM, Senate Rm. 1)

S1266: COMPETENCY EVALUATION; RECORDS; APPOINTMENTS

Hearing: Senate Judiciary (Thursday 02/04/21 at 9:00 AM, Senate Rm. 1)

S1322: EVICTION PROCEEDINGS; VIRTUAL APPEARANCES

Hearing: Senate Judiciary (Thursday 02/04/21 at 9:00 AM, Senate Rm. 1)

Bill Summaries

H2141: APPROPRIATIONS; ALTERNATIVE PROSECUTION; DIVERSION PROGRAM

Appropriates \$11,264,625 from the general fund in each of FY2021-22, FY2022-23, and FY2023-24 to the Arizona Criminal Justice Commission for alternative prosecution and diversion programs. Specifies amounts that must be allocated each fiscal year to each county attorney's office. Monies may be used only to establish and operate alternative prosecution and diversion programs, and to explore, develop, apply and evaluate evidence-based best practices for alternative prosecution and diversion programs. By September 30 of 2022, 2023, and 2024, the Commission is required to report to the Joint Legislative Budget Committee on the use of the monies and the outcomes obtained by the alternative prosecution and diversion programs during the previous fiscal year.

First sponsor: Rep. Pratt (R - Dist 8)

H2141: APPROPRIATIONS; ALTERNATIVE PROSECUTION; DIVERSION PROGRAM 1/25 referred to House jud, appro.

H2164: COORDINATED REENTRY PLANNING SERVICES PROGRAMS

Counties are authorized to establish a coordinated reentry planning services program within a county jail for the purpose of screening and assessing persons who are booked into the jail and connecting those persons with behavioral health and substance use disorder treatment providers at the earliest possible stage in the criminal justice process. Elements that must be included in the program are specified. The county is required to establish a committee to develop the program's policies and procedures, and stakeholders that must be represented on the committee are listed. Appropriates \$8 million from the general fund in FY2021-22 and \$7 million from the general fund in each of FY2022-23 and FY2023-24 to the newly established Coordinated Reentry Planning Services Program Fund for the program. Appropriates \$8 million from the Fund in FY2021-22 and \$7 million from the Fund in each of FY2022-23 and FY2023-24 to a county with a population of up to 1.5 million persons (any county but Maricopa) to establish and operate a coordinated reentry planning services program. Each eligible county is required to receive a proportional share of the monies based on the county's population.

First sponsor: Rep. Blackman (R - Dist 6)

H2164: COORDINATED REENTRY PLANNING SERVICES PROGRAMS 1/20 referred to House crim jus ref, appro.

H2189: COORDINATED REENTRY PLANNING SERVICES PROGRAMS

Counties are authorized to establish a coordinated reentry planning services program within a county jail for the purpose of screening and assessing persons who are booked into the jail and connecting those persons with behavioral health and substance use disorder treatment providers at the earliest possible stage in the criminal justice process. Elements that must be included in the program are specified. The county is required to establish a committee to develop the program's policies and procedures, and stakeholders that must be represented on the committee are listed. Appropriates \$8 million from the general fund in FY2021-22 and \$7 million from the general fund in each of FY2022-23 and FY2023-24 to the newly established Coordinated Reentry Planning Services Program Fund for the program. Appropriates \$8 million from the Fund in FY2021-22 and \$7 million from the Fund in each of FY2022-23 and FY2023-24 to a county with a population of up to 1.5 million persons (any county but Maricopa) to establish and operate a coordinated reentry planning services program. Each eligible county is required to receive a proportional share of the monies based on the county's population.

First sponsor: Rep. Pratt (R - Dist 8)

H2189: COORDINATED REENTRY PLANNING SERVICES PROGRAMS 1/25 referred to House jud, appro.

H2197: EVICTION PREVENTION; STUDY COMMITTEE

Establishes a 19-member Study Committee on Statewide Eviction Prevention and Housing Affordability to conduct a comprehensive study on reducing eviction filings, review related policies and statutes, conduct research on housing affordability issues, and propose legislation to address these issues. The Committee is required to submit a report of its activities and recommendations to the Governor and the Legislature by December 1, 2021, and self-repeals November 1, 2022.

First sponsor: Rep. Cano (D - Dist 3)

H2197: EVICTION PREVENTION; STUDY COMMITTEE 1/25 referred to House hel-hu ser.

H2599: JAIL; HOME CONFINEMENT ELECTRONIC MONITORING

Counties are authorized to establish a home confinement electronic monitoring program (program) that allows a prisoner to serve a portion of the jail term under the monitoring conditions set by the court and that provides a prisoner with an ability to maintain employment while serving a sentence that includes a jail term. A prisoner is not eligible to participate in a program unless specifically authorized by the court, and eligibility may be limited by a plea agreement. Factors the court must find in order to authorize a prisoner's participation in the program are listed. A prisoner who participates in a program must be on global position system (GPS) monitoring, and must be at the prisoner's residence, work or another court-approved location at all times while participating. Establishes penalties for violations. The prisoner is required to pay the cost of GPS monitoring and any alcohol or drug testing required, and the court may order the prisoner to pay a monthly fee of up to \$50 for program participation.

First sponsor: Rep. Blackman (R - Dist 6)

H2599: JAIL; HOME CONFINEMENT ELECTRONIC MONITORING 2/1 referred to House crim jus ref.

H2603: PRETRIAL DIVERSION PROGRAM; REQUIREMENTS; APPROPRIATION

Counties are authorized to establish a pretrial diversion program (program) as an alternative method of holding low level offenders accountable for violations of the law, which includes participation in evidence-based education or treatment programs that target factors related to recidivism. The program is an alternative to prosecution, and a participant who successfully completes the program will have all charges dismissed or no charges filed against the participant. A county that establishes a program is required to use a contractor for the program that meets a list of specified requirements, including developing an individualized case management plan to address services to support the participant's recovery, ensuring the implementation of a robust substance abuse testing protocol, and ensuring that all services provided are available in a community-based setting at multiple locations throughout the county. A program contractor is required to conduct a standardized financial assessment for each program participant and offer a fee payment plan to the participant. Establishes notice, reporting, and performance requirements for program contractors. Establishes requirements

for program participation fees, collection, and accounting. A program is required to include a managed care coordinator and requirements for the coordinator are specified. Appropriates an unspecified amount (blank in original) from the general fund in FY2021-22 to each county that establishes a pretrial diversion program.

First sponsor: Rep. Blackman (R - Dist 6)

H2603: PRETRIAL DIVERSION PROGRAM; REQUIREMENTS; APPROPRIATION 1/28 referred to House crim jus ref, appro.

S1249: CONVICTION; SET ASIDE; TRAFFIC VIOLATIONS

Traffic violations are no longer excluded from statute allowing a person convicted of a criminal offense to apply to the court to have the judgment of guilt set aside on fulfillment of the conditions of probation or sentence and discharge by the court.

First sponsor: Sen. Petersen (R - Dist 12)

S1249: CONVICTION; SET ASIDE; TRAFFIC VIOLATIONS 1/21 referred to Senate jud.

S1266: COMPETENCY EVALUATION; RECORDS; APPOINTMENTS

If the court determines that reasonable grounds exist for a competency examination and the defendant is charged with only a misdemeanor, the court is required to appoint one or more mental health experts to examine the defendant, reduced from two or more experts. Deletes the requirement for the parties to provide all available medical and criminal history records to the court within three working days after a motion for a competency examination.

First sponsor: Sen. Petersen (R - Dist 12)

S1266: COMPETENCY EVALUATION; RECORDS; APPOINTMENTS 1/21 referred to Senate jud.

S1322: EVICTION PROCEEDINGS; VIRTUAL APPEARANCES

In a special detainer or forcible detainer proceeding before the court, any party, including an attorney or witness, must be permitted to participate remotely by using a telephone or video conference connection.

First sponsor: Sen. Petersen (R - Dist 12)

S1322: EVICTION PROCEEDINGS; VIRTUAL APPEARANCES 1/25 referred to Senate jud.

REFERENCE TITLE: **eviction prevention; study committee.**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2197

Introduced by
Representative Cano

AN ACT

**ESTABLISHING THE STUDY COMMITTEE ON STATEWIDE EVICTION PREVENTION AND
HOUSING AFFORDABILITY.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Study committee on statewide eviction prevention
3 and housing affordability; membership; duties;
4 delayed repeal

5 A. The study committee on statewide eviction prevention and housing
6 affordability is established consisting of the following members:

7 1. Two members of the senate, one from each political party, who
8 are appointed by the president of the senate. The president of the senate
9 shall designate one of these members to serve as cochairperson of the
10 committee.

11 2. Two members of the house of representatives, one from each
12 political party, who are appointed by the speaker of the house of
13 representatives. The speaker of the house of representatives shall
14 appoint one of these members to serve as cochairperson of the committee.

15 3. The director of the Arizona department of housing or the
16 director's designee.

17 4. The chief justice of the Arizona supreme court or the chief
18 justice's designee.

19 5. The following members who are appointed by the president of the
20 senate:

21 (a) One county constable from a county with a population of eight
22 hundred fifty thousand persons or more.

23 (b) One representative from a statewide housing advocacy
24 organization.

25 (c) One representative of a county housing authority from a county
26 with a population of over one million five hundred thousand persons.

27 (d) One representative from a city or county-wide nonprofit
28 organization with experience distributing rental or other assistance to
29 tenants.

30 (e) One representative from a statewide property owners
31 association.

32 (f) One representative from a state university who researches
33 poverty and income inequality or racial equity issues.

34 (g) One representative of a county housing authority from a county
35 with a population of less than eight hundred fifty thousand persons.

36 6. The following members who are appointed by the speaker of the
37 house of representatives:

38 (a) One county constable from a county with a population of less
39 than eight hundred fifty thousand persons.

40 (b) One representative from a state university who researches
41 statewide housing affordability issues.

42 (c) One representative of a county housing authority from a county
43 with a population of more than eight hundred fifty thousand but less than
44 one million five hundred thousand persons.

1 (d) One representative of small property landlords of less than
2 twenty-five housing units.

3 (e) One representative from a state university who researches
4 issues of housing affordability, poverty and racial equity.

5 (f) A representative from a Tribal, African American, Hispanic,
6 Latino or other historically disadvantaged community.

7 B. The study committee shall meet quarterly or more frequently as
8 the cochairpersons deem necessary.

9 C. Committee members are not eligible to receive compensation.

10 D. The study committee shall:

11 1. Conduct a comprehensive study to determine how this state can
12 reduce eviction filings and mitigate the costs, both financial and
13 personal, to tenants and to landlords, attributable to the state's current
14 eviction process.

15 2. Review policies, statutes and practices that impact evictions
16 both before court action as well as during the court process.

17 3. Explore opportunities for this state to develop a system that
18 ensures tenants understand their rights under the law and have access to
19 equitable support in the justice court system.

20 4. Gather data on rental and home pricing and conduct research on
21 housing affordability issues in this state.

22 5. Propose revisions to statutes to reduce eviction filings and
23 that include policy measures to improve housing affordability in this
24 state.

25 6. Identify state resources that can be devoted to improving the
26 court process pertaining to evictions and addressing housing affordability
27 needs.

28 7. Propose legislation to address issues identified by the study
29 committee.

30 8. On or before December 1, 2021, submit a report regarding the
31 study committee's activities and recommendations for administrative or
32 legislative action to the governor, the president of the senate and the
33 speaker of the house of representatives and provide a copy of this report
34 to the secretary of state.

35 E. This section is repealed from and after October 31, 2022.



Meeting Date: February 4, 2021

Subject: COVID-19 Eviction Actions Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Theresa Barrett, AOC Court Programs Unit Manager

Presenters: Theresa Barrett

Discussion: The presenter will update members on the impact of COVID-19 on eviction actions.

Recommended motion: None.



Meeting Date: February 4, 2021

Subject: Legal Hotline Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Joel England, Executive Director of the State Bar of Arizona

Presenters: Joel England

Discussion: COVID-19 Legal Information Hotline Update

From November 1, 2020 through January 22, 2021, 490 calls received; 2,731 calls since program began.

Top Legal Issues: Housing, Employment, Finances

757 referrals to free ½ hour consultation

Assisted 156 small business owners

448 callers aged 60+ helped with COVID-19 legal issues

142 veterans assisted

Recommended motion: None.



Meeting Date: February 4, 2021

Subject: AZCourtHelp.org website update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Dr. Kevin Ruegg, Executive Director, Arizona Foundation for Legal Services & Education, and Cathleen Cole, Content Manager, Arizona Foundation for Legal Services & Education

Presenters: (Same)

Discussion: Updated statistics and analysis from Google Analytic reports for AZCourtHelp.org website, COVID-related information, and enhancements and improvements to the website since the last report.

Recommended motion: None.



Meeting Date: February 4, 2021

Subject: Update on the Public Information and Messaging Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Aaron Nash, Co-chair, Public Information Officer, AOC

Presenters: Aaron Nash

Discussion: Presenters will discuss the workgroup's efforts regarding:
ACAJ annual report.

Recommended motion: None.



gronMeeting Date: February 4, 2021

Subject: Report from Justice in Government Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Chris Groninger, Chief Strategy Officer, Arizona Bar Foundation

Presenters: Chris Groninger

Discussion: Update on intergovernmental collaboration efforts of the Justice in Government Workgroup in 2020.

Recommended motion: None.



Meeting Date: February 4, 2021

Subject: Judicial and Attorney Engagement Report

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Kreamer

Presenters: Judge Kreamer

Discussion: Rule 38 Recommendations

Recommended motion: None

Pro Bono Programs' Recommendations regarding Promoting Pro Bono and Rule 38

Arizona pro bono programs have the following concerns about implementation of the Rule 38 process of certifying attorneys for pro bono and recommendations for promoting pro bono:

1. Many retired and inactive attorneys are not aware of the process to become certified and the benefits of doing pro bono. Some retired attorneys believe they already are permitted to do pro bono with their retired status with the state bar and may not know that certification is required.

Recommendations:

The State Bar should notify all retired and inactive attorneys about the option to become certified for pro bono, what is involved and which organizations are approved Legal Services Organizations (LSOs).

The State Bar should encourage senior lawyers to do pro bono, offer to help interested senior lawyers connect with approved Legal Services Organizations, work with LSOs to provide appropriate trainings, and publicize availability of dues waivers for certified attorneys who provide at least 25 hours of pro bono service a year.

The State Bar should thank and recognize attorneys who do pro bono and convey the importance of pro bono service. All State Bar communications should reflect positive regard for retired attorneys who provide pro bono service. Communications with certified pro bono attorneys including the letter sent to newly certified attorneys and dues notices should convey this tone.

For attorneys who learn about the certification process and become certified during the year, the State Bar should waive dues for those who provided at least 25 hours of pro bono service during the 12 months prior to the date dues are due.

2. The process for becoming certified for pro bono poses barriers for some attorneys.

Recommendations:

For Arizona attorneys, an attorney should not be required to obtain the Certificate of Good Standing and pay a \$17 fee prior to applying for certification. The Supreme Court should have access to this information. If a Certificate of Good Standing must be obtained by the volunteer, the volunteer should not be required to pay a fee.

An attorney certified for pro bono should not be required to go through the entire certification process again in order to provide additional pro bono service through another LSO. If the Clerk of the Supreme Court received a Certificate of Good Standing, another Certificate should not be required.

An active attorney who is planning to retire should be allowed to seek certification prior to changing status to Retired so there is no gap in a volunteer attorney's authority to do pro bono.

The State Bar and Supreme Court should collaborate to speed up the process for Certification.



Meeting Date: February 4, 2021

Subject: Workgroup Report: SRL-LJC

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Anna Huberman, SRL-LJC Chair

Presenters: Kathy Sekardi,

Discussion: On behalf of Judge Huberman, Kathy Sekardi will update members on SRL-LJC's work.

Recommended motion: None.



Meeting Date: February 4, 2021

Subject: Workgroup Report: CARES Act Compliance

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: CARES Act Compliance Workgroup

Presenters: Judge Samuel Thumma

Discussion: This workgroup was formed to provide public awareness and education and promote access to court forms and other resources concerning eviction proceedings that did not comply with the CARES Act. The workgroup has met three times, most recently in early January 2021. The workgroup has four subgroups addressing the following (1) Public Education and Resources; (2) Court Based Solutions; (3) Litigation-based Solutions and (4) Quick Analysis and Education in Response to Future Federal Pandemic Relief. The most recent workgroup meeting discussed responses to the CDC order extension through January 31, 2021 and related issues. The discussion also included the November 2020 representation by the Arizona Multihousing Association that it is undertaking a lookback of 900 cases (more recently, nearly 1,500 cases) that may have violated the CARES Act as well as other information the AMA has indicated it will be providing. The meeting also included a report back from the four subgroups.

Recommended motion: None.



Arizona Commission on Access to Justice

Virtual Meeting Annotated Agenda

May 6, 2021 - 9:00 a.m. to 12:15 p.m.

[ACAJ WEBPAGE](#)

TIME	AGENDA ITEM	PRESENTER
9:00 a.m.	Welcome and opening remarks	Judge Lawrence F. Winthrop, Chair
	Approval of minutes from February 4, 2021	
	☐ Formal Action/Request	
9:05 a.m.	Chairperson's report	Judge Winthrop
9:50 a.m.	Report from the Governor's Office	Anni Foster
10:05 a.m.	Update - Recommendations from the Arizona Housing Coalition Eviction Policy Task Force	Joan Serviss, Executive Director, Arizona Housing Coalition
10:20 a.m.	University of Arizona-Innovation for Justice Program: Innovation in the COVID Era	Mackenzie Pish
10:50 a.m.	Video Tour of New Mohave County Courthouse https://youtu.be/CzR6VaFzSHw	Kip Anderson
11:05 a.m.	Access to justice innovations learned from COVID-19 Continuity of Court Operations During a Health Emergency Workgroup	Judge Sam Thumma, Vice-chair
11:20 a.m.	10-MINUTE RECESS (Members please mute your microphones and return in 10 minutes)	
11:30 a.m.	COVID-19 eviction actions update	Mike Baumstark, Deputy Director, AOC

**All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact ACAJ staff, Kathy Sekardi at (602) 452-3253 or Sabrina Nash, at (602) 452-3849 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Sabrina Nash at (602) 452-3849. Requests should be made as early as possible to allow time to arrange the accommodation.*

11:35 a.m.	Update on COVID-19 Legal Information Hotline	<i>Joel England</i>
11:40 a.m.	Update on AZCourtHelp.org enhancements and use	<i>Dr. Kevin Ruegg and Cathleen Cole Arizona Bar Foundation for Legal Services & Education</i>
11:45 a.m.	Workgroup report: Public Information and Messaging	<i>Aaron Nash, Public Information Officer, AOC</i>
11:50 a.m.	Workgroup report: Justice in Government	<i>Chris Groninger</i>
11:55 a.m.	Workgroup report: Attorney and Judicial Engagement	<i>Judge Joe Kreamer</i>
12:00 p.m.	Workgroup report: Self-Represented Litigants in Limited Jurisdiction Courts Workgroup	<i>Judge Anna Huberman</i>
12:05 p.m.	Workgroup report: CARES Act Compliance	<i>Judge Samuel Thumma</i>
12:10 p.m.	Potential Future Agenda items: • LJC Administrators' Association (Warrants) • Law4AZ Library Project update • AZPoint – Arizona Protective Order Initiation & Notification Tool Update (https://azpoint.azcourts.gov/) • Task Force on Jury Data Collection, Practices, and Procedures A.O. No. 2021-35	<i>Judge Thumma</i>
12:15 p.m.	Good of the Order / Call to the Public	<i>Judge Winthrop</i>
12:15 p.m.	Adjournment	

**All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration § 1-202. Please contact ACAJ staff, Kathy Sekardi at (602) 452-3253 or Sabrina Nash, at (602) 452-3849 with any questions concerning this agenda. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Sabrina Nash at (602) 452-3849. Requests should be made as early as possible to allow time to arrange the accommodation.*

Arizona Commission on Access to Justice
MINUTES
Thursday, February 4, 2021
9:00 a.m. to 12:00 p.m.
Virtual Meeting

Virtual attendees: Judge Lawrence Winthrop (chair), Judge Samuel Thumma (co-chair), Kip Anderson, Mike Baumstark, Pam Bridge, Stacy Butler, Judge Christoffel, Judge Bruce Cohen, Joel England, Anni Foster, Kevin Groman, Judge Anna Huberman, Joe Kanefield, William Knight, Judge Joseph C. Kreamer, Maria Morlacci, Judge Portley (Ret.), Janet Regner, Kevin Ruegg, Kathy Schaben, Valerie Wyatt, Anthony Young

Absent/Excused: Rodolfo Sanchez, Dr. Rebecca Sandefur

Presenters/Guests: Chief Justice Brutinel, Joanna Carr, Cathy Clarich, Cathleen Cole, Judge David Gass, Chris Groninger, Elise Kulik, Linus Ros, Alicia Moffatt, Susan Pickard, Laura Ritenour, Lara Slifko,

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Julie Graber, Sabrina Nash, Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the February 4, 2021 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair at 9:02 a.m. Judge Winthrop outlined meeting housekeeping and introduced new ACAJ members; Stacy Butler, Joe Kanefield, Judge Portley (Ret.), and Dr. Rebecca Sandefur. He acknowledged members who were reappointed and again thanked outgoing commission members Judge Maria Elena Cruz, Judge Thomas Berning and Helen Purcell for the great contributions they have made to the commission since its inception.

B. Approval of Minutes

The draft minutes from the November 19, 2020 ACAJ meeting were presented for approval.

Motion: Kevin Groman moved to approve the November 19, 2020 minutes. **Seconded:** Anthony Young. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Report from the Chief Justice Brutinel

Chief Justice Brutinel discussed his strategic agenda “Justice for the Future.” Chief Justice Brutinel thanked the commission for inviting him to speak and discussed why access to justice is important to the courts and what the Commission on Access to Justice can do to help meet the goals in the strategic agenda. Access to justice incorporates many things such as: access to court buildings, the necessary forms and paperwork available to litigants, and interpreters to help litigants understand what is happening in the courtroom. He acknowledged that the Commission on Access to Justice has been looking for ways to improve access to justice especially during the COVID-19 pandemic by working on community eviction issues, online dispute resolution pilot programs, ways to expand broadband access and consumer debt issues. Chief Justice Brutinel stated that going forward with access to justice issues the Commission could continue to simplify court policies and practices, partnering with the executive branch agencies on recidivism and reentry, review and make recommendations on juvenile court initiatives, and ensure the two domestic violence pilot programs currently under way with lay legal advocates and licensed legal paraprofessionals are meeting the needs of clients.

Chief Justice Brutinel noted that there is a service gap between people who want limited legal services or who cannot afford standard legal fees which is how the licensed Legal Paraprofessional (LP) program came into practice. LP's provide affordable, limited services in specific areas of family law, limited jurisdiction civil and criminal law and can help bridge the gap in services for litigants. Chief Justice Brutinel stated that we will continue to need innovative solutions and collaboration both during and after the pandemic and thanked the Commission again on the work that the Commission has done and will continue to do.

Discussion: Topics included allowing LPs to assist with dependency cases, memorializing best practices created during the pandemic that could continue post-pandemic and the digital evidence portal.

B. Chairperson's Report

- Judge Winthrop encouraged commission members to read ABA President Trish Refo's letter to President Biden on behalf of the ABA advocating for court and access to justice reform, adequate funding for legal aid services, and to provide for legal assistance as part of the federal disaster-relief funding as it relates to COVID-19 victims. The letter also advocates for ensuring that broadband services be made available throughout all rural areas of the country, pointing out how critical that is to connecting specialty lawyers in urban areas with rural residents in need, and for criminal justice reform, in terms of eliminating bias, sentencing reform and providing reentry assistance.
- Judge Winthrop discussed a recent article encouraging President Biden to revive the federal Office for Access to Justice, which was created as part of the Department of Justice under President Obama.
- Minnesota recently announced that it will launch a two-year pilot program starting in March allowing legal paraprofessionals to provide legal assistance in family law and landlord-tenant disputes. The Arizona Supreme Court approved LP licensure some months ago, and the details concerning education, training, supervision and certification are being finalized.
- Arizona Alternative Business Structures – this recent rule change allows non-lawyers to apply to have ownership interests in law firms. To date, Utah has received 33 applications from business entities, and about 20 have been approved. Arizona has received one application from Trajan Estate LLC, but more are expected.
- The federal omnibus FY 2021 appropriations legislation signed into law at the end of December included a \$465 million allocation for Legal Services Corporation (LSC), which is a boost of \$25 million from last year. This is the largest appropriation in actual dollars in LSC's history.

C. Child Support Guidelines Review Committee – Quadrennial Report Update

Judge David Gass, Chair, Child Support Guidelines Review Committee, stated that the Child Support Guidelines Review Committee was established to conduct the federal and state mandated quadrennial review of the guidelines. Along with the economic and case file reviews the committee conducted research on a variety of topics that were recommended by the previous committee, as well as changes to federal and state laws and case law. Proposed amendments to the guidelines include;

- Restyled and reorganized guidelines to make them easier to follow.
- The addition of a table of contents to direct individuals to the information they are seeking.
- The guidelines will be made gender neutral to eliminate ambiguous language and confusion, and to reflect the diversity of modern families.
- Terms used in the guidelines are now defined in everyday language.
- Added a correlation table to assist attorneys and individuals in finding the section they

are seeking in the revised guidelines.
Judge Gass also noted that the child support guidelines will be translated into Spanish for the first time to assist the Spanish speaking community.

Motion: Kevin Groman moved to approve the new child support guideline changes. **Seconded:** Janet Regner. **Vote:** Unanimous.

D. Commission on Minorities in the Judiciary – ACJA Code Revision Proposal

William Knight, Los Abogados Hispanic Bar Association, stated that this proposal will align the Commission on Minorities in the Judiciary (COM) with other state court commissions and national organizations that are working towards racial justice, equity and inclusion in the justice system. The proposed name change and updating the general purpose of the commission will more accurately list the current goals and policies the commission hopes to collaborate on with its judicial branch partners and other stakeholders in Arizona's justice system. The new name, The Commission on Diversity, Equity and Justice (DEJ), will more accurately reflect those goals and is in alignment with many other state court commissions. The changes to the commission's General Purpose are to:

- Develop recommendations to promote diversity, equity and inclusion in the recruitment, hiring and training of judicial officers and court and probation department employees.
- Promote racial inclusion and fairness in the Arizona Judicial Branch by coordinating efforts with other justice system partners, the legal community and non-governmental organizations.
- Identify court policies and procedures that disproportionately affect communities of color and advancing solutions to ensure racial equity in Arizona's criminal justice, juvenile justice and child welfare systems.
- Develop programs that encourage diverse group members to obtain internships, clerkships, and to participate in other career development and training programs for judicial, legal, court and law-related positions.
- Monitor and assist in the implementation of goals and strategies identified in the Arizona Judicial Branch Strategic Agenda regarding diversity, equity and justice.
- Provide reports on the commission's work and recommendations to the Arizona Judicial Council.

Motion: Kevin Ruegg moved to approve the proposal **Seconded:** Judge Portley. **Vote:** Unanimous.

E. Update from Community Legal Services Regarding Eviction Actions

Pam Bridge, Community Legal Services (CLS), provided a brief history and update on its partnership with the City of Phoenix regarding the City of Phoenix's Tenant Assistance Program. CLS approached the City of Phoenix asking to partner with them to provide legal counsel for tenants facing eviction. Using CARES Act funds CLS was able to hire a supervisor for the City of Phoenix Tenants Eviction Assistance Project (TEAP), six attorneys and a paralegal to assist tenants. In October 2020 the City of Phoenix and CLS signed a contract which extends the program through June 2021. Next steps include additional marketing of TEAP to Spanish media to reach Spanish speaking tenants, to have a presence in justice courts to help tenants when the courts reopen and to find additional ways to locate tenants before an eviction action happens.

Discussion: Judge Winthrop noted that Senator Engel has introduced SB 1661 which would provide partial funding to create a housing navigator program on a statewide basis. What is the status of distribution of rental assistance? Anni Foster noted that details for the Department of Economic Security's program are still being finalized. Is there a similar tenant assistance program available in Tucson/Pima county? Stacy Butler stated that Step Up to Justice, a legal service provider has a similar program.

F. Report from the Arizona Housing Coalition Eviction Policy Task Force

Joanna Carr, Research and Policy Director, Arizona Housing Coalition, stated that the Arizona Housing Coalition's Eviction Policy Recommendations Workgroup met in January 2021. The workgroup is comprised of stakeholders representing community legal services, constables, health providers, data teams, advocacy groups, and community foundations. The purpose of the workgroup is to collaborate with ACAJ to work to increase equity between landlords and tenants, and consistency in court procedures. Next steps for the Coalition's task force include creating policy recommendations to help reduce evictions statewide and address homelessness. Ms. Carr anticipates presenting the recommendations by the next ACAJ meeting.

Discussion: Will recommendations take into consideration housing quality or lack thereof and the impact on evictions? **Answer:** The need for affordable housing will be considered along with habitability.

G. DHHS Report Regarding Legal Services for Children and Families

Judge Maurice Portley, Senior Director of Judicial Engagement Team for Casey Family Services, noted that on January 12, 2021, the Children's Bureau of U.S. Department of Health and Human Services (DHHS) issued a memorandum to highlight the importance of civil legal advocacy in advancing the well-being of families and their children, and encouraging state, territorial and tribal human services providers to support working together to support civil legal advocacy. The memorandum identifies the various means of funding civil legal advocacy; highlights models and partnership approaches to providing civil legal advocacy; and emphasizes the value of civil legal advocacy as a proactive, preventive, and restorative support to families and children.

H. Report on Efforts to Propose Changes to the New Licensed Legal Paraprofessional Scope of Practice

William Knight noted the Arizona Judicial Council recently approved the licensure of limited scope, non-attorney practitioners to improve access to justice in certain practice areas where the private and public sector fail to adequately provide for litigants' representation needs. The Administrative Office of the Courts will file a petition to update the administrative code and applicable rules of procedure to narrowly expand LLP scope of representation to include initial appearance advocacy in felony cases.

Motion: Stacy Butler moved that the ACAJ support the proposed changes to the Legal Paraprofessional scope of practice and once the rule petition is filed the Chair is authorized to file a written comment in support. **Seconded:** Judge Anna Huberman **Vote:** Unanimous.

I. Legislative Update

Elise Kulik, Legislative Liaison, AOC, announced that the current legislative session is 25 days into session and the a typical legislative session is 100 days, however it is anticipated that the session will run a little longer this year due to the legislative session ending early last year because of the pandemic. As of today, there are 1,600 pieces of legislation that have been introduced, some of them repeats from last year due to the session ending early. Bills of interest to the Commission:

- **H2141 – Appropriations, Alternative Prosecution; Diversion Program:** Appropriates money from the general fund for three years to the Arizona Criminal Justice Commission to fund alternative prosecution and diversion programs.
- **H2164 – Coordinated Reentry Planning Services Programs:** Authorizes counties to establish a coordinated reentry planning services program within a county jail for screening and assessing persons booked into jail and connecting them with behavioral and substance abuse treatments.

- **H2186 – Prosecution Deferred; Diverted:** Expands the eligible population who is eligible for deferred prosecution to include defendants accused of serious, sexual or dangerous offenses.
- **H2197 – Eviction Prevention; Study Committee:** Establishes a 19-member Study Committee on Statewide Eviction Prevention and Housing Affordability to conduct a comprehensive study on reducing eviction filings, review policies and statutes, conduct research on housing affordability issues and prepare legislation to address these issues.
- **H2599 – Jail; Home Confinement Electronic Monitoring:** Authorizes counties to establish a home confinement electronic monitoring program that allows a prisoner to serve a portion of the jail term under the monitoring conditions set by the court and provides a prisoner with the ability to maintain employment while serving their time.
- **H2603 - Pretrial Diversion Program; Requirements; Appropriation:** Authorizes counties to establish a pretrial diversion program as an alternative method of holding low-level offenders accountable for violations of the law, which includes participation in evidence-based education or treatment programs that target factors related to recidivism. This program is an alternative to prosecution and a participant who successfully completes the program will have all charges dismissed or no charges will be filed against the participant.
- **S1249 – Conviction; Set Aside; Traffic Violations:** Traffic violations are no longer excluded from allowing a person convicted of a criminal offense to apply to the court to have the judgement of guilt set aside on fulfillment of the conditions of probation or sentence and discharge by the court.
- **S1266 – Competency Evaluation; Records; Appointments:** If the court determines that reasonable grounds exist for a competency examination and the defendant is charged with only a misdemeanor, the court is required to appoint one or more mental health experts to examine the defendant.
- **S1322 – Eviction Proceedings; Virtual Appearances:** In a special detainer or forcible detainer proceeding before the court, any party, including an attorney or witness, must be permitted to participate remotely using a telephone or video conference connection.

Ms. Kulik mentioned that S1661 which appropriates monies for housing assistance has not yet moved, however she will keep the Commission updated on its status. H2401- Juvenile Dependency; State Aid Appropriation will be heard next week in the House Judiciary Committee.

J. COVID 19 Eviction Actions Update

Theresa Barrett, Court Programs Manager, AOC, updated members on the issues created by the COVID-19 pandemic and outlined the various administrative orders and actions taken by the courts to provide information to the public on court procedures during the pandemic. She also stated that judicial training was being held for judicial officers to keep them up to date on the latest changes and noted that Dave Byers was hosting weekly stakeholder meetings with landlords, attorneys, and legal assistance entities regarding rental assistance and grants assisting with rent.

K. Update on COVID-19 Legal Information Hotline

Joel England, Chief Executive Officer, State Bar of Arizona, reported that from May 20, 2020 through October 30, 2020 the Hotline received 2,339 calls.

Top legal issues discussed:

- Housing (35%)
- Finance or money (14%)
- Employment/Unemployment (13%)

The number of calls referred for a free half-hour consultation was 694 and of those calls; 120 small business owners were assisted, and 379 callers aged 60 years or older

were helped with COVID-19 legal issues.

L. Update on AZCourtHelp.org Enhancements and Use

Cathleen Cole, Arizona Bar Foundation for Legal Services & Education, discussed Google Analytic results from March 2020 through October 2020. There were 280,662 new AZCourtHelp users, up 118% from the same period in 2019. There were 845,851 pageviews.

Devices used to access AZCourtHelp:

- Desktop usage increased 33%
- Cellphone usage increased 82%
- Tablet usage increased 16%

Acquisition of Users:

- Organic searches were up 179%
- Referrals up 102%
- Social media ups 220%

Top referrals to AZCourtHelp:

- AZCourts.gov – 19,560
- AZPoint.gov – 14,105
- AZLawHelp.org – 10,115

Top pages viewed:

- Find my court – 56,539
- Electronic court records – 42,395

Thirteen volunteer law librarians handled 3,312 Live Chat sessions totaling 544 hours and 7 minutes. The average length of each chat was ten minutes. Top chat topics were; orders of protection, landlord/tenant issues, traffic issues, court scheduling, and criminal matters and set aside.

M. Update from the Public Information and Messaging Workgroup

Aaron Nash, Public Information Officer, AOC, presented a draft of the ACAJ Annual Report. He noted that the timeframe covered for the annual report is calendar year from November 2019 to November 2020. It was noted that the report should also include highlights from many of Arizona's counties reflecting innovative steps taken by the judiciary and court staff during the pandemic to ensure/enhance meaningful court access for the public.

N. Update from the Justice in Government Workgroup

Chris Groninger noted that the workgroup was collaborating with the Legal Assistance Hotline, AZCourts.gov, and government entities on distributing COVID-19 information to all stakeholders. They're also working on a regional approach to guardianship issues, working in collaboration with a number of agencies regarding use of VOCA funds, coordinating on a Crime Victims Website and in general continuing to develop and maintain partnerships with state agencies and legal assistance partners.

O. Update from the Judicial and Attorney Engagement Workgroup

Judge Joseph Kreamer presented on a variety of recommendations regarding Promoting Pro Bono and Supreme Court Rule 38. Arizona's legal aid volunteer lawyer programs have the following concerns about implementation of the Rule 38 process of certifying attorneys for pro bono and recommendations for promoting pro bono:

1. Many retired and inactive attorneys are not aware of the process to become certified and the benefits of providing pro bono services. Some retired attorneys believe they are permitted to

do pro bono services as a retired state bar member and may not know that certification is required.

Recommendations:

- The State Bar should notify all retired and inactive attorneys about the option to become certified for pro bono, the process for doing so, and which organizations are approved Legal Services Organizations (LSOs).
- The State Bar should encourage senior lawyers to do pro bono, offer to help interested senior lawyers connect with approved Legal Services Organizations, work with LSOs to provide appropriate trainings, and publicize availability of dues waivers for certified attorneys who provide at least 25 hours of pro bono service a year.
- The State Bar should thank and recognize attorneys who do pro bono and convey the importance of pro bono service. All State Bar communications should reflect positive regard for retired attorneys who provide pro bono service. Communications with certified pro bono attorneys including the letter sent to newly certified attorneys and dues notices should convey this tone.
- For attorneys who learn about the certification process and become certified during the year, the State Bar should waive dues for those who provided at least 25 hours of pro bono service during the 12 months prior to the date dues are due.

2. The process for becoming certified for pro bono poses barriers for some attorneys.

Recommendations:

- For Arizona attorneys, an attorney should not be required to obtain the Certificate of Good Standing and pay a \$17 fee prior to applying for certification. The Supreme Court should have access to this information. If a Certificate of Good Standing must be obtained by the volunteer, the volunteer should not be required to pay a fee.
- An attorney certified for pro bono should not be required to go through the entire certification process again in order to provide additional pro bono service through another LSO. If the Clerk of the Supreme Court received a Certificate of Good Standing, another Certificate should not be required.
- An active attorney who is planning to retire should be allowed to seek certification prior to changing his/her status to Retired so there is no gap in a volunteer attorney's authority to do pro bono.
- The State Bar and Supreme Court should collaborate to speed up the process for Certification.

P. Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup

Kathy Sekardi, on behalf of Judge Anna Huberman, reported that the SRL-LJC workgroup is continuing its work on consumer debt videos and legal information sheets. There are three completed and translated videos and four more videos to be scripted, recorded and translated.

Q. CARES Act Workgroup Report:

Due to time constraints, Judge Samuel Thumma deferred to his written report. Judge Thumma reported that the workgroup was formed to provide public awareness, education and promote access to court forms and other resources regarding eviction proceedings that may not have complied with the CARES Act. The workgroup has met three times, most recently in early January 2021. The workgroup has four subgroups addressing the following (1) Public Education and Resources; (2) Court Based Solutions; (3) Litigation-based Solutions and (4) Quick Analysis and Education in Response to Future Federal Pandemic Relief. The most recent workgroup meeting discussed responses to the CDC order extension through January 31, 2021 and related issues. The discussion also included the November 2020 representation by the Arizona Multihousing Association that it is undertaking a "lookback" of 900 cases (more recently, nearly 1,500 cases) that may have violated the CARES Act as well as other information the AMA has

indicated it will be providing. The meeting also included a report back from the four subgroups.

III. OTHER BUSINESS

A. Good of the Order

B. Call to the Public

No members of the public requested to speak.

2021 Meeting Dates:

May 6, 2021

November 2, 2021

Adjourned at 12:05 p.m.



Meeting Date: May 6, 2021

Subject: Chairperson's Report

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Lawrence F. Winthrop, Chair

Presenters: Same

Discussion: Chair will discuss ongoing efforts and items of interest.

- [ACAJ 2020 Annual Report](#)
- Chief Justice Brutinel's [letter](#) to judicial branch
- [Presentation](#) to Presiding Judges and Arizona Judicial Council
- [ABA Day Digital 2021](#)Digital 2021
- Consumer Financial Assistance Bureau Interim [Final Rule](#)
- [ABA tool](#) – use to generate letters to Arizona lawmakers to support the supplemental LSC funding

Recommended motion: None.



Supreme Court

STATE OF ARIZONA

FROM THE CHAMBERS OF
ROBERT M. BRUTINEL
CHIEF JUSTICE

1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007-3222
(602) 452-3531
FAX (602) 452-3917
RBrutinel@courts.az.gov

April 19, 2021

Dear Members of Arizona's Judicial Branch,

In a year dominated by a public health crisis and litigation over fundamental principles of a free society, access to justice and the public's trust and confidence in the judicial branch were more important than ever. Throughout 2020 our nation was tested and the judiciary was called on to uphold equal justice under law.

The Arizona Supreme Court relies on public input and on civil discourse with the executive and legislative branches, bar associations, and volunteer organizations, to improve access to justice in Arizona. Above all, your efforts are the key contributions in maintaining the public's trust and confidence in the judicial branch. To report on the judicial branch's efforts in 2020, the Court has prepared summaries of the goals accomplished by its Commission on Access to Justice and the goals accomplished by individual courts and judicial departments in furtherance of the Judicial Branch's 2019-2024 Strategic Agenda.

I encourage you to review the 2020 annual report of the Arizona Supreme Court's Commission on Access to Justice, co-chaired by Judges Lawrence Winthrop and Samuel Thumma of the Arizona Court of Appeals. The report highlights the Commission's projects, and its ongoing work and achievements, many made possible through your participation and support. The 2020 report includes sections dedicated to the extensive efforts accomplished around the COVID-19 pandemic, both by the Commission and by individual courts. See the report at <https://www.azcourts.gov/Portals/74/ACAJ/Annual%20Reports/2020%20Annual%20Report%20ACAJ.pdf>.

The Arizona Judicial Branch's five-year strategic agenda, *Justice for the Future: Planning for Excellence*, has five guiding goals, with dozens of sub-goals to be accomplished within those categories. Although the pandemic demanded prompt and ongoing efforts to maintain court services, the judicial branch successfully pursued and fulfilled goals in every category. I welcome you to read the 2020 Strategic Agenda update at <https://www.azcourts.gov/Portals/0/Strategic%20Agenda/StrategicAgendaUpdate2020.pdf>.

For a hardcopy of the annual report or the strategic agenda update, contact the Arizona Administrative Office of the Courts at communications@courts.az.gov or call 602-452-3301.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Brutinel".

Robert Brutinel

ARIZONA COMMISSION ON ACCESS TO JUSTICE

JUDGE LAWRENCE F. WINTHROP

JUDGE SAMUEL A. THUMMA

CHAIRS, ACAJ

2020 OVERVIEW

- Focus on COVID-19 Pandemic
- Demonstrated Court Flexibility
- Continuing Commitment to Facilitating Meaningful Court Access
- Enhanced Public Participation
- Commitment to Judicial Education re Eviction Laws and Procedure
- State-wide Collaboration and Community Partnerships

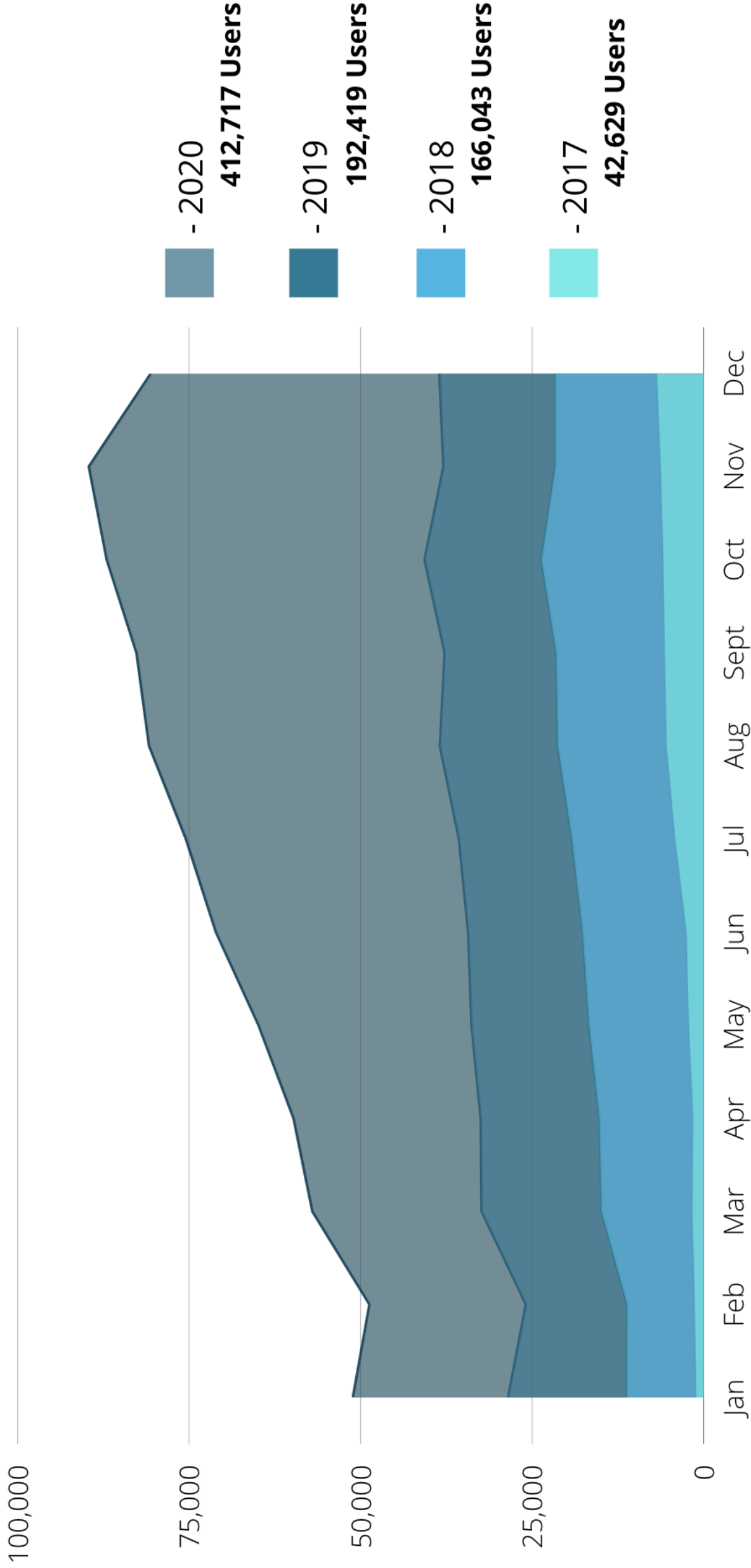
- Continue Public Updates re Eviction Issues
- Expand Partnerships with State/County/Local Governments re Use of American Recovery Act Funds for Civil Legal Aid Services (Justice in Government Project)
- Continue Development of Legal Information and Resources re Consumer Debt
- Implement Version 2.0 Law4AZ Public Library Program
- Consider Expanding Legal Paraprofessional, Lay Legal Advocate and Court Navigator Programs

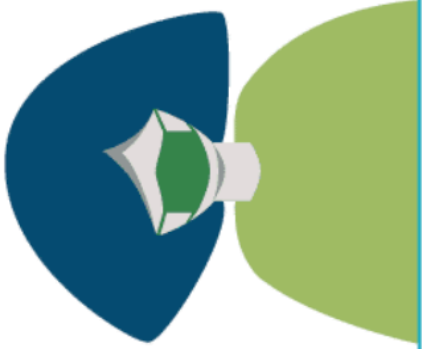
2021
PREVIEW

What Users Can Find on AZCourtHelp



Number of Users on AZCourtHelp.org





COVID-19

Related Resources

Convey a great number of information in an effective manner

LEGAL TALK VIDEOS

- How to Get a Protective Order
- How to Get Married During COVID-19
- Modifying Child Support During COVID-19
- Impact of COVID-19 on Parenting Time

<https://azcourthelp.org/covid-videos>

LEGAL AID RESOURCES

Legal aid options available to those in Arizona

<https://azcourthelp.org/home/legal-aid-resources>

VIRTUAL LEGAL TALKS

Free informational legal presentations on a variety of topics: eviction, protective orders, child support, bankruptcy, etc.

<https://azcourthelp.org/public-events>

COURT INFORMATION & UPDATES

COVID-19 FAQ that addresses housing, employment, finances, family law, and more.

<https://covid19.azlawhelp.org/>



Arizona Eviction Resources & Information



AZCourtHelp.org

AZCourtHelp.org hosts forms, videos, and general housing law information for tenants and landlords.



AZEviictionHelp.org provides eviction-related information and resources for tenants facing evictions from a residence, mobile home, or RV park.



Callers with a COVID-19 related issue can call the legal help hotline on Tuesdays & Thursdays from 12:00pm - 3:00pm.



Find the latest Administrative Orders and other Judicial Branch updates at [AZCourts.gov/covid-19](https://azcourts.gov/covid-19).



FOR IMMEDIATE RELEASE:

April 19, 2021

MEDIA CONTACT:

Office of Communications

Tel: (202) 435-7170

CFPB Rule Clarifies Tenants Can Hold Debt Collectors Accountable for Illegal Evictions

Bureau Issues Interim Final Rule on Fair Debt Collection Practices Act

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) today issued an interim final rule in support of the Centers for Disease Control and Prevention (CDC)’s eviction moratorium. The CFPB’s rule requires debt collectors to provide written notice to tenants of their rights under the eviction moratorium and prohibits debt collectors from misrepresenting tenants’ eligibility for protection from eviction under the moratorium. The CDC has established the eviction moratorium to protect the public health and reduce the spread of the virus. Debt collectors who evict tenants who may have rights under the moratorium without providing notice of the moratorium or who misrepresent tenants’ rights under the moratorium can be prosecuted by federal agencies and state attorneys general for violations of the Fair Debt Collection Practices Act (FDCPA) and are also subject to private lawsuits by tenants.

“With COVID-19 killing hundreds of Americans every day, kicking families out into the street during this pandemic may literally be a death sentence,” said CFPB Acting Director Dave Uejio. “No one should be evicted from their home without understanding their rights, and we will hold accountable those debt collectors who move forward with illegal evictions. We encourage debt collectors to work with tenants and landlords to find solutions that work for everyone.”

Nearly 9 million households are behind on their rental payments. Tens of thousands of renters are being evicted every week, often without being told of their rights under the CDC moratorium. As the CDC has found, tenants who are evicted may end up homeless or in crowded or shared living settings, increasing their vulnerability to COVID-19 and the risk of the disease spreading throughout communities. Such evictions can have long-term health, financial, and social consequences for families and children.

CDC Moratorium

A temporary eviction moratorium ordered by the CDC has been extended through June 30, 2021. The CDC order generally prohibits landlords from evicting tenants for non-payment of rent, if the tenant [submits a written declaration](#) that they are unable to

afford full rental payments and would likely become homeless or have to move into a shared living setting. This prohibition applies to an agent or attorney acting as a debt collector on behalf of a landlord or owner of the residential property.

Tens of thousands of tenants and families are evicted every week, many of whom would have had a right to stay in their homes if they had given their landlord a completed [CDC eviction moratorium declaration](#). According to a recent Government Accountability Office [report](#), tenants facing eviction may be unaware of the moratorium or may not understand the steps they must take to act on its protections. Declarations can be submitted in languages other than English, and alternative forms are [available online](#).

New Tenant Protections

Under the FDCPA interim final rule, debt collectors, including attorneys, seeking to evict tenants for non-payment of rent must provide tenants who may have rights under the CDC order with clear and conspicuous written notice of those rights. The notice must be provided on the same date as the eviction notice, or, if no eviction notice is required by law, on the date that the eviction action is filed.

Debt collectors must provide the notice in writing. Phone calls or electronic notice such as text messages or emails are not sufficient. The CFPB is providing debt collectors with sample language to satisfy the rule's disclosure requirements.

Failure to provide the required notice to tenants is a violation of the FDCPA. The FDCPA provides a private right of action against debt collectors, and violators can be held liable for actual damages, statutory damages, and attorney's fees. Class actions may be brought under the FDCPA.

Some states and localities have adopted their own eviction moratoria. Debt collectors may also be required to provide notice of these moratoria. The CFPB's rule does not preempt more protective state law.

There are additional resources available to help struggling renters impacted by COVID-19. Congress has created the [Emergency Rental Assistance Program](#), administered by the U.S. Department of Treasury. This program provides assistance through state and local government to help tenants catch up on missed payments to avoid eviction. Applicants must apply through their local programs.

The National Low Income Housing Coalition has [a directory of state and local rental assistance programs](#) that renters can use to find their local programs. Landlords may also be eligible for funds under the Emergency Rental Assistance Program. The pandemic's health and economic crises threaten families and communities across the nation. According to the CFPB's analysis and other data:

- **Millions of families are at risk of being evicted:** In December 2020 about 18 percent of renter households were behind on their rent, which means nearly 9 million households at risk of eviction. In a typical year, there are about 900,000

evictions nationwide. Over 27 percent of households with annual income under \$25,000 were behind on their rent.

- **Stopping evictions saves lives:** [Research shows](#) that COVID-19 infection rates and mortality rates were higher when eviction moratoria were removed. The CFPB's rule will help ensure that more renters are able to take advantage of their protections and avoid eviction.
- **Evictions increase racial inequality:** Black and Hispanic households are more than twice as likely to be tenants than white households, and they are also twice as likely to be behind on rental payments as of December 2020, according to a [March CFPB report](#). Evictions impose substantial costs on individuals, families, and children, and having an eviction on your record can make it much harder to find a new rental property. Even an eviction filing can make it impossible for a family to locate new housing.

The CFPB has authority under the FDCPA to “prescribe rules with respect to the collection of debts by debt collectors.” Attorneys who engage in eviction proceedings on behalf of landlords or residential property owners to collect unpaid residential rent may be “debt collectors” as defined by the FDCPA. Given the urgency of the pandemic crisis, the Interim Final Rule will take effect on May 3, 2021. The CFPB believes this will give debt collectors time to come into full compliance. Debt collectors may begin complying with the rule before the compliance date.

[Read the Interim Final Rule issued today.](#)

[Read a Fast Facts summary of the Interim Final Rule.](#)

[See the sample disclosure language for debt collectors.](#)

[Visit the CFPB's housing portal to learn about renters' rights and resources for struggling consumers.](#)

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.

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Meeting Date: May 6, 2021

Subject: Report from Governor's Office

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Ms. Anni Foster, General Counsel, Office of Governor Doug Ducey

Presenters: Same

Discussion: Ms. Foster will discuss how the Executive Branch intends to use the federal recovery act funds, and whether and how some of those funds will be used to enhance access to justice for Arizonans.

Recommended motion: None.



Meeting Date: May 6, 2021

Subject: Overview of the Arizona Housing Coalition's Eviction Policy Recommendations

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: The Arizona Housing Coalition (AZHC)

Presenters: Joan Serviss, Executive Director, Arizona Housing Coalition

Discussion: At the February 4, 2020 ACAJ meeting, Joanna Carr introduced The Arizona Housing Coalition's Eviction Policy Recommendations Workgroup.

Since then the AZHC workgroup crafted a list of policy recommendations with the goal of increasing equity in the eviction process for both tenants and landlords. The ultimate goal of the workgroup is to reduce evictions statewide and therefore to address homelessness with an upstream approach. Joan Serviss will provide an overview of the list of recommendations with the purpose of providing information on possible action.

Recommended motion: None at this time.



Eviction Policy Recommendations working group
Policy Recommendations list

The Arizona Housing Coalition Eviction Policy Recommendations workgroup is comprised of members of the coalition and leaders from community organizations, legal aid services, advocacy organizations, direct services providers and the constables office. The purpose of the workgroup is to identify recommendations that can be introduced with the goal of increasing equity in the eviction process for both tenants and landlords. We believe a renter maintaining their home and avoiding eviction is the best result for all parties.

Below is a list of recommendations we wish to bring to the attention of the Arizona Commission on Access to Justice

1. Creation of an Evictions specialty/Eviction Diversion court:

- An Evictions Speciality Court could resolve procedural issues by ensuring consistency
- Akin to the Drug Treatment and Veterans specialty courts.
- Consolidation of eviction cases to one speciality court
- Addition of services and resources such as mediation offered by law students/volunteers, coordination of service providers, wrap-around services, Public Information and Education for parties in eviction cases
- Consider modelling speciality court programs around out of state examples, such as the Michigan Eviction Diversion program, Richmond Eviction-Diversion program and the County of San Fransisco ACCESS program. View a summary of these programs [here](#)

2. Mandate a periodic training review for Judges and Court Staff:

- Require Justices of the Peace to attend educational training related to evictions annually. Justices of the Peace should be required to attend continuing education annually, specifically in the area of the Arizona Residential Landlord and Tenant Act, Residential Mobile Home Property Landlord and Tenant Act, and the RV Property Landlord and Tenant Act.
- Training will ensure the consistency in processing of eviction cases
- Implement a training review akin to an audit procedure for accountability

3. Rental assistance administrator and legal aid representative stationed at court (In the absence of an Evictions Specialty court):

- Consider the use of zip-code/census tract data to target pilot projects in areas with high eviction rates and racial disparity in eviction, such as the [Maricopa County Evictions Dashboard](#) and the New America [Displaced in America](#) report
- Provided to renters up to a capped AMI to target resources to those most in need
- A partnership with local legal aid providers, such as Community Legal Services to have their staff stationed in court to offer legal representation as needed to renters in eviction proceedings
- A partnership with Emergency Rental Assistance fund administrators, such as the City or local CAP offices to have staff stationed in court. On-site rental assistance applications and fund processing.



- Offering of financial literacy education, optional to make this mandatory for program eligibility

4. Increase access to court:

- Extend post-pandemic the ability to do virtual or telephonic court appearances
- Asking courts that if a renter loses connection during a hearing, that a default judgement is not made - the renter should be given the opportunity to come before a judge again.
- Attach details of the legal assistance and rental assistance resources to the copy of complaint and summons provided to the renter

5. Increase Renter education:

- Distribution of existing renter education. E.g [Maricopa Justice Courts eviction actions](#) resources, CLS [COVID-19 resources](#)
- Ensuring education documents are also provided in Spanish
- Partner with local jurisdiction to create outreach and education efforts on available rental assistance resources (E.g County/City level campaign)
- Train navigators to provide procedural information to tenants/renters and property owners/landlords in an eviction process.
- Request an Administrative Order from the AZ Supreme Court that would mandate courts to distribute legal assistance, eviction process education and rental assistance information with service of a 5-Day Notice (Non-Payment of Rent) form

6. Encourage healthy landlord/tenant communication:

- Educate landlords on available resources for their renters by disseminating information to landlords who file a complaint to court
- Include information about available emergency assistance programs available to landlords and renters
- Include information on mediation/alternative dispute resolution services
- Example resources for dissemination: [AZHC Landlord Tool-Kit for Responding to COVID-19 Impacted Tenants](#) and [AZHC Landlord COVID-19 Support Packet](#)



Meeting Date: May 6, 2021

Subject: University of Arizona's Innovation for Justice
Program: Innovation in the COVID Era

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Stacy Rupprecht Butler

Presenters: Mackenzie Pish

Discussion: Mackenzie Pish will present innovation and technology projects underway at the Innovation for Justice Program and discuss how the work took on new and urgent relevance during COVID, particularly with respect to pressing access to justice issues including debt collection and eviction.

Recommended motion: N/A



Meeting Date: May 6, 2021

Subject: Mohave County Courthouse Tour

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Kip Anderson, Court Administrator for the Superior Court in Mohave County

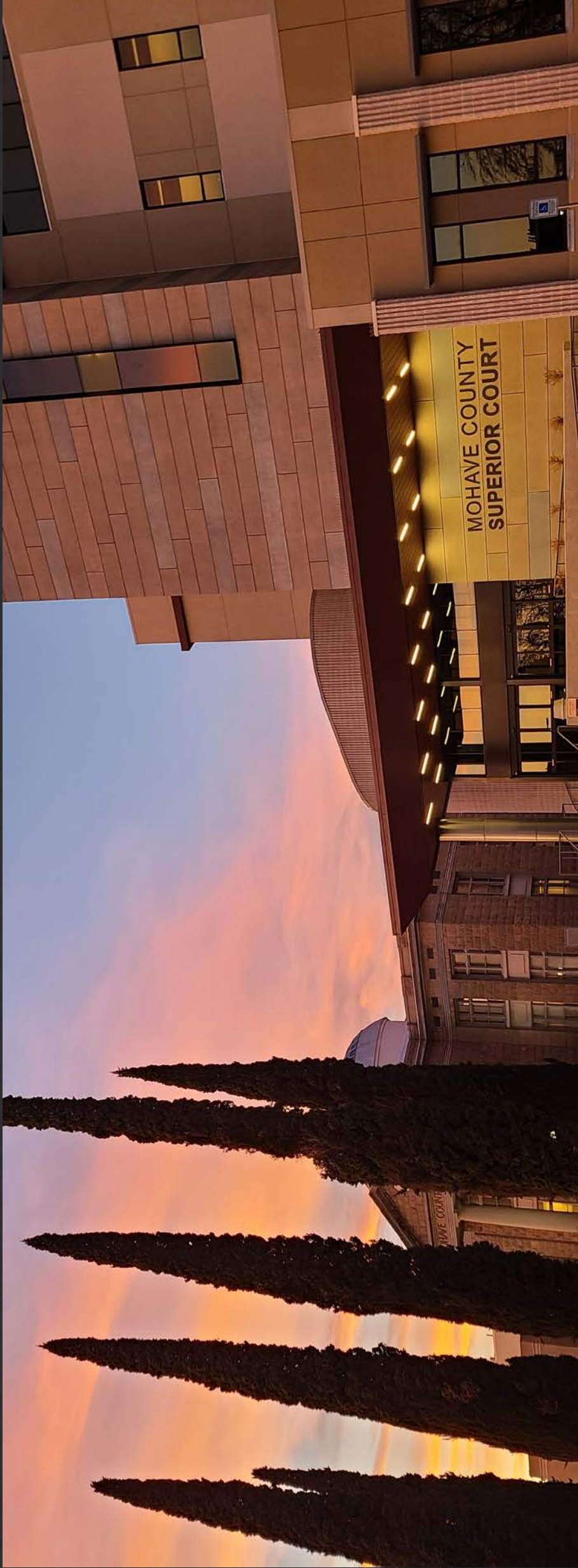
Presenters: Same

Discussion:

New Superior Courthouse – Public and Attorney features that enhance accessibility and service

<https://youtu.be/CzR6VaFzSHw>

Recommended motion: None.



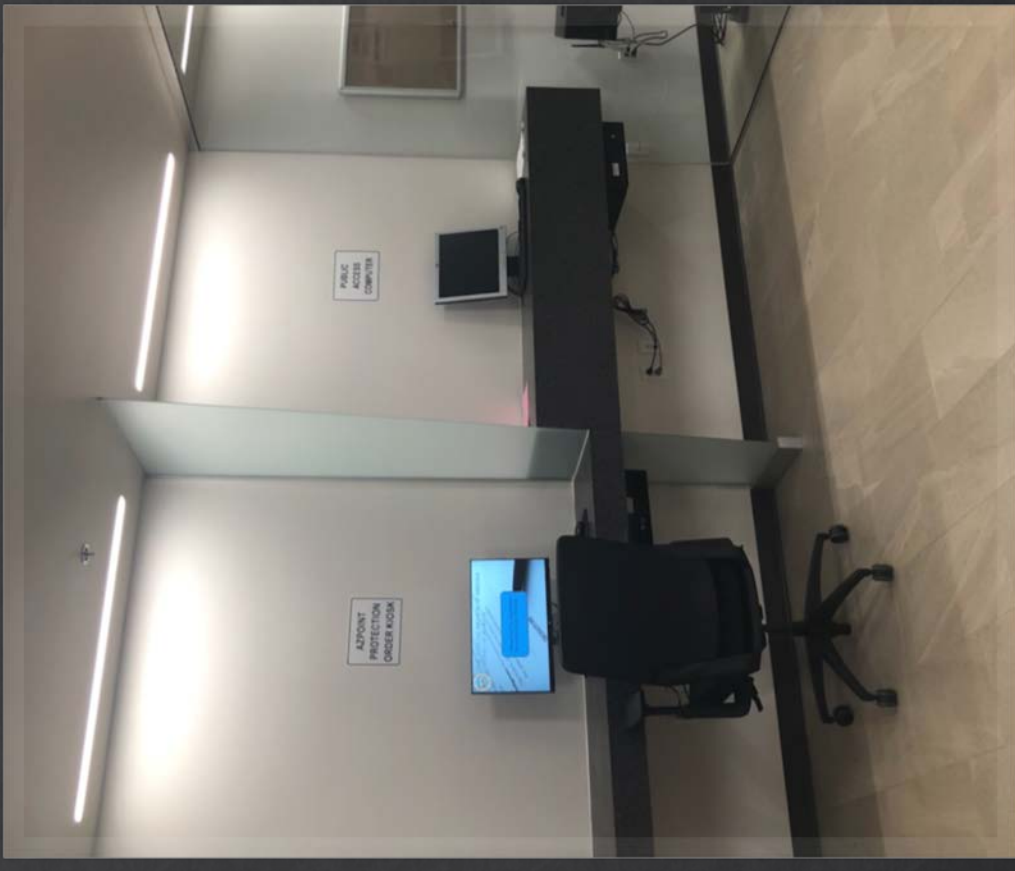
Mohave County Superior Court

- Centrally located in Historic Downtown Kingman, AZ
- Local transportation available



Clerk of Superior Court

- All counters and workstations have provisions for accessibility.
- Enhanced customer service



ANDI

Automated Navigation Digital Interface

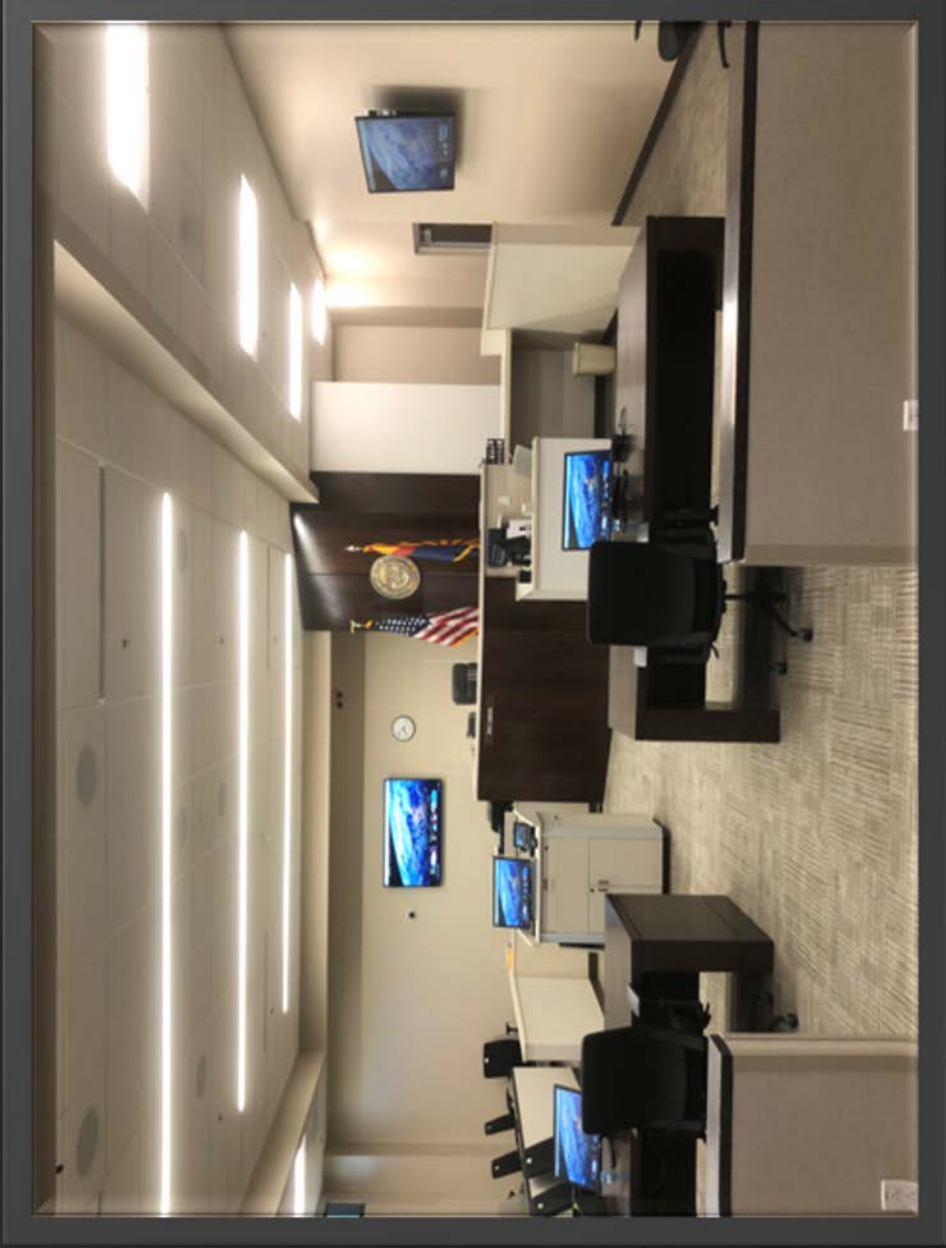
- A holographic receptionist designed to assist patrons in finding their court time and location either through voice recognition or a touch panel.
- ANDI can respond in both English and Spanish



Law Library

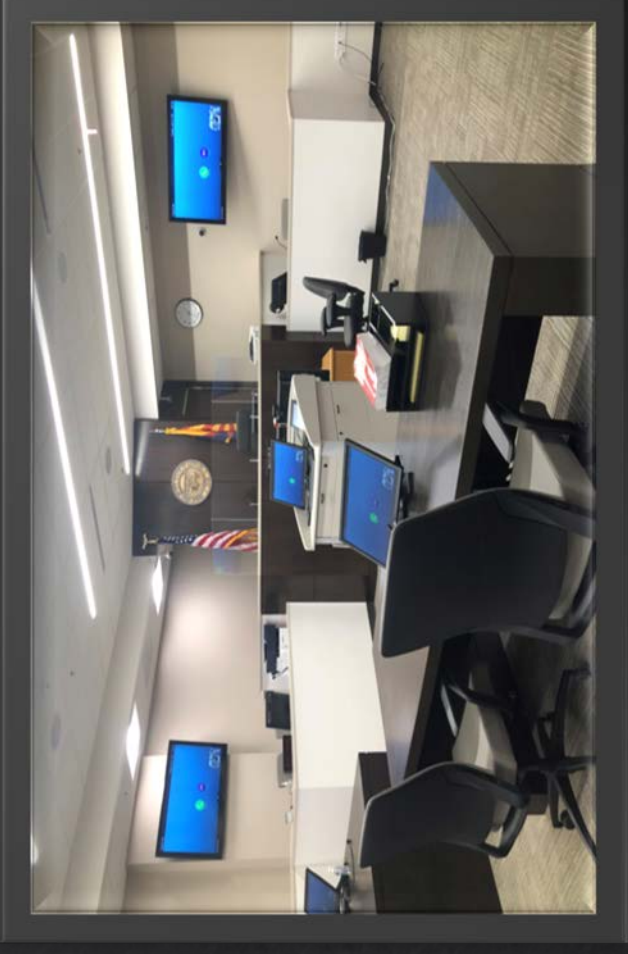
- Full-time staff to assist public
- Provides Forms, Directions and access to law materials





Courtroom Technology

- 8 monitors – 4 cameras for video – touch panels – evidence PC – laptop Input
- Entrance monitors display all courtroom calendars





Court Security

- Provides separate circulation paths for public, staff and in-custody
- Separate entrance for staff and for Judicial Officers



Meeting Date: May 6, 2021

Subject: Report from the COVID-19 Continuity of Court Operations During a Health Emergency Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Hon. Sam Thumma, Vice-chair, ACAJ

Presenters: Same

Discussion: Access to justice innovations learned from the COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup (aka the Plan B Workgroup).

Reference materials include:

- What To Keep In the Post-COVID-19 World (a work in progress to come);
- [COVID-19 Vaccine Guidance for Arizona Courts](#) (Version 2.0, as of March 29, 2021);
- [Protocol](#) for In-Courthouse COVID-19 Symptom or At-Risk Condition by a Participant in Arizona State Courts (Version 4.0, as of October 29, 2020);
- [Jury Management Subgroup Best Practice Recommendations](#) During the COVID-19 Public Health Emergency (June 1, 2020); and
- [COVID-19 Continuity of Court Operations](#) During a Public Health Emergency Workgroup Best Practice Recommendations (May 1, 2020)

Recommended motion: None.

COVID-19 Vaccination Guidance for Arizona Courts

(Version 2.0, as of March 29, 2021)



Arizona Supreme Court

COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup
March 29, 2021

Purpose and Date of Information

This document is a product of the COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup (Plan B Workgroup) and is intended to provide guidance to local courts in Arizona regarding issues relating to COVID-19 vaccinations. This guidance, as of March 29, 2021, provides local courts with suggestions in dealing with the COVID-19 vaccines, their administration, and related issues.

Because information regarding COVID-19, vaccines, side effects, mitigation strategies, etc., is in an ever-changing state of flux, in conjunction with this guidance, users are strongly encouraged to consult other reliable resources, such as the Centers for Disease Control and Prevention (CDC), state and local health departments, local legal and risk management entities, and new information as it becomes available, including reference to updates in the weblinks included in this document.

This version 2.0 is current as of March 29, 2021 and replaces the original document, which was current as of February 1, 2021. For ease of reference, new or different information and changes of consequence, when compared to the February 1, 2021 document, are underlined. Otherwise, the text of this version 2.0 remains unchanged compared to the February 1, 2021 document.

Issuance of this version 2.0 is prompted by recent developments, including:

1. The issuance of [Interim Public Health Recommendations for Fully Vaccinated People](#) by the CDC on March 8, 2021.
2. An update to the Arizona Supreme Court Administrative Office of the Courts Health Screening Protocols. These protocols replace the health screening protocols in Administrative Directive 2020-22, issued October 23, 2020. The updates account for changes in federal guidance related to fully vaccinated persons, close contact, and quarantine recommendations.
3. The emergency use authorization (EUA) by the U.S. Food and Drug Administration of a third vaccine, the Johnson & Johnson/Janssen vaccine, on February 27, 2021.

Vaccine Background

Presently, three COVID-19 vaccines, the Pfizer-BioNTech COVID-19 vaccine, the Moderna COVID-19 vaccine, and the Johnson & Johnson/Janssen vaccine have received EUA by the FDA.¹ For an EUA to be issued for a vaccine, “the FDA must determine that the known and potential benefits outweigh the known and potential risks of the vaccine.”²

¹ The FDA defines an EUA as “a mechanism to facilitate the availability and use of medical countermeasures, including vaccines, during public health emergencies, such as the COVID-19 pandemic.” ([Emergency Use Authorization for Vaccines Explained | FDA](#) (last visited March 29, 2021)) Under an EUA, the FDA can allow the unapproved use of medical products, or unapproved uses of approved medical products, in an emergency when there are no adequate, approved, and available alternatives. *Id.*

² *Id.*

The COVID-19 vaccines underwent a rigorous development process that included tens of thousands of study participants to generate the data necessary for the FDA to comprehensively evaluate the quality and consistency of the vaccines.³ The COVID-19 vaccines that have received an EUA are being held to the same safety standards as all vaccines.⁴

Both the Pfizer and the Moderna COVID-19 vaccines require two injections, taken approximately three to four weeks apart. The Johnson & Johnson/Janssen vaccine requires only one injection. In the United States, these vaccines are being prioritized and made available to various populations through a phased approach. In Arizona, judicial branch employees were among those eligible to become vaccinated in the initial phase of the vaccine allocation.

Vaccine Side Effects

The COVID-19 vaccines are designed to create resistance to, and eliminate the spread of, COVID-19, which is reported to have caused more than 546,000 COVID-related deaths in the United States, has caused significant health issues in considerably more individuals, and has strained the healthcare system throughout the country.⁵ Courts should be mindful, however, that COVID-19 vaccines may cause side effects and that some commonly reported side effects of the vaccines tend to mimic COVID-19 symptoms. For the Pfizer and Moderna vaccines, side effects have been reported after both doses, with side effects much more pronounced after the second dose.⁶

Common side effects of the vaccines are:

- Pain/swelling/redness at the injection site
- Tiredness
- Headache
- Muscle pain
- Chills
- Joint pain
- Swollen lymph nodes in the same arm as the injection
- Nausea
- Vomiting
- Fever⁷

Because these side effects overlap with the symptoms of COVID-19, court staff should not come to work if they are exhibiting any of the side effects listed.

³ *Id.*

⁴ https://www.cdc.gov/vaccines/covid-19/downloads/VaccinateWConfidence-Immunization-Coordiators_508.pptx (last visited March 29, 2021)

⁵ [Coronavirus Disease 2019 \(COVID-19\) | CDC](#) (last visited March 29, 2021)

⁶ [Pfizer-BioNTech COVID-19 Vaccine | FDA](#) and [Moderna COVID-19 Vaccine | FDA](#) (last visited March 29, 2021)

⁷ [Moderna COVID-19 Vaccine | FDA](#) (last visited March 29, 2021)

Recommendations to Continue Efficient Court Operations

Courts are essential to delivering justice, from protecting the rights of criminal defendants, to protecting children and families in juvenile courts, to resolving civil and other disputes. Throughout the COVID-19 pandemic, Arizona courts have remained open and have made adjustments to protect the health of court staff and the public they serve. Accordingly, the following recommendations are designed to help continue efficient court operations.

- With vaccine availability expanding, courts should regularly communicate vaccine information to staff, including how to schedule vaccinations.
- Courts should plan for the likelihood of staff absences following a COVID-19 vaccination due to side effects. Early and frequent communication with staff will be key.
- Courts should implement strategies to mitigate the impact of such absences and resulting staff shortages. Such strategies include staggering the recipients of the vaccine so that all staff from a single department or unit are not all vaccinated at the same time. The CDC indicates that this may be more important when coordinating the second dose of the Pfizer and Moderna vaccines.
- Courts should provide frequent updates to staff regarding vaccinations so that they can make an informed decision on whether to get vaccinated. The CDC has made available a Communication Toolkit that may be useful. Other resources are:
 - [Stopping the COVID-19 Pandemic Is Going to Take All of Our Tools \(cdc.gov\)](#)
 - [Three Reasons You Are Top Priority for COVID-19 Vaccination \(cdc.gov\)](#)
 - [Answering Your Questions About the New COVID-19 Vaccines \(cdc.gov\)](#)
 - [Communication Resources for COVID-19 Vaccines | CDC](#)
- The following document may be helpful in explaining the process used to develop and test the COVID-19 vaccine and how it differs from the development of other vaccines.
 - [Emergency Use Authorization for Vaccines Explained | FDA](#)
- People are not considered fully vaccinated until two weeks after the second dose of the Pfizer and Moderna vaccines and two weeks after the Johnson & Johnson/Janssen vaccine, and the extent and duration of protection are unknown at this time, so courts should continue to follow and enforce COVID-19 safety protocols regarding social distancing, masks, hand hygiene, etc.⁸ Additionally, courts should continue to follow the requirements of the Supreme Court's Administrative Order, *Authorizing Limitation of Court Operations During a Public Health Emergency and Transition to Resumption of Certain Operations*.
- When inquiring with employees about vaccinations, side effects, and COVID-19 symptoms, courts should keep in mind that certain measures must be taken to comply with Equal Employment Opportunity laws, the Americans with Disabilities Act, medical privacy laws, and other legal requirements. Courts should work with local public health departments and human resources for specific questions, but an FAQ on these topics can be viewed here:

⁸ [When You've Been Fully Vaccinated | CDC](#) (last visited March 29, 2021)

- [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](#)

Other Resources

[Key Things to Know About COVID-19 Vaccines | CDC](#)

[Myths and Facts about COVID-19 Vaccines | CDC](#)

[Benefits of Getting a COVID-19 Vaccine | CDC](#)

[Different COVID-19 Vaccines | CDC](#)

[COVID-19 vaccine: Separating myths from facts - Sanford Health News](#)

[ADHS - Highlighted Infectious Diseases for Arizona - Coronavirus Disease 2019 \(COVID-19\) - Coronavirus Home \(azdhs.gov\)](#)

[Arizona Supreme Court Administrative Orders Index](#)

Jury Management Subgroup Best Practice Recommendations During the COVID-19 Public Health Emergency

Arizona Supreme Court
Administrative Office of the Courts

June 1, 2020



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JURY MANAGEMENT SUBGROUP MEMBERS

- Paul Julien – Judicial Education Officer, AOC, Chair
- Honorable Samuel A. Thumma – Court of Appeals, Division One
- Marcus W. Reinkensmeyer – Director, Court Services Division, AOC
- Honorable Jeff Bergin – Superior Court in Pima County
- Honorable Laine McDonald – Marana Municipal Court
- Honorable John Napper – Superior Court in Yavapai County
- Honorable Don Taylor III – Phoenix City Court
- Honorable Danielle Viola – Superior Court in Maricopa County
- Honorable Tim Wright – Superior Court in Gila County
- Honorable Don Watts – Maricopa County Justice Courts
- Nicole Garcia – Jury Commissioner, Superior Court in Maricopa County
- Megan Spielman – Clerk of Court/ Jury Commissioner, Superior Court in La Paz County
- Virlynn Tinnell – Clerk of Court/ Jury Commissioner, Superior Court in Mohave County
- Cassandra Urias – Deputy Court Administrator, Superior Court in Pima County
- Subgroup Staff: Marretta K. Mathes, JD – Court Project Specialist, AOC

I. INTRODUCTION

The right to trial by jury remains one of our most valued liberties, enshrined in the Sixth and Seventh Amendments to the Constitution of the United States and in Article 2, Section 23 of the Constitution of the State of Arizona.¹ Jurors are the heart of the judicial system in the United States, as juries put a human face on the law, help with legitimate case outcomes, and contribute to the finality of criminal cases and civil disputes.² The institution of jury trials has survived small pox, polio, tuberculosis, the Spanish Flu, and multiple wars and we must continue to preserve it during these extraordinary times.

Background

In response to the declaration of a statewide emergency by the Governor of the State of Arizona and concern for the spread of COVID-19, Arizona Supreme Court Chief Justice Robert M. Brutinel has issued a series of administrative orders directing courts to conduct business in a manner that reduces the risks associated with this public health emergency.

Directives set forth in these administrative orders include limiting in-person contact as much as possible by using available technologies, including suspending jury trials; following the Centers for Disease Control and Prevention's (CDC) social distancing recommendations; limiting the number of attendees required at in-person proceedings; liberally granting continuances; and authorizing flexibility for local rules and practices in each county.

To provide additional guidance to Arizona courts, the Arizona Supreme Court formed the COVID-19 Continuity of Court Operations During a Health Emergency Workgroup ("Plan B Workgroup"). On May 1, 2020, the Plan B Workgroup issued its "*Best Practice Recommendations*," identifying best practices supporting core court operations during the COVID-19 crisis and into the future. The recommendations include a transition from emergency operations to what will be the "new normal" for day-to-day operations until such time

Juries play a fundamental role in our democracy, "performing a critical role in the American justice system in protecting the rights of criminal defendants, in resolving intractable civil disputes, and in promoting public trust and confidence in the courts."

National Center for State Courts,
Center for Jury Studies

¹ *Jurors: The Power of 12*, Report of the Arizona Supreme Court Committee on More Effective Use of Juries (1994).

² *Id.*

as COVID-19 is resolved, including phased resumption of jury trials and other on-site court operations.³

Arizona Supreme Court Administrative Order (AO) 2020-79, issued May 20, 2020, and replacing AO 2020-75, authorized courts to begin resuming certain operations that had been suspended, including jury trials, beginning June 15, 2020. A Subgroup of members from the Plan B Workgroup and additional individuals, in consultation with the Plan B Workgroup, examined jury operations to make recommendations regarding what courts should consider for the resumption of jury trials in the new normal. This Report sets forth those recommendations.

Administrative Order 2020-79

AO 2020-79 provides the most recent guidance for the Arizona courts on the return to on-site court functions. AO 2020-79 provides direction on the resumption of jury trials, including the following measures for grand jury proceedings and jury trials:

- Jury trials may resume when Arizona enters Phase I, but not before June 15, 2020.
- The presiding judge of the superior court in each county should determine when jury trials can safely begin, taking into consideration the physical space of individual courthouses and courtrooms. Judicial leadership, referring, as applicable, to the chief judge of the court of appeals, the presiding superior court judge, the presiding judge of a limited jurisdiction court that has multiple judges, or, for limited jurisdiction courts that have only one judge, the judge of such court, shall employ appropriate social distancing and other measures necessary for the protection of jurors and the general public and shall post on court websites a schedule and information describing the protective measures taken.
- Until December 31, 2020, to reduce the number of citizens summoned to jury duty, procedural rules (including Rule 18.4(c), Rules of Criminal Procedure; Rule 47(e), Rules of Civil Procedure; Rule 134(a)(1), Justice Court Rules of Civil Procedure; and Rule 9(c), Rules of Procedure for Eviction Cases) are modified to afford litigants only two peremptory strikes for potential jurors per side in all civil and felony cases tried in the superior court, and only one peremptory strike per side in all misdemeanor cases and all civil cases tried in limited jurisdiction courts. This modification does not apply to capital murder cases.
- To accommodate social distancing standards, courts may stagger times for prospective jurors to report for jury duty, direct them to individual courtrooms rather than jury assembly rooms, and conduct voir dire remotely or in multiple groups. At the direction of the presiding judge, prospective jurors may be summoned to non-courthouse facilities that can accommodate larger numbers of individuals.
- Judicial leadership may authorize the use of technology to facilitate alternatives to in-person appearance for selecting grand and petit jurors and for conducting grand jury proceedings, and with the permission of the presiding superior court judge, for jury trials.

³ <https://www.azcourts.gov/Portals/216/Pandemic/050120CV19COOPRecommendations.pdf?ver=2020-05-06-150156-047> (last visited May 27, 2020).

- As required by A.R.S. § 21-202(B)(2), jury commissioners must temporarily excuse prospective jurors whose jury service would substantially and materially affect the public welfare in an adverse manner, including but not limited to those who report a COVID-19 diagnosis or symptoms, or notification by a public health official of exposure to COVID-19, and may temporarily defer or excuse potential jurors who are highly vulnerable to COVID-19.
- The presiding judge of the superior court, in coordination with the county attorney in each county, may determine when grand juries can be resumed in a safe manner with proper social distancing. Grand jury selection may be conducted in-person by staggering the appearance of prospective jurors or by electronic means. The presiding judge may authorize grand jury proceedings to be held by videoconferencing.

Overview of this report

The Subgroup considered various logistical issues involved in resuming grand jury proceedings and jury trials in Arizona state courts. The recommendations in this Report are based on the information currently available, recognizing that the landscape is evolving and changing. By necessity, this Report is being provided as of June 1, 2020, fully recognizing that future developments and experience will have a significant impact on the recommendations in this Report. Accordingly, constant communication based on future developments and experience (both best practices and lessons learned) will be essential in ensuring the safe resumption of grand jury proceedings and jury trials.

The Subgroup looked to many resources, including Arizona law; the National Center for State Court's (NCSC) principal court research consultant, Dr. Paula Hannaford-Agor; the United States District Court for the District of Arizona; general recommendations of health experts; AO 2020-79; Plan B Workgroup *Best Practices Recommendations* (including the 10 guiding principles set forth in those *Recommendations*); publicly available information, including recommendations from the NCSC; reports from local court task forces; and elsewhere.

Based on this research and discussion with local trial courts, this Report presents recommendations and best practices in the following areas: (1) remote grand jury proceedings; (2) taking measures to ensure the health and safety of all participants; (3) ensuring a jury pool that is a fair cross section of the community; (4) voir dire; (5) pretrial preparation, including resolving motions, scheduling, and preliminary jury instructions; (6) conducting jury trials; (7) attorney conduct and evidence during trial; and (8) final jury instructions and return of verdict. The appendix includes selected additional resources.

Although submitting this Report on June 1, 2020, information-gathering and education efforts will continue for the foreseeable future. Later this week, Subgroup and Workgroup members will virtually attend a webinar, *Reestablishing Jury Pools in the COVID-19 Era*, presented by the Council of Chief Justices/Conference of State Court Administrators Rapid Response Team, to be held Thursday, June 4, 2020. In addition, on Monday, June 8, 2020, members will present at a webinar for Arizona courts, *Resumption of Jury Trials: Part 1 Pre-trial and Part 2 Conducting the*

Trial. In this interactive webinar, panelists will respond to questions “from the field,” with publication of an FAQ to follow.

II. REMOTE GRAND JURY PROCEEDINGS

Grand juries play a vital role in Arizona’s criminal justice system. Grand juries are to determine whether probable cause exists to show both that a crime has been committed and that one or more named individuals committed that crime. Procedural requirements for grand jury proceedings are unique and require due care to ensure fairness and confidentiality of the grand jury process.

By statute, each presiding judge in a county with a population of 200,000 or more people is to convene a grand jury every four months. Each grand jury must sit until a new grand jury has been impaneled or its term expires. A.R.S. § 21-402. With this background in mind, the Subgroup makes the following recommendations for remote grand jury proceedings.

A. Virtual grand jury proceedings

Impaneling a grand jury presents challenges as courts work diligently to resume court operations and ensure social distancing. Because the function of a grand jury differs from that of a petit jury, in grand jury proceedings, the rules of evidence and the Confrontation Clause are not applicable. Although these and other differences are applicable to virtual grand jury proceedings, videoconferencing platforms must be configured to safeguard the secrecy of grand jury proceedings and deliberations. Courts should also require electronically signed non-disclosure agreements from the grand jurors to ensure privacy during and after the online grand jury proceedings.

The Administrative Office of the Courts (AOC) has secured a statewide Zoom® license for videoconferencing services that courts can use for grand jury proceedings. Courts should explore the functionality of this platform, and other robust and secure videoconferencing platforms which allow for remote video interpreter services and electronic recording capacity, recognizing that by statute, courts shall appoint a court reporter to capture the verbatim record of all grand jury proceedings. A.R.S. § 21-411.

In April 2020, the Superior Court in Mohave County started using Zoom® to conduct grand jury proceedings. The grand jury in place at that time was impaneled in-person shortly before the statewide emergency was declared, having almost 120 days of remaining service before its end date. While the grand jurors appeared in person for a few weeks before the Governor issued the stay-at-home order, they were advised that future sessions would be conducted remotely and that instructions and call-in information would be sent to them. The court advised the grand jurors that although the proceedings would take place remotely, the proceedings would nonetheless remain confidential. The court then emailed or mailed each grand juror an instruction sheet with information explaining how to download the software to participate remotely.

The Superior Court in Mohave County organized a successful test run to work out operating procedures before conducting actual grand jury proceedings remotely. To do this, the court asked

the grand jurors to call in the day before their next session and court staff reviewed the process with the grand jurors.

On the day the actual grand jury proceedings were to take place remotely, the prosecutor, the court reporter, and the grand jury foreperson appeared in person in the same room, keeping appropriate social distancing. Other participants, including the grand jurors and some of the witnesses, appeared remotely. The prosecutor was the “host” of the proceedings and provided the remote call-in information to the witnesses. The prosecutor also controlled the video communications for hearing attendees. Since April 9, 2020, when Mohave County started the remote grand jury proceedings, the grand jury has returned indictments against 159 defendants.

The Superior Court in Mohave County’s next grand jury will be sworn in on July 9, 2020. For this grand jury, the court intends to have prospective grand jurors appear remotely if they wish. They will virtually “appear” in the morning and a panel will be selected. At that time, the jury foreperson will be selected, and the grand jury will begin considering evidence presented. During the lunch break, the jury foreperson will be asked to drive to the courthouse to sign indictments and be present when the judge returns to hear them. At the end of the day, the judge and grand jury clerk will join the prosecutor and the grand jury foreperson to hear the indictments, set bonds, if appropriate, and schedule arraignments. The grand jury clerk will also take the roll and mail debit cards to each grand juror for their per diem compensation. Each week, additional funds will be placed on the jurors’ debit cards for their attendance at grand jury proceedings.

B. Security in virtual grand jury proceedings

To ensure security, all virtual grand jury proceedings must be password protected, requiring all participants to enter a unique password before joining any proceeding. The court should ensure that a new password is generated for each new jury and/or each session. The court should also provide the host ID number to the prosecutor or another authorized person managing the proceedings, enabling that person to “lock” the meeting access after the last participant has joined, remove users, mute users, and disable users’ video if necessary. In addition, appropriate admonishments about the need for secrecy and security in grand jury proceedings should be provided as each session begins and ends. Furthermore, appropriate written acknowledgments by grand jurors of the understanding of the admonishment would be appropriate.

III. TAKING MEASURES TO ENSURE THE HEALTH AND SAFETY OF ALL PARTICIPANTS

Courts around the country are responding to COVID-19 in numerous ways, working to manage the contagion by balancing public health and safety with access and openness. Jury commissioners and their staff are at the forefront of this response, navigating through many unprecedented jury management issues. AO 2020-79 directs judicial leadership to employ appropriate social distancing and other measures necessary to ensure the health and safety of all participants, including jurors. This section serves as a resource for best practices to maximize doing so.

A. Reevaluating prospective juror reporting practices

Juror reporting practices must be re-evaluated as courts resume jury operations. The following strategies are designed to disperse the number of individuals appearing for and participating in jury service at any given time. Application of these recommendations in any individual courtroom or courthouse will depend upon specific logistical considerations unique to that facility.

a. Staggered reporting times

Historically, jury service brings, at times, hundreds of summoned jurors to the same courthouse each day. Traditionally, large groups of summoned jurors have been scheduled to report to the jury assembly room at the same time on a given day. To accommodate social distancing standards, AO 2020-79 authorizes courts to stagger reporting times for prospective jurors. For example, on a day where 150 potential jurors are needed, this might involve 50 individuals reporting at 8:30 A.M., 50 individuals reporting at 10:00 A.M., and 50 individuals reporting at noon. Depending upon needs and logistical limitations (including, for example, elevators), reporting numbers could be even smaller and at even more specific times throughout the day. Jury commissioners are strongly encouraged to implement this practice.

b. Multiple groups and smaller panels for voir dire

AO 2020-79 authorizes courts to direct prospective jurors to individual courtrooms rather than jury assembly rooms and to conduct voir dire in multiple groups where such measures would help with social distancing. Courts should implement these options as feasible. When more than one panel of potential jurors is required to select a jury, courts should conduct voir dire in multiple groups by having smaller panels report to courtrooms for voir dire. This allows courts to employ social distancing while conducting multiple sessions of voir dire, striking jurors for cause, joining the panels, and then completing voir dire and allowing peremptory strikes.

c. Non-traditional jury assembly areas

Courts should identify all possible areas within the courthouse where jurors can safely assemble. For each area, the court should identify the total seating available (applying social distancing measures) to determine appropriate seating arrangements. These measures likely will result in courts losing about two-thirds of the seating that would have been available under pre-COVID-19 circumstances.

Courts may also consider summoning potential jurors to non-courthouse facilities that can accommodate larger numbers of individuals. Examples include high school gymnasiums, empty retail buildings⁴, training facilities, theaters, convention centers, etc.⁵

B. Ensuring public health and safety in jury assembly areas

⁴ <https://www.thenewstribune.com/news/coronavirus/article242661641.html> (last visited May 25, 2020).

⁵ <https://www.independent.ie/irish-news/juries-could-be-picked-in-hotels-due-to-distancing-concerns-39216369.html> (last visited May 25, 2020).

Along with ensuring appropriate social distancing, jury assembly areas, whether traditional assembly rooms, courtrooms, or non-courthouse facilities, should be deep cleaned and disinfected, frequently, and items that could contribute to the spread of the virus should be removed from these areas. Recommended activities include:

- Wiping down workspaces (countertops, tables, armchairs, doorknobs, kiosks, etc.) frequently during the day and overnight using anti-viral cleaning products identified by the CDC.
- Avoiding the direct exchange of documents with jurors. If direct exchange is unavoidable, staff or jurors (or both) should wear gloves.
- Removing all unnecessary papers and paperwork from desks.
- Training for staff and others on the appropriate way to use gloves and face masks to avoid cross-contamination.
- Restricting access to common areas and removing courtesy amenities previously offered to jurors (such as snacks, coffee, puzzles, etc.) that are no longer appropriate.
- Providing jurors information ahead of time on what items are, and are not available, so they can come prepared.
- Posting handwashing signs.
- Placing hand sanitizer and wipes at counters and various locations of the jury gathering areas.
- Providing single use golf pencils or similar writing devices that are then discarded.
- Limiting the number of people in elevators to two to four people at a time (depending upon the size of the elevator) and frequently disinfecting elevator surfaces. The floors on each elevator should be marked so that people know where to stand to appropriately social distance. If staffing levels permit, it may be appropriate to have court personnel operate the elevator for jurors so that control surfaces are touched by fewer people.
- Because jury deliberation rooms in many courthouses will no longer be the designated area for juror breaks and deliberations, courts should consider reserving nearby restrooms for jurors, if possible, in a manner that minimizes interaction with other panels, lawyers, etc.
- If courtrooms are used for juror breaks and deliberation, both audio and video systems used to record court proceedings must be disabled during that time. In addition, attorneys will need to remove all of their materials from the courtroom.
- During Phase 1, AO 2020-79 requires judicial leadership to require court participants and visitors to wear masks or other face coverings, and courts may also require body temperature screening. Information regarding the requirement to wear masks and temperature screenings should be clearly communicated to all, including prospective jurors and jurors, so that they know what to expect before entering the courthouse.⁶

⁶ The Administrative Office of the Courts has developed health screening protocols through Administrative Directive 2020-10. <http://www.azcourts.gov/Portals/22/admindir/pdfs/2020/2020-10%20AD.pdf?ver=2020-05-21-155131-590> (last visited May 31, 2020).

C. Communication regarding safeguards used to ensure the health of prospective jurors, jurors, and court staff

Courts must keep the public informed about jury service and the precautionary measures taken to prevent the spread of COVID-19. Public messaging is a critical part of planning for reinstituting jury trials. The NCSC recommends that courts convey two messages as they resume jury trial operations: (1) communicating that courts take public health and safety seriously and have implemented policies to prevent the risk of infection and (2) showing what the courts are doing to ensure confidence in those efforts.⁷

This includes posting to their website information describing the protective measures taken. Such information should be widely communicated to the public, including prospective jurors, jurors, and court staff.⁸ Information about the safety measures being taken also should be included on jury summonses and other communication outlets, including:

- Public service announcements, media advisories, and press releases
- Social media platforms
- Juror call-in messages
- Courthouse signage
- Other communication technologies, including text messaging and email

A powerful example from the Superior Court in Pima County is found at:

<https://youtu.be/9IC9mnTDNdE>

D. Maintaining social distancing in the courtroom

Courts should identify, in advance, effective strategies for resuming jury operations in each specific facility where jury operations will be undertaken to ensure conformance with social distancing requirements. Jurors should have a safe experience and they must perceive that they will have a safe experience. Courts should:

- Provide clear signage and notices regarding social distancing requirements including seat and floor marking.
- Court postings should be in English and Spanish and should comply with the Americans with Disabilities Act (ADA).
- Consider alternative jury selection processes, including multiple small panels for a single case, using a struck method of jury selection (as opposed to strike and replace), *see* Ariz. R. Crim. P. 18.5(b) (discussing struck method in first sentence and strike and replace in second sentence) and using technology for remote screening (either initial screening or more broadly).

⁷ <http://www.ncsc-jurystudies.org/What-We-Do/COVID-Resources.aspx> (last visited June 1, 2020).

⁸ See Appendix for examples.

- Maximize the use of remote appearances through technology, such as video and audioconferencing platforms, giving due consideration to compliance with constitutional and statutory rights, feasibility, and connection stability.
- Seat jurors in a cordoned-off section of the courtroom gallery instead of, or in addition to, the jury box.
- Consider re-engineering courtrooms to accommodate social distancing, e.g., remove the jury box and replace it with individual chairs, remove some individual chairs in the jury box to ensure social distancing, or install ceiling height plexiglass between each juror. For example, the Phoenix City Court is completely reconfiguring some of its courtrooms to accommodate social distancing for jury trials.
- Use a larger courthouse conference room or training area for the jury to use during trial recesses and deliberations instead of the jury deliberation room.
- Minimize the number of prospective jurors present at each stage of jury service.
- Implement staggered reporting times.
- Have jury panels report directly to the relevant courtroom in lieu of congested jury assembly rooms.
- Assemble smaller panels (10-15 potential jurors) to report to the courtroom for voir dire.
- Explore administering written questionnaires remotely.
- Explore remote voir dire using video technology.
- Consider remote options for pre-screening jurors for hardship and for cause.
- Consider remote options for conducting jury trials in their entirety.

IV. ENSURING A JURY POOL THAT IS A FAIR CROSS SECTION OF THE COMMUNITY

As courts begin resuming new normal jury operations, reducing unnecessary foot traffic must be considered in policies and procedures implementing social distancing measures. Societal shifts resulting from the COVID-19 pandemic will inevitably impact how people will respond to a jury summons, how many people will seek excusals or deferrals, and how many people will appear through electronic means who would have otherwise sought an excusal or deferral. The complete nature and magnitude of this impact is largely unknown. Thus, courts should maintain juror yield and utilization statistics to support data driven decisions as jury management policies are adjusted in response to the new normal.

A. Online screening of prospective jurors

Along with regular foot traffic from daily filings and other daily business, petit jury and grand jury impanelments can bring hundreds of additional people to the courthouse on any given day. To reduce these numbers and ensure social distancing, courts should consider using technology that allows for virtual jury selection through a videoconferencing platform. Courts should also

implement processes to ensure that jurors are called in only when the court is certain that a trial is going to proceed. This focus on utilization has even more importance in the new normal.

AO 2020-79 allows judicial leadership to authorize the use of technology to facilitate alternatives to in-person appearances for selecting jurors. Using technology for this purpose will require coordination and planning. Using videoconferencing technology for prospective juror screening will have significant benefits, including reducing foot traffic in the courthouse and mitigating logistical challenges with court facilities to provide social distancing.

One solution that can be implemented to reduce juror foot traffic in the courthouse is an online screening tool to screen jurors for hardship. If such an online solution is used, the jury summons should include information regarding where jurors should go online to complete such a questionnaire.

Juror utilization is the measure of how efficiently the court allocates jurors who report to the courthouse for jury service.⁹ This measure is important as it relates to the cost of jury operations. It is also important because it impacts the costs potential jurors incur as citizens experiencing jury service and their perceptions of the local justice system.¹⁰ To this end, the pre-screening process can be strengthened by using questionnaires and other remote inquiries, such as supplemental questions, for further screening. For example, initial questioning can avoid situations where potential jurors are summoned to appear, only to go through the initial voir dire and be released after physically appearing in court.

The Superior Court in Maricopa County has created a proposal for an eJuror questionnaire and anticipates this will be very helpful to the process.¹¹ Jurors will be directed via their summons to respond online to complete their questionnaire. The questionnaire has three sections: contact information, qualifications, and demographic information. The questionnaire also contains general questions regarding ability to serve and potential hardships, beyond what is currently directed by statute. Each weekday morning, a report will be generated that reflects the information entered the previous day in response to the questions and identifies each juror that indicated a hardship request. This information will be provided to a duty judge, who will consider it and grant or deny the hardship request. The court will notify the juror of the court's ruling by phone or email, or by postcard if the juror did not provide a phone number or email address.

B. Establishing policies for COVID-19 related deferrals or excusals

Courts should establish and consistently apply policies governing requests for COVID-19 related deferrals or excusals, based on a specific application of established policies, the statutory standard for persons entitled to be excused from jury service set forth in A.R.S. § 21-202 and information available from the CDC and the Arizona Department of Health Services. In applying

⁹ Paula Hannaford-Agor, *Assessment of Jury Operations and Procedures for High Profile and Lengthy Trials in the Eighth Judicial District Court of Nevada* (2008).

¹⁰ *Id.*

¹¹ See Appendix for questionnaire.

such policies, deferrals (allowing a person to defer jury service to another time) should first be considered before granting excusals (where a person is excused from jury service altogether).

Although public health guidance is subject to change, at present, the CDC has identified the following groups of persons who may be at high risk for severe illness from COVID-19: (1) people 65 years and older; (2) people living in a nursing home or long-term care facility; and (3) people of all ages with underlying medical conditions, particularly if not well controlled, including (a) chronic lung disease or moderate to severe asthma; (b) serious heart conditions; (c) immunocompromised conditions; (d) severe obesity; (e) diabetes; (f) chronic kidney disease undergoing dialysis and (g) liver disease.¹² Court policies governing excusals and deferrals should take into account this guidance.

All such court policies should also address how jury trial proceedings will occur, recognizing that proceedings for an in-person jury trial are different than those for remote jury service (in whole or in part). Furthermore, it is particularly important that information about deferrals and excusals is captured and retained to ensure that potential jurors represent a fair cross section of the community and to address legal challenges which may be posed after the trial.

C. One day/one trial process

During the pandemic recovery, courts should consider whether temporary alternatives to the one day/one trial model would yield better juror utilization by allowing courts to allocate jurors for multiple matters instead of summoning new jurors and going through the selection process anew. Courts could keep jurors “on call” for a certain number of days and ask them to report when needed during the established timeframe. Courts should continue to examine their jury trial operations during the pandemic recovery to determine which is most practical for their court, e.g., moving away from the one day/one trial model might work well in a large court, but might not work as well in a smaller court with an irregular or fluctuating jury trial schedule. Courts seeking to implement this practice would need to comply with statutory requirements, including A.R.S. §§ 21-332(B) and 21-335(B).

D. The digital divide

The jury pool from which the jurors are selected must be a fair cross section of the community. A “digital divide” refers to the gulf between those who have ready access to technology and the internet and those who do not. While courts work to safely resume jury trials through social distancing, diligence requires taking measures to ensure that impaneled juries are selected from a pool of prospective jurors representing a fair cross section of the community and not only of those persons who have ready access to technology and the internet. The NCSC is currently working with five states, including Arizona, on a proof of concept that would provide free internet or other technology solutions for prospective jurors to close this digital divide. This effort also may involve

¹² <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last visited May 28, 2020).

the use of more traditional technology, like telephone contact, to reach further into the community than what reliance solely on robust internet service may allow.

E. Continuously monitor innovations underway

Innovation and new methods for conducting court business are rapidly evolving during today's public health emergency. Courts should continue to monitor and stay abreast of innovations for handling jury selection and jury trials, fully leveraging technology. A clearinghouse of these jury management innovations and other efforts around the country can be found at:

<https://judicialstudies.duke.edu/covid-19-response-resources-for-judges/>.

V. VOIR DIRE

“The challenge of voir dire is to elicit meaningful information about prospective jurors’ abilities to maintain fairness and impartiality, and to obtain that information with reasonable efficiency.”¹³

Compared to some other states, Arizona has a comparatively limited voir dire process typically driven by the judge presiding over the trial in an effort to obtain a fair and impartial jury. Voir dire should be limited to traditional inquiries, including individualized case-based issues, so courts can start with a smaller group of prospective jurors who include only those likely to serve. This approach enhances safety by not bringing people to court who likely will not be selected to serve as jurors. Courts should continue to carefully plan how many people are brought to the courthouse, when they are brought to the courthouse, and the paths by which they will need to travel in the courthouse. Courts should also plan for what the jury process will look like in the courtroom to ensure the safety of all participants.

A. Remote voir dire

The Superior Court in Maricopa County has created a proposal for a remote voir dire process (although it will not use this process as it resumes jury operations). As contemplated, the processes for reporting to juror service would involve a combination of virtual and standard in-person reporting. Prospective jurors reporting virtually would be screened electronically and sign into the virtual platform. The prospective juror would then answer voir dire questions via video on their day to “check in.” The prospective juror would be sent a questionnaire and avow under oath that the answers are correct. A staff member of the jury office would be present to troubleshoot and address any camera or sound issues. Prospective jurors reporting in person would be directed to a specific location to fill out a questionnaire, which would include a time screen.

All questionnaires would be given to the trial judge once they are complete. The first 100 (a pre-determined number) prospective jurors who check in either in person or virtually would be assigned to a panel for a particular case. The judge would then question the panel in a courtroom

¹³ Judge Gregory E. Mize and Paula Hannaford-Agor, *Building a Better Voir Dire Process* (2008).

with the lawyers and the defendant in a criminal case present (unless the defendant's presence is waived). The judge would be able to show the jurors on screen, or the lawyers can log into the session in the platform to view the prospective jurors as they respond. Strikes for hardship would then be completed.

A modified strike and replace method can be used which allows no more than 15-20 prospective in-person jurors to be brought into the courtroom. The court can also use the struck method, where another 5-10 jurors can be added virtually or be physically brought to the courtroom.

The Superior Court in Mohave County plans to impanel a petit jury to hear a case in mid-June using the Zoom® videoconferencing platform. The court will complete jury selection on one day and then ask the impaneled jurors to appear the next day for a one- or two-day jury trial. The court anticipates that many prospective jurors will choose to appear remotely, but the summons will indicate the option of appearing virtually or in-person. The court will provide an instruction sheet, schedule a test run to ensure the technology is functioning, and ensure that prospective jurors know what to expect. They will be instructed on how to "raise their hands" during the voir dire process and will also be instructed on what to do if they are placed in a Zoom® virtual waiting room.

Courts can also consider using video broadcasting technology, allowing prospective jurors to be broadcast into the courtroom to participate in voir dire without having to leave the jury assembly room or other area in the courthouse, which would eliminate the need to ride in an elevator and traverse the courthouse.

B. Peremptory strikes and alternate jurors

AO 2020-79 temporarily limits the number of peremptory strikes in an effort to reduce the numbers of citizens summoned to jury duty. Courts should also examine the practical need for alternate jurors and reduce the number of jurors or eliminate the need for alternates where feasible. There are pros and cons to having alternate jurors. Factors such as the length of the trial, type of case, issues presented, etc., should be considered when determining if and how many alternate jurors are necessary. Minimizing the number of alternate jurors where practical allows for fewer people in the courthouse and respects the time of the alternate juror who may be present for the entire trial, but then dismissed once deliberations begin. Eliminating or reducing alternate jurors should be weighed against the public health realities that jurors may be more likely to have issues arise during the course of trial that may lead to excusal.

VI. PRETRIAL PREPARATION, INCLUDING RESOLVING MOTIONS, SCHEDULING, AND PRELIMINARY JURY INSTRUCTIONS

Jury trials are most efficient when issues that can be addressed before trial are indeed resolved pretrial. Pretrial conferences are vital to resolve as many issues as possible, to limit movement in the courtroom and to avoid delay and unnecessarily lengthening jury trials.

In criminal matters, consideration should be given as to whether the defendant needs to be present for a specific pretrial hearing or, as another alternative, whether the defendant may appear virtually. Where the defendant is in custody, courts should be cognizant of moving an in-custody defendant from one facility to another, as it mixes populations and increases risk of infection. Moves of in-custody defendants also result in quarantines when such individuals are returned to jail after court hearings.

AO 2020-79 sets forth the following priority for jury trials:

1. Criminal felony and misdemeanor cases, where the defendant is in custody;
2. Sexually violent person trials;
3. Criminal felony cases, where the defendant is not in custody;
4. Criminal misdemeanor cases, where the defendant is not in custody; and
5. Civil and any other jury trial cases.

Particularly for criminal matters in limited jurisdiction courts, applying these priorities require the court to first determine whether the defendant has a jury trial right. Some charges are jury eligible by statute, e.g., DUI (A.R.S. § 28-1381, et. al); contempt (A.R.S. § 12-863(A), Ariz. R. Crim. P. 33.4). Other misdemeanors may be jury eligible if qualified by the test set forth by *Derendal v. Griffith*, 209 Ariz. 416, 104 P.3d 147 (2005) (charge must be jury eligible at common law or a “serious” offense; “moral quality” prong no longer a basis for jury trial). Caselaw has developed addressing whether various charges are jury eligibility and should be addressed early on in the case to determine whether the defendant has a jury trial right.¹⁴

The most effective way to optimize jury trial time is to address, and resolve, issues that can be anticipated *before* trial. Accordingly, the new normal will—by necessity—acutely focus on the need for pretrial motions and hearings to limit the scope of matters considered during the trial, avoid delay, and provide that trials are not unnecessarily lengthened.

Pretrial conferences can and should address a variety of issues that will make trials more efficient and, as a result, shorter. In criminal matters, for example, pretrial conferences should address a variety of issues before the day of trial, including (1) length of trial and schedule; (2) jury selection issues and voir dire proceedings; (3) hearing and resolving pretrial motions (including motions in limine, where applicable); (4) settling preliminary instructions; and (5) courtroom protocols. In addition, scheduling orders are necessary to set deadlines for such motions and filings, ensuring they will be fully briefed by the time of the pretrial conference.

Courtroom protocol issues discussed at a pretrial conference should address, among other matters, how exhibits (including stipulations regarding the admission of exhibits), bench conferences, and mid-trial motions will be handled so that the jury is not inconvenienced; offers

¹⁴ See Appendix for selected misdemeanor offenses that have, and have not, been deemed jury trial eligible.

of proof; witness examination; no speaking objections; juror questions (including whether jury questions will be allowed or, given COVID-19 concerns, temporarily suspended for good cause); approaching witnesses; and other logistical issues for trial.

Prior to the trial, victim rights issues should also be addressed, including accounting for the victim's right to be present, whether the victim wishes to be present remotely (if technology is available), and the size of the courtroom. In addition, the need for interpreters and ADA issues also should be addressed pretrial to avoid unnecessary delay.

Along with resolving these issues at hearings held before the day of trial, orders resolving pretrial motions and addressing other trial protocol issues will continue to be essential to provide notice and detailed trial protocols to make jury trials as efficient as possible and avoid delays or confusion.

Rules regarding jury trials for eviction matters in the Superior and Justice Courts are addressed in the Rules of Procedure for Eviction Actions ("RPEA"). The eviction process must be completed in a very short time, even if the case is continued. A jury trial request for an eviction action must be demanded at or before the initial appearance or it is waived. RPEA 11(d). Trial is set for an initial return date, but it may be continued for no more than three days in Justice Court or ten days in Superior Court. Courts should implement procedures for hearing and deciding substantive motions in eviction actions before the day of trial so that jurors do not have to wait for a decision on the motion. Additionally, dispositive motion hearings should be conducted before and separate from the trial.

VII. CONDUCTING JURY TRIALS

Along with the importance of pretrial proceedings, rulings and preparation, courts must determine the logistics of getting people into the courtroom, including jurors, attorneys, witnesses, members of the public, etc. Courts should explore alternatives, such as projecting the trial on a screen in an area that allows the public and others to view the trial remotely or through video livestreaming. This will limit the number of people in the courtroom to those whose physical presence is necessary, as defined in AO 2020-79.

During the initial resumption of jury trials, jurors should first be assigned to criminal cases or other cases where a jury trial is required to be initiated within specific statutory limits, in accordance with the priorities set forth in AO 2020-79.

A. Mask Requirements

AO 2020-79 requires all court participants and visitors to wear a mask or other face-covering in the courthouse beginning June 1, 2020 and throughout Phase 1. This means that, along with court personnel, all jurors, defendants, witnesses, and attorneys will be required to wear masks, including during trials. Consideration should be given to permit witnesses to remove their masks while testifying. Courts also should consider installing plexiglass around the witness stand and allowing participants to wear clear face shield masks, particularly witnesses while testifying, so

that they can be accurately identified. Courts should further consider how the requirement for masks or other face-coverings might influence in-court identification in those cases where identification is at issue.

Courts should instruct jurors that witnesses may be wearing masks, and this should not be considered in the determination of the witness' credibility. Accordingly, if masks are worn by witnesses while they are testifying, courts should ensure that the types of masks worn are consistent among the witnesses. For example, certain witnesses should not wear see-through masks while others wear opaque cloth masks.

Courts must also consider accommodations for interpreters, including American Sign Language interpreters, and should be mindful that special masks may have to be used so that lip reading is possible.

B. Bench trials and remote civil juries

Given the case priorities set forth in AO 2020-79, on the whole, criminal jury trials will proceed before civil jury trials. Additionally, because available jurors will be allocated to serve on criminal juries, the number of available jurors for civil trials may decrease. However, parties otherwise entitled to a jury trial can stipulate to a bench trial conducted in-person in the courthouse. *See* Ariz. Const. Art. 6 §17. Alternatively, for civil matters, the trial could be recorded and submitted to an asynchronous virtual jury. In this circumstance, the judge, the attorneys, the witnesses, any parties or party representatives and court staff would be in the courtroom, at an appropriate distance, while the jury then participates remotely.

C. Stipulating to judge selection

AO 2020-79 suspends until December 31, 2020 all rules that provide litigants with a change of judge as a matter of right. Accordingly, local courts could consider encouraging bench trials by allowing counsel to select the trial judge by stipulation. The court could also allow counsel to select any superior court judge regardless of whether the judge is currently assigned to the criminal bench, subject to the selected judge's availability and agreement, and approval by the relevant presiding judge. Not only would this encourage bench trials, thus eliminating challenges associated with holding jury trials, but it would also allow for a more flexible use of judicial resources.

D. Alternative civil trial approaches

a. Virtual trials

As courts work to find workable solutions to resuming jury trials, the State of Texas explored ways in which technology could be used for this purpose and held a virtual civil jury trial using videoconference technology on May 18, 2020.¹⁵ The jury trial was a one-day summary jury trial where jurors heard a condensed version of the case and rendered a non-binding verdict.

¹⁵ <https://www.reuters.com/article/us-health-coronavirus-courts-texas/texas-tries-a-pandemic-first-a-jury-trial-by-zoom-idUSKBN22U1FE> (last visited May 28, 2020).

Approximately two dozen potential jurors logged in by smartphone, laptop, or tablet for jury selection, and the trial was livestreamed on YouTube to accommodate public access.¹⁶

Courts opting for virtual trials should be mindful that they may be resource intensive, requiring a staff person to operate the technology and facilitate the process. Courts should consider conducting a short training for the jurors before the virtual trial begins. In addition, an appropriate court staff member would be responsible for technology during trial, including deliberations. This person would be muted and would not participate in the deliberations, but would be able to respond to any requests to display evidence, etc. As noted in section IV(D), courts should also ensure that potential jurors represent a fair cross section of the community and not only include those with high speed internet access. Courts may wish to consider whether a virtual trial is appropriate if any of the evidence is tactile or sensory specific as such evidence may not be able to be “displayed” in a virtual setting.

b. Summary jury trial

The Superior Court in Maricopa County has proposed several approaches for conducting summary jury trials. The report of the Civil Department Innovation Subcommittee (“CDIS”) indicates that this would be a non-binding alternative dispute resolution process in various possible forms, including for example:

- Approximately 15 venire panel members would be used to seat 4 jurors for a one-day trial with limited time-frames and relaxed evidentiary rules. A one-day jury trial might be binding or might be followed by a one-day mediation.
- A virtually appearing 8-person jury. The trial would not exceed two days. The trial might be followed by a one-day mediation.
- A recorded trial, detailed below.

The Maricopa County Superior Court CDIS report outlines the following process:

The jurors who respond using the online screening application, detailed in section IV(A), would be provided a questionnaire to ensure the juror has reliable internet access, a private space to participate, and a computing device with a camera. Jurors would be given a pretrial opportunity to appear and test their equipment. If a juror participates remotely, the juror’s time would constitute jury service as though it were in-person jury service.

Remote jury selection would attempt to replicate in-person jury selection in that bench conferences would occur outside of the jury’s presence. The CDIS report also recommends that courts should attempt to allow the jury to be together in the virtual meeting room before trial and during breaks to replicate the experience of jurors becoming a cohesive group.

In some scenarios, jurors will appear virtually, but lawyers and some witnesses will appear in person. Virtual jurors must be able to see the livestream of the trial, lawyers must have individual laptops, or the court must have cameras turned to the well of the court and available to show the

¹⁶ <https://www.bing.com/videos/search?q=texas+youtube+virtual+jury+trial&docid=13914474292524&mid=E5BEBD36F002C61065EBE5BEBD36F002C61065EB&view=detail&FORM=VIRE> (last visited June 1, 2020).

witness as the witness testifies. One possibility is to require remote jurors to have web cams so that the court and counsel can observe appearances and ensure that the jurors are present and attentive.

Juror questions may be submitted to the judge using a real-time chat feature. Deliberations will be in a secure password protected virtual room. Jurors will call the bailiff if they have a question or they have reached a verdict. Jurors will be provided a digital copy of exhibits using an online document repository or email.

After a verdict is reached, jurors will share with the judge a copy of the form of verdict. Absent any outstanding issues with the verdict form, the parties will join the meeting room and the clerk will read the verdict.

Jurors will be asked if the verdict accurately reflects their verdict and upon request, the jurors will be polled by the court. Jurors cannot sign the verdict form. As such, the judge will sign and file a verdict form indicating that the verdict was shown to the court by the foreperson, read in open court, and the jurors were asked to confirm the verdict on the record.

After the verdict, jurors will be questioned to gather additional information to improve virtual jury selection and service and juror compensation will be mailed.

c. Recorded trials

The Superior Court in Maricopa County is considering an approach whereby trials are recorded without a jury in the courtroom, and the recording is later shown to jurors to consider, deliberate, and render a verdict. This would allow courts to limit the persons present at the trial to attorneys, parties, testifying witnesses, and court staff. This also allows for a highly streamlined approach, with objections to testimony and evidence being edited out of the version of the video recording shown to the jury. Likewise, unexpected, objectionable, and prejudicial testimony could be edited out of the video. As such, jurors would see a finished video that would take less time to view than if they had been in court.

E. Exhibits

In a virtual jury process, the publishing of exhibits will need to be done differently. Parties should be required to have copies of any exhibit they are going to ask be published for each juror rather than passing around a single exhibit. This requirement could be addressed during pretrial hearings, so that the parties know which exhibits the court is likely to admit, meaning it could be published. In the alternative, before having jurors handle exhibits, jurors should sanitize their hands, put on gloves, and then handle the exhibit. Upon returning the exhibit or passing the exhibit, jurors should remove their gloves, throw them away in a nearby trash can, and sanitize their hands again.

F. Making the record

Courts should determine the most efficient procedure for creating the record during trials. For example, courts often experience time constraints related to court reporter breaks, etc. Courts may consider establishing a presumption that all parts of the jury trial during which the jury is not

actually present (discussing instructions, sidebars, etc.) will be conducted without a court reporter so that courts can maximize the time the court reporter is available for testimony and avoid delay.

Another significant issue is making a record on objections. Many judges favor a process that would allow attorneys to make a record of the objection and allow the judge to state the reasons for the ruling on the record. Sometimes this procedure involves sidebar discussions, providing more detail that the jury cannot hear. Because having counsel and the court reporter in close proximity to each other at the bench for this purpose is problematic, courts should explore using electronic recording technology for this purpose by having the attorneys speak directly into the recording system. The best solution, however, is to address as many issues as possible pre-trial, and then discuss the issue during a scheduled break or have the jury taken out of the courtroom if it is necessary for both sides to make a record of the objection. The attorneys can then make their objection on the record from their respective tables.

AO 2020-79 allows judicial leadership to authorize the use of electronic, digital, or other means regularly used in court proceedings to create a verbatim record, except in grand jury proceedings. With proper protocols in place, courts may consider using alternative means, or a hybrid method, to create the record. The Task Force to Supplement Keeping of the Record by Electronic Means examined the use of electronic recording to create the verbatim record and issued a report and recommendations in August 2019. The report and recommendations, which also lists the statutory and then-current rule requirements, can be viewed here:

<https://www.azcourts.gov/Portals/74/SKREM/082919/Final%20SKREM%20Report.pdf?ver=2019-09-09-132821-173>

G. Court interpreting

In resuming jury trials, courts should ensure that they continue to use credentialed interpreters. With social distancing measures and face mask requirements in place, courts will need to prepare for new challenges. For example, face coverings may increase an interpreter's need to ask for repetitions and clarifications. Courts should plan ahead for this and discuss with the interpreter how to best handle those requests. For interpreted testimony where the interpreter is physically present in the courtroom, the interpreter typically sits or stands with the witness on or next to the witness stand. With social distancing requirements, however, it may be necessary to plan for additional space to accommodate distancing when a witness needs an interpreter. Courts should also discuss with attorneys and the interpreter ahead of time how to handle objections to interpreted testimony and requests from the interpreter for repetitions or clarifications.

For simultaneous interpreting during in-person events, the interpreter should be provided with wireless equipment, so they do not have to remain in close proximity to the Limited English Proficiency (LEP) person. Where wireless equipment is not available, work or personal cell phones can be used to call the LEP person(s) and use their cell phones as ad hoc interpreting equipment. As a last resort, the interpretation can be performed in the consecutive mode, with the court planning for extra time accordingly.

For American Sign Language interpreters, both the interpreter and the relevant participant(s) may need to be exempted from requirements to wear masks. Facial expressions and other non-verbal communications are vital components of providing such effective interpretation.

When one or more participant(s) appear(s) remotely:

- Ensure that those appearing remotely have the requisite technology and that it meets the minimum technical requirements for the platform to be used.
- Ensure that the interpreter is technically competent with any equipment to be used.
- Perform a check of audio and video, as appropriate, prior to starting the event, to ensure that all participants can see and hear each other.
- Discuss with the interpreter the procedure to follow for requesting repetitions or clarifications.
- Discuss with attorneys the procedure for objections to interpreted testimony.
- Clearly identify all participants in the hearing or event.
- Remind participants of the interpreter's role.
- Remind participants that interpreters are ethically obligated to interpret everything they hear.
- Advise all court participants to speak clearly and more slowly than they otherwise would.
- Ensure the courtroom and all other locations from which participants appear are as quiet as possible.
- Advise all speakers to identify themselves each time they speak so the interpreter can more readily identify the voices.
- Ask participants to speak directly into their microphones so the interpreter can hear them.
- Ask participants to speak in brief, but complete segments for easier interpretation.
- If needed, direct participants to pause so interpretation can be performed.
- Allow only one person to speak at a time.

A National Center for State Courts "Recommendations For In-Person Court Interpretations" bulletin, addressing in-person court interpretation in the new normal, issued earlier today, can be found at:

https://www.ncsc.org/data/assets/pdf_file/0030/38478/Recommendations-In-Person-Court-Interpretation.pdf (last visited June 1, 2020).

VIII. ATTORNEY CONDUCT AND EVIDENCE DURING TRIAL

Many of the issues surrounding attorney conduct during trial and dealing with evidentiary issues should be addressed, and where possible resolved, before trial and through court orders addressing those issues and the governing protocols. This occurs in a variety of ways using a variety of mechanisms, including the court's enforcement of disclosure and discovery obligations, motions in limine, final pretrial statements, court-ordered deadlines for disclosure, discovery and

objections, protocols adopted by individual judges, and other measures more fully discussed above in the Pretrial Preparation and Conducting Jury Trial sections. When applied properly, these mechanisms make trials more efficient and effective, shorter, and result in a better jury experience. In the new normal, these mechanisms are critically important to prevent avoidable delays during trial and to help maintain social distancing.

Trial judges have substantial authority and discretion to control and direct attorney conduct during trial. Along with the court's inherent authority, "[t]he court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to: (1) make those procedures effective for determining the truth; (2) avoid wasting time; and (3) protect witnesses from harassment or undue embarrassment." Ariz. R. Evid. 611(a); *see also* Ariz. R. Civ. P. 40(b) ("The court should adopt trial procedures as necessary or appropriate to facilitate a just, speedy, and efficient resolution of the action," including time limits, advance scheduling, pretrial rulings, electronic presentation of evidence and "other means of managing or expediting trial"). Among other things, courts should consider the following procedures for attorney conduct during trial:

- Require that all attorneys are healthy and not symptomatic and that they report to the court if they are not healthy or are symptomatic before coming to court. The AOC has developed health screening protocols through Administrative Directive 2020-10.¹⁷ In the event an attorney is not healthy or is symptomatic, measures should be taken for the attorney to (1) participate remotely; (2) have another attorney take their place during trial; or (3) take other appropriate action.
- Prohibit attorneys from physically approaching any witness. Relevant exhibits should be placed on the witness stand before the witness takes the stand. If that has not occurred and a relevant exhibit is not within reach of the witness, court staff will make that exhibit available to the witness using appropriate procedures to ensure safety.
- Require that attorneys question witnesses while seated at counsel table, avoiding the traditional use of a common lectern (which would create the need for the lectern, microphone, and related areas to be deep cleaned between direct, cross, and re-direct examination for each witness).
- Establish clearly defined and limited areas where counsel can stand when presenting opening statements and closing arguments to ensure appropriate social distancing.
- Prohibit speaking objections. Speaking objections are improper, waste time, can provide information that the jury should not receive, and are avoidable. Instead, a timely objection or motion to strike summarily stating the specific ground applicable (unless the ground is apparent from the context) properly preserves at trial a claim of error in a ruling to admit or exclude evidence. Ariz. R. Evid. 103(a)(1).
- Prohibit sidebar or bench conferences where attorneys physically approach the bench. Along with compromising social distancing, such conferences are often unnecessary,

¹⁷ <http://www.azcourts.gov/Portals/22/admindir/pdfs/2020/2020-10%20AD.pdf?ver=2020-05-21-155131-590> (last visited May 31, 2020).

distracting to the jury, and cause delay. Instead, issues that need to be addressed outside of the presence of the jury should be addressed before trial or, for unexpected or new issues that arise during trial, such issues should be addressed during a scheduled break outside of the presence of the jury, either in chambers or in open court.

- Alternatively, if technology allows the use of white noise (to prevent the jury from hearing) and headphones and sensitive microphones (allowing only the judge and counsel to hear and be heard and the court reporter to hear), such alternatives can be used in the rare occasion where counsel and the judge need to confer about an issue outside of the hearing of the jury.
- Another alternative would be to use a see-through barrier between the parties and the judge, with appropriate microphones, that would allow the attorneys to safely approach the bench while providing an appropriate barrier and also allowing the court reporter to hear. In extraordinary circumstances, the court could excuse the jury from the courtroom, with resulting delay and the possibility of compromising social distancing.
- If sidebar or bench conferences are allowed, designate a safe area to conduct sidebars that allows for appropriate social distancing and is deep cleaned after use and that is out of the presence of the jury and where a record can be created. A sidebar will generally have a minimum of three people and therefore will require a substantial space.
- Prohibit counsel from approaching the bench for any other reason unless first requested and the request is granted by the court and, even then, ensure proper social distancing.
- Direct counsel to remove all items from counsel tables at the lunch break and the end of each day to allow for deep cleaning of the area.
- Encourage the use of technology in dealing with exhibits. If courtroom technology is available, this may include having all involved (including the witness, judge, and counsel) use a screen to view an image of an exhibit, as opposed to requiring that the physical or paper exhibit be handed around. Similarly, if courtroom technology is available, this may include having video screens to allow an exhibit to be published to the jury or for each juror to have a tablet, deep cleaned before trial begins and then assigned to that individual juror for the entirety of the trial, to view exhibits admitted into evidence.
- If available technology cannot be used to manage exhibits, require counsel to have marked original exhibits to be used at trial and sufficient copies so that (1) counsel, the judge, each witness, and the court reporter have their own, and (2) for exhibits that will be offered in evidence, sufficient copies so that, if admitted in evidence in a way that will be available for deliberation, each juror would have his or her own copy and not have to handle and share the same exhibit.
- If juror notebooks are used, jurors should be instructed where to leave their notebooks during breaks and at the end of the day so that they will not be disturbed and can later be picked up by that same juror with appropriate social distancing. If this is not feasible, measures should be taken to gather juror notebooks using gloves or other appropriate measures, so they are retained securely during breaks or overnight and then provided back

to the jurors. Where feasible, jurors should be provided with disposable pens or pencils and paper that will not be shared, and then thrown away at the end of the trial.

- Particularly when Arizona Rule of Evidence 615 (“the Rule”) is invoked, consider where witnesses should wait before they are called to testify and communicate with counsel about that location to ensure that counsel informs witnesses of the location.
- Require counsel to provide notice, at least 24 or 48 hours in advance, of witness order and scheduling to avoid delays and to ensure social distancing.
- Require counsel to advise all witnesses of courtroom procedures and to make inquiries to ensure witnesses are healthy and not symptomatic.
- Rope off “no-person zones” to ensure proper social distancing in the courtroom, including by the jury box, by the witness stand, and by the bench.
- Have hand sanitizer available for counsel, witnesses, jurors, and court personnel.
- Ensure that the witness stand, including the seat and microphone, is deep cleaned after each witness testifies.
- Require that anyone handling original exhibits should do so wearing appropriate disposable gloves to be thrown away at the end of each trial session.

IX. FINAL JURY INSTRUCTIONS AND RETURN OF VERDICT

Final jury instructions and verdict forms must be in writing and filed. *See* Ariz. R. Civ. P. 51(e)(2).; Ariz. R. Crim. P. 21.3(d), 23.1(a). As with preliminary jury instructions, the discussion and settling of final jury instructions and verdict forms should be done in a way that ensures social distancing and does not delay trial. This may involve the court taking the jury instructions submitted by the parties, drafting final instructions and verdict forms for consideration by the parties and then circulating those drafts to the parties electronically. The parties and the court can then discuss those drafts either during breaks at trial or before or after the trial day, as applicable. Then, the court can revise and finalize the final instructions and verdicts to be used, again circulating them to the parties electronically. The parties also need an opportunity to make any objections, on the record for the final jury instructions and verdict forms, either during breaks at trial or before or after the trial day. Additionally, the court needs an opportunity to rule on these objections.

Along with the court reading the final instructions and verdict forms to the jury, how each individual juror will be provided copies will depend upon what technology is available. If courtroom technology is available, this may involve having a video screen visible to the jury that displays the final instructions and verdict forms as well and for each juror to have a tablet, deep cleaned before trial begins and then assigned to that individual juror for the entirety of the trial.

If such technology is unavailable, each juror should be provided a written copy of the final instructions and verdict forms, with measures taken to ensure that the paper is only touched by

disposable gloves and placed on the juror's chair during the break just before the final instructions are given.

Fielding of jury questions during deliberations should be planned for in advance. If technology is used, it may be that the jury foreperson emails or otherwise electronically messages the jury question to the bailiff, who could then forward the question to the judge and parties. When an answer is formulated by the court after consultation with the parties, that response could be provided from the court to the foreperson in the same electronic format. If, on the other hand, no such technology is used, a paper note (treated with appropriate care) could be used for the question and the response. Similar approaches would be used when the jury is unable to reach a verdict and is at an impasse.

In a criminal trial, the form of verdict would be signed by the foreperson (through the juror's number or signature); in a civil case, the verdict would be signed by the foreperson or the number of jurors required to return a less than unanimous verdict, again, through the juror's/jurors' number(s) or signature(s). If technology is used, that form of verdict could be signed electronically and shared with the court. Alternatively, and where no technology is used, the appropriate juror(s) would need to physically acknowledge by signing the verdict form(s) to be used and provided to the court.

The return of the verdict, in whatever form provided, would be done in open court. Jurors then could be polled to ensure that it was their true verdict, as appropriate. The jury would then be thanked for their service and discharged. Any post-verdict debriefing by the court, including to assess the measures taken, would need to be done remotely or otherwise, ensuring appropriate social distancing.

X. CONCLUSION

This Report recommends the best practices courts should implement to resume jury operations in light of the COVID-19 pandemic as of June 1, 2020. These recommendations represent the best practices identified by the Subgroup after surveying Arizona courts and researching these issues at the national level over the past several weeks. Many of these precautions and recommendations will be implemented on a temporary basis, subject to change based on CDC guidance, user experience, and court discretion. Courts should modify local processes as deemed appropriate, which includes resuming previous successful processes.

As courts begin resuming jury trials, additional and different best practices will likely become apparent and more changes will be required as the recommendations in this Report are implemented. In order to keep current with the best practices developing in Arizona and around the country, the Subgroup recommends forming a standing committee to examine current and future jury practices in an ongoing effort to improve jury operations in Arizona.

APPENDIX —SELECTED RESOURCES

Arizona Jury Service: What to Expect

<https://www.azcourts.gov/juryduty/Jury-Service-What-to-Expect>

Example Juror Announcement Webpages

Superior Court in Maricopa County

<https://superiorcourt.maricopa.gov/jury/juror-announcement-page/>

<https://superiorcourt.maricopa.gov/jury/excused/>

Superior Court in Pima County

https://www.sc.pima.gov/Portals/0/Library/SuperiorCourt_Jury_Notice.pdf?no-cache

Phoenix City Court

<https://www.phoenix.gov/court/jury-duty>

Scottsdale City Court

<https://www.scottsdaleaz.gov/court/jury-duty>

Selected Authorities Addressing Whether Misdemeanor Offenses Are Jury Eligible

Misdemeanor Offenses Eligible For a Jury Trial:

- **DUI** (A.R.S. § 28-1381, et. al)
- **Indecent exposure** (A.R.S. §13-1402), *City Court of City of Tucson v. Lee*, 16 Ariz. App. 449, 494 P.2d 54 (1972) (common law right)
- **Shoplift / Theft** (A.R.S. §13-1802, 1805), *Bosworth v. Anagnost*, 234 Ariz. 453, 323 P.3d 736 (App. 2014); *State v. Superior Court In and For Pima County*, 121 Ariz. 174, 589 P. 2d 48 (1978) (common law right); *Sulavka v. State*, 223 Ariz. 208, 221 P.3d 1022 (App 2009); *State v Kaluali (Kroll, real party in interest)*, 243 Ariz 521, 414 P.3d 690 (App. 2018) (theft of services).
- **Reckless Driving** (A.R.S. §28-693A), *Urs v. Maricopa County Atty's. Office*, 201 Ariz. 71, 31 P.3d 845 (2000) (common law right)
- **Resisting Arrest** (A.R.S. §13-2508) *State v. Le Noble*, 216 Ariz. 180, 164 P.3d 686 (App. 2007) (common law right)
- **Allegation of Sexual Motivation** *Fushek v. State*, 218 Ariz. 285. 183 P.2d 536 (2008)

- **Unlawful Imprisonment** *Kaniowsky v. Pima County Consol. Justice Court*, 239 Ariz. 326, 371 P.3d 654 (App. 2016)
- **Contempt** (if consequences can exceed \$300 or six months in jail) (Ariz. R. Crim. P. 33.4)

Misdemeanor Offenses Not Eligible for a Jury Trial

- **Drag Racing** *Derendal v. Griffith*, 209 Ariz. 416, 104 P.3d 147 (2005)
- **Marijuana Possession** *Stoudamire v. Simon*, 213 Ariz. 296, 141 P.3d 776 (2006)
- **Assault** *Spence v Bacal*, 243 Ariz. 504, 413 P.3d 1254 (App. 2018) (multiple assaults); *Phx. City Prosecutor v. Klausner*, 211 Ariz. 177, 118 P.3d 1141 (2005)
- **Interfering with Judicial Proceedings** *Ottaway v. Smith*, 210 Ariz. 490, 113 P.3d 1247 (2005)
- **DUI Prior Convictions**, *Newkirk v. Nothwehr*, 210 Ariz. 601, 115 P.3d 1264 (2006)
- **Assault, Contributing to the Delinquency of a Minor**, *Fushek v. State*, 215 Ariz. 274, 159 P.3d 584 (App. 2007)
- **Adult Services** (Scottsdale City Code violation), *Crowell v. Jejna*, 215 Ariz. 534, 161 P.3d 577 (App. 2007); *Buccellato v. Morgan*, 203 P.3d 1180 (Ariz.App 2008)
- **Trespass** *State v. Willis*, 218 Ariz. 8, 178 P.3d 480 (App. 2008)
- **Obstructing Highway** *Mack v. Dellas*, 235 Ariz. 64, 326 P.3d 331 (App. 2014)
- **Serious Physical Injury/Death w/Moving Violation (28-672)** *Phoenix City Pros. Office v. Hon. Nyquist*, 404 P.3d 255, 243 Ariz. 227 (App. 2017)

Superior Court in Maricopa County

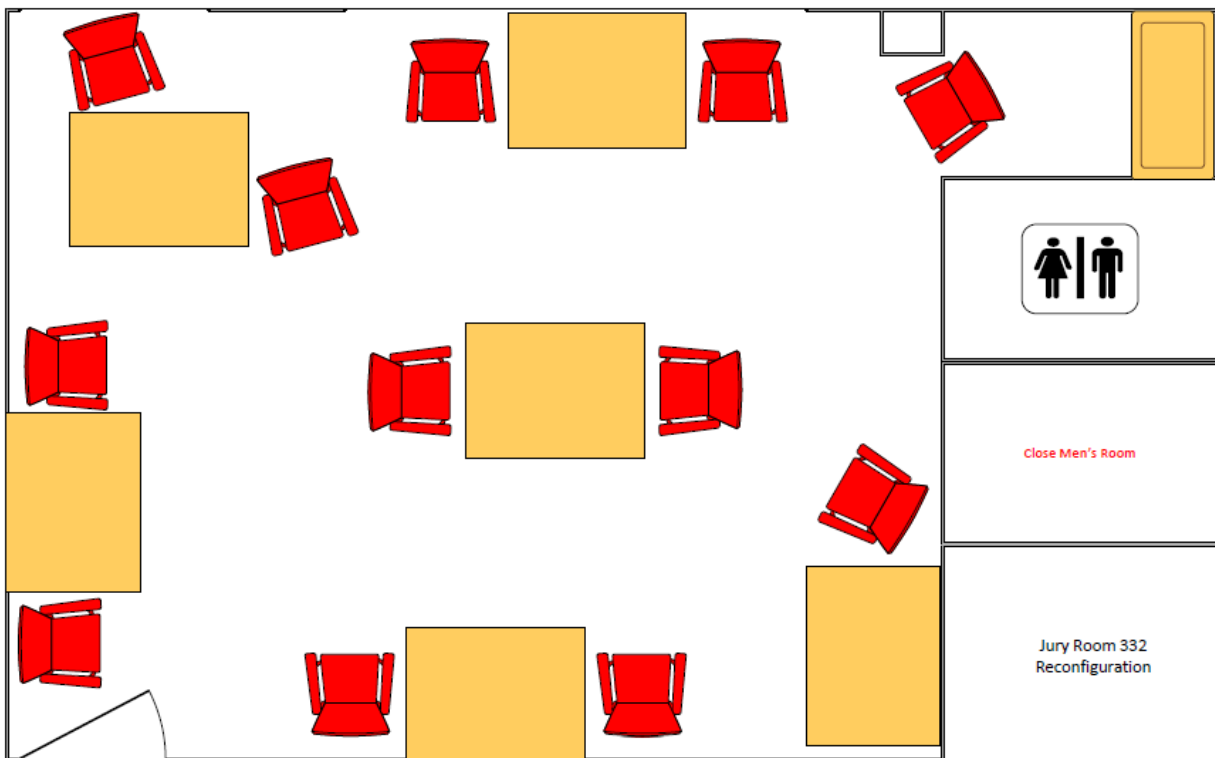
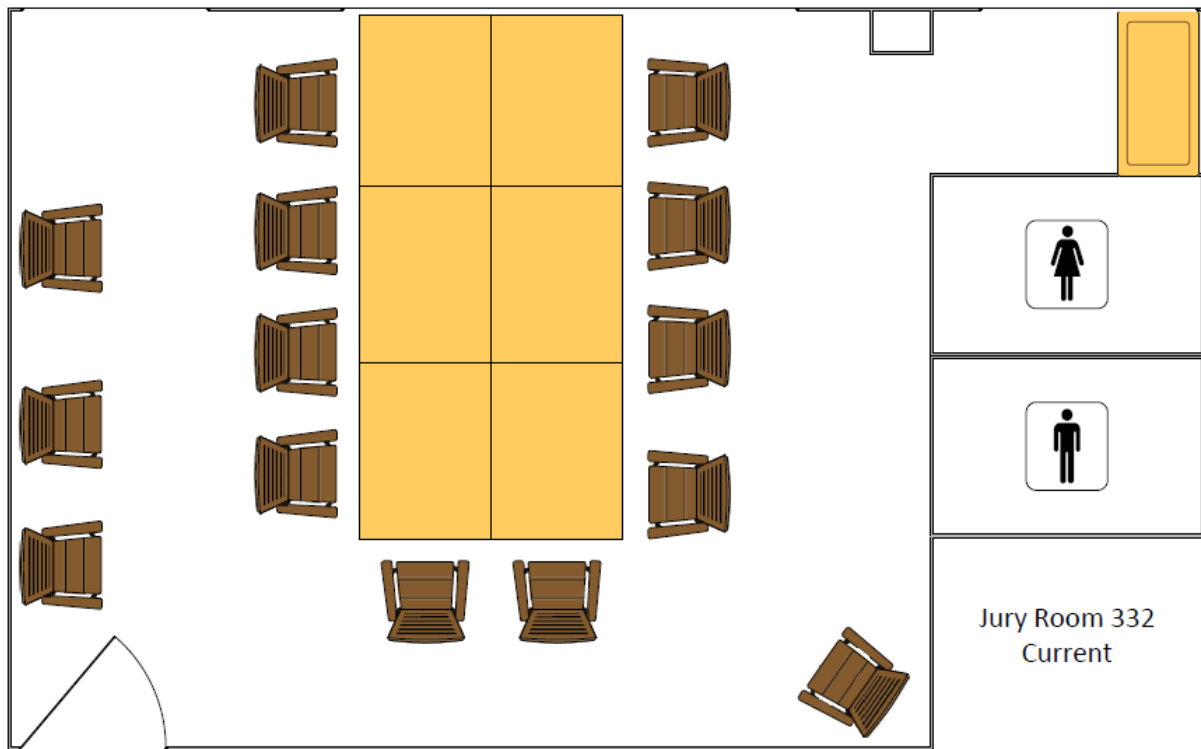
Social Distancing in the Assembly Room

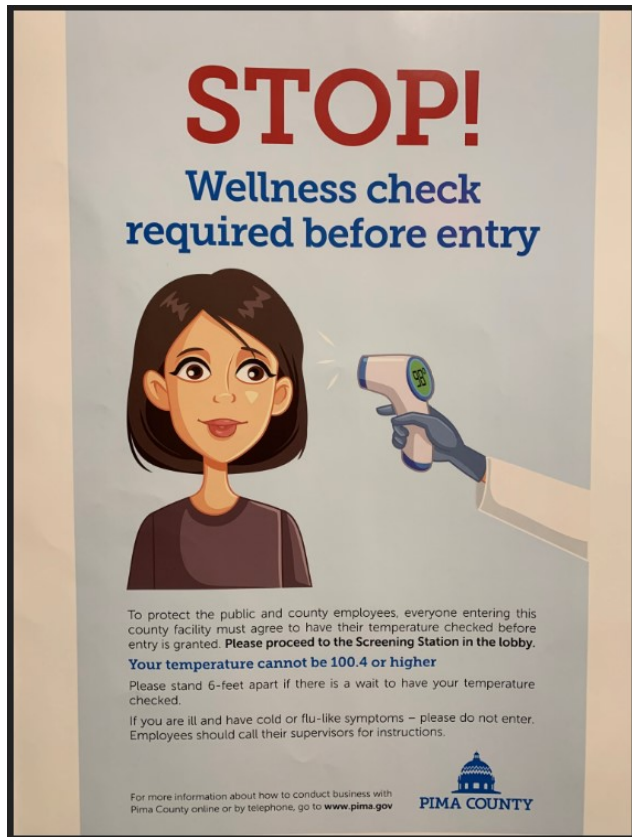


Jury Assembly Room, Superior Court in Maricopa County, Arizona



Superior Court in Pima County





Court Interpreter Guidelines and Best Practices

Questions regarding interpreter issues can be directed to the AOC Language Access Coordinator: dsvoboda@courts.az.gov.

Remote Platforms

A number of options exist. Some courts may opt for a simple telephonic option. Others may choose a more sophisticated video remote interpreting platform. Still others may use a combination of options. Here are brief notes on some common options:

- Telephonic only – simple, low tech solution. Does not provide video of remote participants. Not recommended for interpreted events longer than 30 minutes or events involving testimony.
- Video options
 - AOC VRI System – allows full simultaneous interpreting and private attorney-client communications. Requires Cisco VRI equipment. May be compatible with other videoconference equipment, but with less functionality
 - WebEx – interpreted events can be performed in the consecutive mode
 - Zoom – allows full simultaneous interpreting and private conferences for sidebars or attorney-client communications
- Hybrid Options

- Using options that are normally limited to the consecutive mode of interpretation, simultaneous can be achieved by having another conference call line or direct telephone call between the interpreter and the LEP party. The interpreter and LEP party simply mute their courtroom mics for simultaneous and then unmute them when needing to address the court or answer questions.

Superior Court in Maricopa County Juror Prescreen Questionnaire

HARDSHIPS

The following questions address your ability to serve as a juror. Please keep in mind it is not whether you want to serve, but whether you can serve. Arizona law only permits a prospective juror to be removed for specific reasons, including that jury service would cause an undue or extreme physical or financial hardship to the prospective juror or that service would substantially and materially affect the public interest or welfare.

Additionally, if you are concerned about managing your work responsibilities or care for another, you may request to postpone your jury service for up to 90 days. Please visit the [Jury website](#) for details or call 602-506-JURY(5879) for more information.

Are you requesting to be released from jury service as a result of undue hardship (example: financial, employment, travel, care provider, etc.)? Yes/No

If yes: My request is related to:

Care Provider: Yes/No

If you are requesting to be released from jury service because you provide care for another (child or adult), is there someone who can provide the care while you serve on a jury? Yes/No/I don't know

Please explain in detail why not or whether you need additional information to answer this question:

COVID-19: Yes/No

If your personal experience during the COVID-19 pandemic would make it hard for you to participate as a juror for any reason, please explain and be specific:

Employment: Yes/No

If your request to be released from jury service is employment related, please identify your employer, the nature of your employment, and your job duties and be specific:

Financial Hardship: Yes/No

If you are requesting to be released from service due to financial hardship, please review our [Compensation](#) page. Additionally, the [Arizona Lengthy Trial Fund](#) allows jurors who qualify to recover some, most, or maybe even all of your lost income during jury service. For trials of 6 or more court days, you may be reimbursed for lost income of up to \$300 a day from day 1 to the end of the case. If you still are concerned about potential loss of income you will have an opportunity to explain that below.

After reviewing the information regarding juror compensation, are you still requesting to be relieved from service due to financial hardship? Yes/No

If yes, please explain in detail the reason for your request:

If yes, does your employer compensate you for jury service?

Physical: Yes/No

Please detail the reason you are requesting to be released from jury service, and be specific:

If you would like to submit a doctor's note or a medical excuse form, please call the Jury Office at 602-506-5879 for more information.

Other: Yes/No

If you are requesting to be released from jury service for a reason not listed above, please explain and be specific:

IF YOU ANSWERED "YES" TO ANY OF THE ABOVE, YOU ARE NOT EXCUSED FROM JURY SERVICE. IF THE COURT DETERMINES THAT YOU ARE NOT ABLE TO COMPLETE YOUR SERVICE AT THE COURTHOUSE, YOU WILL BE NOTIFIED.

TRIAL LENGTH

If because of health reasons or other unavoidable circumstances you are unable to serve on a trial of the length indicated below, answer "no". Please keep in mind it is not a matter of whether you want to serve or do not want to serve, but whether you can serve. If you answer "no", you are required to complete the section below indicating the reason why you are unable to serve on a trial.

Can you serve on a trial of any length? Yes/No

If no, why not?

Can you serve on a trial of up to ten (10) days? Yes/No

If no, why not?

Can you serve on a trial of up to five (5) days? Yes/No

If no, why not?

Can you serve on a trial of up to three (3) days? Yes/No

If no, why not?

IF YOU ANSWERED “NO” TO ANY OF THE ABOVE, YOU ARE NOT EXCUSED FROM JURY SERVICE. IF THE COURT DETERMINES THAT YOU ARE NOT ABLE TO COMPLETE YOUR SERVICE AT THE COURTHOUSE, YOU WILL BE NOTIFIED.

TECHNOLOGY

You may be asked to serve as a juror-from-home using a video conference platform. Please complete the questions below to indicate your eligibility.

Do you have EACH of the following:

1. A private and quiet space? Yes/No

2. Access to a reliable internet connection? Yes/No

3. Access to a tablet, smart phone, or desktop or laptop computer with a camera?

Yes/No

4. The physical ability to watch and listen to court proceedings using a computer or phone (typically trial occurs between 9:00 a.m. and 5:00 p.m. excluding breaks and lunch)? Yes/No

5. The general ability to watch and listen to court proceedings without interruption or distraction (typically trial occurs between 9:00 a.m. and 5:00 p.m. excluding breaks and lunch)? Yes/No

I cannot serve as a juror-from-home because:

IF YOU ANSWERED “NO” TO ANY OF THE ABOVE, YOU ARE NOT EXCUSED FROM JURY SERVICE. IF THE COURT DETERMINES THAT YOU ARE NOT ABLE TO COMPLETE YOUR SERVICE AT THE COURTHOUSE, YOU WILL BE NOTIFIED.

Based on the information I have provided above, I am asking to be released from jury service. Yes/No

if yes: **Would you like to postpone your service? Yes/No**

IF YOU WOULD LIKE TO POSTPONE YOUR SERVICE, YOU WILL HAVE AN OPPORTUNITY TO SELECT A NEW DATE AFTER YOU HAVE COMPLETED THIS QUESTIONNAIRE. ONCE YOU HAVE FILLED OUT AND SUBMITTED ALL THE PAGES OF THIS QUESTIONNAIRE, YOU WILL BE TAKEN TO A PAGE WHERE YOU WILL HAVE THE OPTION TO REQUEST A POSTPONEMENT. IF YOU ARE COMPLETING THIS QUESTIONNAIRE WITHIN TEN DAYS BEFORE YOUR DATE OF SERVICE, YOU ARE NO LONGER ELIGIBLE TO REQUEST A POSTPONEMENT.



COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup Best Practice Recommendations

May 1, 2020

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COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup Best Practice
Recommendations

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COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup Best Practice Recommendations

May 1, 2020

I. INTRODUCTION

Creation and charge of the workgroup

In response to the declaration of a statewide emergency by the Governor of the State of Arizona and concern for the spread of COVID-19, changes to the ordinary practices of Arizona's courts are necessary. On March 16, March 18, April 6, and April 24, 2020, Arizona Supreme Court Chief Justice Robert M. Brutinel issued Administrative Orders 2020-47, 2020-48, 2020-60, and 2020-70, respectively, directing courts to conduct business in a manner that reduces the risks associated with this public health emergency.

Directives set forth in these administrative orders include limiting in-person contact as much as possible by using available technologies; following the Centers for Disease Control and Prevention's (CDC) social distancing recommendations; limiting the number of attendees required at in-person proceedings; liberally granting continuances; and authorizing flexibility for local rules and practices in each county.

To provide additional guidance and direction to Arizona's courts, the Arizona Supreme Court formed the COVID-19 Continuity of Court Operations During a Health Emergency Workgroup ("Plan B Workgroup"). The two-fold charge of the Plan B Workgroup is to:

"Arizona Courts remain open to serve the public. Nevertheless, given the current emergency, and in the interest of public safety, certain limitations and changes in court practices are necessary."

Administrative Order No. 2020-70 ("Authorizing Limitation of Court Operations During a Public Health Emergency")

- identify and expand best practices supporting core court operations during the COVID-19 crisis and into the future; and
- formulate recommendations on a transition from emergency operations to what will be “new normal” for day-to-day operations until such time as COVID-19 is resolved, including phased resumption of jury trials and other on-site court operations.

The Plan B Workgroup was also asked to provide recommendations (including suggestions for a transitional administrative order) at an Arizona Supreme Court strategic planning effort in late April 2020.

Overview of this report

This report begins with a summary of the workgroup membership and process. The report then lists ten guiding principles that the workgroup identified. Recommendations and best practices are then provided in the following areas: (1) maintaining health conditions during resumption of court operations; (2) data driven allocation of resources; (3) local transition planning and implementation (including considerations for an Arizona Supreme Court transitional administrative order); (4) jury management; (5) best practices throughout the transition and beyond; and (6) communications strategies. The report includes, at Appendix 1, a draft transitional administrative order reflecting, at a level consistent with prior statewide administrative orders, numerous transitional recommendations contained in this report. Appendix 2 provides selected additional resources.

The workgroup and the workgroup process

Members of the workgroup were selected, quite intentionally, to represent a wide variety of different perspectives - of both urban and rural courts at all levels. Members include two superior court judges, four limited jurisdiction court judges, three superior court/deputy court administrators, one superior court clerk of court, one superior court clerk of court representative, one limited jurisdiction court administrator, Assistant General Counsel of the State Bar of Arizona, the Judicial Education Officer for the Administrative Office of the Courts (AOC), and AOC staff. The workgroup met virtually, at least weekly, beginning April 8, 2020.

The environment leading to the creation of the workgroup was unprecedented. Courts are essential to protecting constitutional rights, providing a neutral forum for the criminally accused, issuing protective orders, and resolving many other types of legal

disputes. Given these essential functions, Arizona courts have remained open to serve the public through the statewide emergency, with limitations and changes in court practices given the concerns of the spread of COVID-19.

During this crisis, Arizona's courts have acted to protect the health and safety of participants, the public and court employees, while ensuring constitutional and statutory obligations. Out of necessity, the pandemic has required courts to move certain proceedings to virtual platforms. Courts have vacated most face-to-face hearings scheduled in March, April, and May 2020, and are largely hearing emergency matters. This has caused inevitable limitations in resolving many case types, leaving larger numbers of matters to be resolved moving forward.

The recommendations here seek to address court operations, recognizing that the state of the pandemic is a highly fluid situation and the timetable for the resumption of new normal court operations is conditioned on guidance from public health officials. The recommendations are intended to provide a platform for general guidance, understanding that local strategies will vary based on local needs, physical layout, and available resources of Arizona's local courts.

II. GUIDING PRINCIPLES

The recommendations here are intended to provide general guidance to judges and court managers to resume day-to-day operations in the new normal. Local courts are best situated to determine which recommendations are appropriate to implement in any specific court or court facility. With that premise, the workgroup identified the following ten guiding principles that helped focus its work and these recommendations.

The transition:

- 1) **Will** seek to manage contagion transmission, recognizing medical breakthroughs and collaborative advice are required to eliminate such transmission.
- 2) **Must** recognize that resolving cases where an individual is being held in custody pending resolution has priority over resolving cases where an individual is not being held in custody pending resolution.
- 3) **Must** follow constitutional and statutory mandates that place a priority on or deadlines for resolving certain types of cases, unless those mandates are waived or found to have been waived.
- 4) **Must** account for the differences between jury and non-jury trials, including the number of people that jury trials bring to the courthouse, the social distancing

challenges jury trials create, and the lead time to secure the attendance of potential jurors.

- 5) **Must** recognize that the effort will involve courts allocating limited resources to needs that exceed capacity, requiring triage and continuous, empirical needs assessment before and during the transition to best effectuate that triage.
- 6) **Must** recognize that, given differences in needs and resources in individual courts, timetables for transitions in courts will not be uniform, necessitating a statewide directive that allows flexibility for specific timing of implementation in a specific court for the resumption of hearings that have been stayed or restricted.
- 7) **Should** recognize that rule-based mandates and standards adopted by the Arizona Supreme Court or local courts can be suspended during the transition or repealed.
- 8) **Should** encourage courts to continue to employ, and where appropriate expand, technology of all types to facilitate alternatives to face-to-face hearings in open court that drive significant traffic to courthouses, and other alternatives that have been effective and consistent with the rights of all involved, identified during emergency operations.
- 9) **Should** encourage courts to continue to identify innovative ways to expand capacity and ensure social distancing to meet needs, including involving retired judges and judges pro tempore, temporary reassignment from rotational or other assignments, scheduling and allocation of interpreters and court reporters, overtime and temporary staff, extended hours (including weekends and evenings), and other measures.
- 10) **Should** encourage, where in-court hearings are required for individuals in custody or receiving services pursuant to court order, efforts to minimize the number of transportation events for such individuals, including combining hearings where possible, to minimize mixing of populations and eliminate avoidable quarantines when such individuals are returned to custody following court hearings.

III. MAINTAINING HEALTH CONDITIONS DURING RESUMPTION OF COURT OPERATIONS

A. Social distancing consistent with CDC guidelines

As courts resume new normal operations, adherence to social distancing and gathering size guidelines must remain intact. Certain precautions must be put in place

and maintained to ensure the health and safety of the public and court staff. This includes regulating the number of visitors admitted into court buildings and public court spaces, including filing lobbies, customer service counters, courtrooms, offices, and jury assembly and deliberation areas. To this end, it is recommended that courts do the following:

- Continue to follow direction from public health officials, including particularly, the CDC and the Arizona Department of Health Services, as it relates to social distancing.
- Refrain from scheduling multiple, simultaneous hearings in a number that would jeopardize social distancing, for example, high volume arraignment, eviction, or child support enforcement calendars. In scheduling matters, courts should consider:
 - The size of the courtroom and courthouse facilities
 - Whether staggered start times can be scheduled
 - Alternative available waiting areas
 - Creating seating assignments that ensure social distancing
- Create “courtroom admittance” policies that include:
 - Limiting those physically permitted in the courtroom to the parties, attorneys, victims, jurors, witnesses, and other persons whose presence is essential to the case
 - Setting a maximum occupancy level for courtrooms and other meeting areas
 - Considering any necessary adjustments for security protocols
 - Provide public access to open court hearings using video streaming technology
- Consistently apply the court’s “courtroom admittance” policies.
- Maximize the use of remote appearances through technology, such as video and audio platforms, giving due consideration to compliance with constitutional and statutory rights, feasibility, and connection stability.
- Create admittance policies based on direction from public health officials regarding the maximum number of persons allowed in a courtroom, other rooms in a courthouse, and the courthouse itself at any one time.
- Consider using paging and texting technology. The Scottsdale City Court is exploring ways in which paging technology (analogous to that used in restaurants

to notify patrons that their table is ready) can be used to ensure social distancing through limiting the number of people entering the courthouse at any one time. Specifically, court visitors check in at the front of the courthouse, indicate their reason for being there, and are handed a pager that will signal when they should return and enter the courthouse. This allows visitors to appropriately social distance while they wait, without fear that they might miss being called for their court appearance.

- Consider using appointment systems to minimize the assembly of visitors seeking court-related services during peak days and times. With limited capacity to expand the size of facilities, increase staffing, or curtail the public's need for court-related services, appointment or reservation solutions will assist in maximizing the distribution of visitors. Appointment systems may be of particular use in spreading out individuals who are filing documents, seeking law library assistance, submitting evidence, accessing records, or obtaining marriage licenses.
- Consider how to best accommodate the needs of particularly vulnerable individuals (based on health or other issues, including age, underlying medical issues, compromised immune systems, etc.), including alternatives to in-person court appearances and the need to travel to the courthouse for such vulnerable individuals, and those who may live with or provide custodial or residential care for them.
- Adopt admittance policies including provisions for turning away people who are ill, appear to be ill, or exhibit symptoms including coughing, sneezing, shortness of breath, etc., looking to the use of technology or other means so that such individuals' rights are protected.
- Some courts have instituted, or are seeking to institute, a policy of taking the temperature of all court staff and visitors entering the court building. Along with complying with applicable law, such a policy should seek to account for related issues, such as false positives, asymptomatic carriers, turning away visitors with a fever and providing them with information to explain how they can complete their court business using alternative means and whether to seek the care of a health care professional, maintenance of thermometers, etc.
- Establish guidelines and requirements to enter the court buildings, which should be posted on the court's website and at the entrance of the building, in English and Spanish and should comply with the Americans with Disabilities Act.

B. Signage and specific path routing directions

Courts are encouraged to provide clear and concise signage throughout the courthouse that directs people to courtrooms, court departments, waiting areas, restrooms, etc., so that people can travel to their destination using the appropriate path.

- Signage should be highly visible and easy to understand.
- Signage should be posted on the walls and floors of the courthouse.
- Court departments, courtrooms, and waiting areas should be clearly labeled.
- Social distancing policies and expectations should be posted in a conspicuous location and should be easy to understand.
- Signage should include arrows and other directional graphic images to assist visitors in reaching their destination.
- Courts should post on their website internal maps of the public areas of the courthouse and traffic patterns used to ensure social distancing, along with easy to follow instructions for visitors that explain the steps that should be followed to conduct business efficiently.
- Courts should develop and post on their website a Q&A or FAQ document with specific instructions about where in the courthouse people need to go based on the business they are conducting.
- Court postings should be in English and Spanish and should comply with the Americans with Disabilities Act.

C. Paper filings and the use of depository boxes

Currently, all general jurisdiction courts accept e-filing for civil cases, with some accepting e-filing for other case types. Work is now underway to quickly expand e-filing to other case types.

- Courts should urge attorneys and litigants to submit documents via electronic transmission, by e-filing if available or, in the alternative, by e-mail attachment, whenever possible.
- For cases involving paper filings (documents that cannot be e-filed), courts are urged to use secure depository boxes located outside the courthouse. This will reduce the number of people that must come through security and into the courthouse.
- If a depository box is used, there should be markers on the ground to reflect safe social distances if a line should form.

- Courts using a depository box should have a policy on their website and at the depository box that details how the documents placed in the depository box will be processed. For example:
 - How often the depository box will be checked by court staff and documents removed
 - The cut-off time for filing a document in order for a document to be considered filed the “same day” or filed the next day
 - How to include a payment with the document deposited and what payment methods are acceptable
- Courts should check the depository box and remove documents at least twice a day, once at the open of business and once at the close of business.
- Courts should promptly process documents filed and contact the filer if there are problems with the filing, payment for the filing, etc.

D. Protection of staff

Among other measures taken to transition back to new normal day-to-day operations is ensuring that court staff is adequately protected. This includes ensuring that work areas are frequently deep cleaned and disinfected and any items that could contribute to the spread of the virus be removed from these areas.

a. Masks and gloves

Another measure for protecting court staff is to provide them with personal protective equipment (PPE). If a court provides PPE, such as gloves and face masks, it must ensure that proper training is provided on the correct way to utilize face masks and gloves to avoid cross-contamination.

b. Protective barriers and physical set-backs at customer service counters and other public facing areas

Protective barriers are a measure that can be used to protect staff when they are interacting with court visitors. For example, courts may opt to install protective windows or have physical setbacks at customer service counters and other public-facing areas that will allow interaction at a safe distance. Courts may seek funding for these items through the Supreme Court of Arizona’s Court Security Improvement grant application.

E. Siloed team staffing model

In this arrangement, court staff are divided into teams (A, B, and C), with teams supporting particular judges or departments. Teams are assigned to work on-site at the

courthouse on alternating days or weeks, while other teams perform their job functions through teleworking. This model significantly reduces the number of staff in the courthouse, opens up office space, enhances social distancing, and reduces the exposure of staff to possible transmission. It also helps ensure continued court operations. If a staff member in one team becomes infected or exposed, that team can isolate at home through a recovery period while other teams continue on-site staffing.

F. Proceedings involving symptomatic in-custody individuals

Arizona courts recognize that resolving cases where an individual is being held in custody pending resolution has priority over resolving cases where an individual is not being held in custody. The threat of COVID-19 exposure and spread presents challenges related to how courts should conduct proceedings with in-custody individuals who are symptomatic. Recommendations for handling these situations include:

- Maintaining consistent and frequent communication with the local jails to stay informed as to whether any in-custody defendants have tested positive for COVID-19.
- Collaborating with local jails to develop solutions for communicating with in-custody defendants through virtual or telephonic means to minimize transport needs.

If a symptomatic individual must be transported to the courthouse, the court should designate a secured area, other than the courtroom, where the individual can be held with proper security, personal protective equipment, and cleaning precautions.

G. Communication with staff about law changes and sick leave

On March 18, 2020, President Trump signed the Families First Coronavirus Response Act (FFCRA) into law. The FFCRA is designed to provide relief in the form of paid and job-protected sick leave for those impacted by COVID-19. The current Family and Medical Leave Act (FMLA) has been expanded to include potential paid leave under the FFCRA.

- Court administrators, clerks, and other managers must keep staff informed of the changes in such laws and how the changes impact their employment as they relate to sick leave and job duties.
- Courts should ensure that employees are kept informed of available crisis support and employee assistance programs.

H. Frequent deep cleaning of court facilities and informing the public

Measures should continue to be taken to ensure that court facilities are adequately cleaned and disinfected to prevent the transmission of COVID-19. Courts should be transparent and keep the public informed about such measures as follows:

- Ensure that courthouse facilities are deep cleaned frequently and regularly, both throughout the day and after hours.
- Develop protocols and ensure that entryways to the courthouse are deep cleaned and disinfected frequently and regularly, including wiping down surfaces such as counters, security screening stations, metal detectors, conveyor belts and bins, doors, doorknobs and push bars, etc.
- Develop protocols for cleaning and disinfecting both public and staff work areas at the end of each day or after a staff member has occupied a work station, if staff are rotated in the work station throughout the day.
- Heighten cleaning in offices and common areas throughout the day by regularly wiping down surfaces such as counters, door knobs, railings, etc.
- Restrooms and the surfaces therein should be frequently cleaned and disinfected.
- Ensure that hand sanitizer is made available in communal areas.
- Make paper towels available at hand washing stations so that staff and visitors can use a paper towel to open the door. Wastebaskets should be placed close to the door and emptied regularly so that they do not become overfilled.
- Posting on court websites, in English and Spanish and in compliance with the Americans with Disabilities Act, the measures being taken to clean and disinfect court facilities. Posted information should include the frequency in which the facilities are being cleaned.

IV. DATA DRIVEN ALLOCATION OF RESOURCES

In response to the pandemic, courts have moved certain proceedings to virtual platforms. Local courts are encouraged to conduct on-going data-based assessments of case backlogs, both in terms of case hearings and processing activities, e.g., disposition reporting, issuance of notices, payment processing, etc.

A. Prioritization of case types for resolution during initial transition

Where limits on capacity require prioritization and triage, the following priorities for general case types should apply (recognizing constitutional and statutory preferences govern specific issues that may be raised in a specific case), starting with highest priority:

- 1) Criminal
- 2) Juvenile
- 3) Mental Health
- 4) Family (involving minor children)
- 5) Family (not involving minor children)
- 6) Probate
- 7) Civil
- 8) Tax and Administrative cases

In criminal cases specifically, courts should apply the following priorities (recognizing constitutional and statutory preferences govern specific issues that may be raised in a specific case), starting with highest priority:

- 1) Criminal cases, where the defendant is in custody
- 2) Criminal felony cases, where the defendant is not in custody
- 3) Criminal misdemeanor cases, where the defendant is not in custody

B. Reallocation of resources consistent with needs and capacity

Certain case types and issues presented must be prioritized. Given the limitations created by the pandemic, most courts will need to shift resources temporarily to address cases within the timeframes required by statute and constitutional guarantees.

a. Shifting criminal caseload to civil and family court judges

Courts should temporarily shift criminal case assignments to judges who would ordinarily handle family and civil cases so that criminal cases can be addressed by a greater number of judicial officers as expeditiously as possible. After criminal matters have been sufficiently addressed, judicial assignments can be redistributed or otherwise reallocated to the new normal.

b. Postponement of civil trials on an as needed basis

Courts should postpone civil trials to the extent that the resources necessary for conducting civil trials can address urgent and time-sensitive matters in criminal cases.

c. Deployment of pro tempore and retired judges, contingent upon the availability of courtrooms and staff support

Where limitations exist, courts should expand case disposition capacity by calling retired judges back to work and using judges pro tempore.¹ To support these adjunct judicial resources, courts should address the scheduling and reallocation of interpreters, court reporters, and other personnel. Properly allocating and scheduling such resources will be essential to avoid unnecessary delay in calling matters for scheduled hearings and to avoid the need to reschedule hearings. Recognizing that the pandemic may result in budget reductions, staffing strategies may include reassigning staff to different duties, overtime hours for court staff, deployment of temporary staff, extended hours (including weekends and evenings), and other measures.

V. LOCAL TRANSITION PLANNING AND IMPLEMENTATION (INCLUDING DRAFT RECOMMENDED SUPREME COURT TRANSITIONAL ADMINISTRATIVE ORDER)

As courts transition from emergency operations to resume what will be the “new normal” for day-to-day operations, there will be countless best practices and lessons learned. As developments have come so quickly in the recent past, emergency operations have changed weekly, daily, and at times, hourly. The future will include significant improvements, including medical breakthroughs, that will ease transitioning to this new normal. For now, these and other variables mean the transitional recommendations here are based on imperfect information. Although including countless actions and steps, the suggestions that follow are in two categories: (a) recommendations for an Arizona Supreme Court transitional administrative order and (b) local court transition planning and implementation.

A. Supreme Court transitional administrative order

The workgroup recommends that a statewide transitional administrative order be expressed in a single, comprehensive Arizona Supreme Court administrative order. This continues the practice in Arizona to date, and provides clarity and ease of reference, recognizing those directives may then be implemented by local courts in administrative orders and policies.

¹ The AOC has procured a limited number of laptop computers which are available for local courts to equip pro tempore and retired judicial officers to work and remotely conduct hearings.

Based on the ten guiding principles detailed in Section II, the workgroup recommends the issuance of an Arizona Supreme Court administrative order (AO), replacing AO 2020-70 in its entirety, that (1) includes the provisions in AO 2020-70 that remain valid, either until the transition efforts begin in earnest or otherwise, and (2) includes the following modifications or additions, which are largely self-explanatory:

- Unless waived or found to be waived, constitutional and statutory priorities for cases continue to apply.
- Courts should continue undertaking needs assessments and planning for how to best allocate resources and identify appropriate processes when hearings resume in stayed proceedings, including how to triage, how to account for cases needing to be resolved, identifying available resources and new operational standards, including for jury selection and service (both petit and grand juries), and therapeutic/specialty/problem solving court operations.
- Requests for time-sensitive matters, such as orders of protection, injunctions against harassment, ex parte temporary child custody orders, court-ordered inpatient medical treatment, evictions, temporary emergency orders, expedited election matters, temporary restraining orders, etc., should continue to be priority matters.
- Empaneling of new petit juries scheduled through (DATE TO BE DETERMINED) should be rescheduled.
- Employing appropriate management and social distancing measures, empaneling new petit juries may resume beginning (DATE TO BE DETERMINED).²
- For cases where a party has a jury trial right that has not been waived, where limits on capacity require prioritization and triage, the following priorities shall apply, starting with highest priority:
 - 1) Criminal cases, where the defendant is in custody
 - 2) Criminal felony cases, where the defendant is not in custody
 - 3) Criminal misdemeanor cases, where the defendant is not in custody

² It is recommended that the dates to reschedule empaneling juries and resume empaneling juries be two specific dates, perhaps a Friday followed by a Monday. The workgroup hoped specific dates could be pinpointed during this effort, but recognizing the situation is quite fluid and also not knowing precisely when a transitional AO may issue, no specific dates are recommended here. That determination is better left to an informed assessment at the time of the issuance of such an AO, including then-current circumstances and guidance by health experts.

- 4) Civil and any other cases
- Where capacity limitations require prioritization and triage, the following priorities for general case types apply (recognizing constitutional and statutory preferences govern for specific issues raised in a specific case), starting with highest priority:
 - 1) Criminal
 - 2) Juvenile
 - 3) Mental Health
 - 4) Family (involving minor children)
 - 5) Family (not involving minor children)
 - 6) Probate
 - 7) Civil
 - 8) Tax and Administrative cases
 - Temporarily suspending or reducing, until the end of the year, rules of court that afford litigants peremptory strikes for potential jurors. For example, in criminal trials involving a 12-person jury, suspending peremptory challenges would reduce by approximately 46 percent the number of qualified jurors necessary to select a jury (depending on the number of alternates involved), meaning the number of potential jurors to be called to serve would correspondingly be reduced.
 - Temporarily suspending, until the end of the year, rules of court that afford litigants a peremptory notice of change of judge for a judge assigned to a case either in all courts or, alternatively, in courts where there are five or fewer authorized judgeships. This would reduce the need to have judges from other counties or courts travel to a different courthouse to preside over such matters and help ensure adequate judicial resources for backlog reduction.
 - Employing appropriate management and social distancing measures, and employing and, where appropriate expanding, use of technology of all types to facilitate alternatives to face-to-face hearings, for resumption of grand jury proceedings.
 - Courts should continue to employ and, where appropriate expand, the use of all types of technology identified during emergency operations to facilitate alternatives to face-to-face interactions that drive significant traffic to courthouses and other alternatives that have been effective and consistent with ensuring the preservation of the rights of all involved.

- Courts should continue to identify ways to expand capacity and ensure social distancing to meet needs, including involving retired judges and judges pro tempore, temporary reassignment from rotational or other assignments, scheduling and allocation of interpreters and court reporters, overtime and temporary staff, extended hours (including weekends and evenings), and other measures.
- Where in-court hearings are required for individuals in custody or receiving services pursuant to court order, efforts should be taken to minimize the number of transportation events for such individuals, including combining hearings where possible to minimize mixing populations and eliminating avoidable quarantines when such individuals are returned to custody following court hearings.
- Courts are encouraged to conduct juvenile hearings using technology, by consolidating hearings where possible and with limited public access, as appropriate, to ensure social distancing.
- Courts are encouraged to ensure that high volume court calendars account for social distancing, including distancing in the courthouse and in courtrooms, between courtrooms being used, and in calendaring and scheduling.
- Courts should continue to advance alternative dispute resolution options, including online dispute resolution platforms, to resolve issues and cases without the need to hold hearings in courtrooms.
- Probation officers should be authorized and encouraged to use social distancing and technology of all types to supervise those on adult and juvenile probation, including, where appropriate, for contacts with such individuals.
- Court Appointed Special Advocate and Foster Care Review Board programs should be authorized and encouraged to use technology to ensure social distancing.
- The AOC should be authorized and encouraged to use social distancing and technology of all types in continuing to implement the Certification and Licensing Programs under Part 7, Chapter 2, of the Arizona Code of Judicial Administration.
- Extend the June 1, 2020 deadlines in AO 2020-70 to (DATE TO BE DETERMINED).
- Limited jurisdiction presiding judges, or for limited jurisdiction courts that have only one judge, the judge of such a court, should be authorized to take actions consistent with these directives, provided they comply with constitutional and statutory requirements.

- Other provisions are suggested in the proposed draft Supreme Court AO, attached as Appendix 1.

B. Transition planning and implementation

Transition planning and implementation will be a key aspect of implementing any Supreme Court transitional administrative order. Local court transition planning and implementation should involve a wide range of considerations, including those addressed in this report, with focus on unique needs, resources, limitations, and other factors of the specific court.

Such efforts will benefit from thoughtful and creative involvement by individuals involved in the local court. Participants should involve presiding and other judges, the clerk of court and others in that office, and court administrators, benefited by, as appropriate, meetings or communication with local justice partners and the local bar.

Transition planning and implementation efforts will differ from past initiatives in critically important ways. These efforts *must* be based on the thought that courts are not planning how to return to pre-COVID 19 normalcy. Instead, the efforts should focus on determining what the new normal will look like and then planning for how to prepare for and implement that new normal.

These local planning and implementation efforts will be a sea change for all involved. It is to look to a new normal that does not yet exist, in defining how that new normal will look. Efforts will include thinking about what could work that has never been tried, what was tried with and without success (limited or otherwise) during the pandemic and other new, newish, or newly-rediscovered alternatives from the pre-pandemic world that was the old normal. This sea change will involve re-evaluating many aspects of court operations, including how courtroom activities proceed. It will include a reconsideration of how to deal with time-worn issues but using new and creative solutions that may not be perfect, but that have become necessary in the new normal.

This, in turn, will necessitate change in the day-to-day activities of judges in the new normal—not simply returning at a set date to how things were done before. Change is not always easy, and the familiar is comfortable. But for all involved, including judges, local planning and implementation efforts need to acknowledge – at the beginning and throughout – the essential nature of the cultural change needed to see what the new normal will be, and to plan and transition to that new normal.

Transition planning and implementation efforts also should look at budgetary and financial issues. These efforts may require improvements or changes to facilities,

technology, and safety and health programs. Further, personnel expenses may rise if overtime is used or if medical leaves increase. Accordingly, transition planning and implementation measures should include:

- Reassessing current fiscal year and future budgets for opportunities to reallocate discretionary or non-essential funds to crisis response activities.
- Monitoring special revenue trends and forecast reductions through the next fiscal year.
- Reviewing crisis related expenditures and external funding.
- Seeking grant funding opportunities directly available to the court, through the local funding authority or the AOC.

VI. JURY MANAGEMENT

Courts around the country are responding to COVID-19 in numerous ways, working to balance public health and safety with access and openness. Jury commissioners and their staff are at the forefront of this response, navigating through jury management issues. This section serves as a resource for best practices to assist with reinstituting jury operations.

A. Reevaluating juror reporting practices

Traditionally, all summoned jurors have been scheduled to report to the jury assembly room in large numbers at the same time on a given day. In the new normal, jury commissioners should plan to replace that practice with having smaller groups appear at staggered reporting times. For example, on a day where 150 potential jurors are needed, this might involve having 50 individuals reporting at 8:30 A.M., 50 individuals reporting at 10:00 A.M., and 50 individuals reporting at noon.

Another alternative is to direct jurors to report directly to a designated courtroom instead of a single jury assembly room. When more than one panel is required to ultimately select a jury, an option is to have smaller panels for voir dire report to courtrooms.

Paging and texting technology should also be considered. The same technology that is used in restaurants to notify patrons that their table is ready can be used by courts to communicate with jurors regarding the location and time they should appear in a designated location.

B. Ensuring public health and safety in jury assembly areas

Jury assembly areas, whether traditional assembly rooms or courtrooms, should frequently be deep cleaned and disinfected, and items that could contribute to the spread of the virus should be removed from these areas. Recommended activities include:

- Wiping down essential workspaces (countertops, tables, armchairs, doorknobs, kiosks, etc.) frequently during the day and overnight.
- Avoiding the direct exchange of documents with jurors. If direct exchange is unavoidable, staff or jurors (or both) should wear gloves.
- If the court uses personal protective equipment, such as gloves and face masks, the court must ensure that proper training is provided to staff and the public on the correct way to utilize these items to avoid cross-contamination.
- Restricting access to common areas and removing courtesy amenities previously offered that are no longer appropriate (coffee, microwaves, refrigerators, puzzles, games, books, magazines, etc.).
- Providing jurors information ahead of time on what is and is not available, so they can come prepared (for example, whether water, vending machines, etc., will be available).

C. Maintaining physical distancing in the courtroom

Courts will have to determine the best strategies for reinstating jury operations to ensure conformance with social distancing requirements. Courts should:

- Consider alternative jury selection processes, including multiple small panels for a single case, using struck method of jury selection (as opposed to strike and replace), and using technology for remote initial questioning.
- Seat jurors in a cordoned-off section of the courtroom gallery instead of the jury box.
- Utilize a larger courthouse conference room or training area for trial recesses and deliberations instead of the jury deliberation room.
- Minimize the number of jurors at each stage of jury service.
- Have staggered reporting times.
- Have jury panels report directly to the courtroom.
- Assemble smaller panels (10-15 potential jurors) to report to the courtroom for voir dire.
- Explore administering written questionnaires remotely.
- Explore remote voir dire using video technology.

- Consider remote options for prescreening jurors for hardship and for cause conflicts.

D. Considering and addressing changes in juror response

Once the decision is made to resume trials, jury commissioners should anticipate changes in prospective juror response rates. The nature and magnitude of that change is unknown, particularly in the “not available” category (i.e., no show, undeliverable, disqualified, exempt, excused, postponed, etc.). Many factors, including local circumstances, will have a significant influence, as reflected in the National Center for State Courts’ “Jury Managers’ Toolbox” located at: <http://www.ncsc-jurystudies.org/Jury-Managers-Toolbox.aspx>. Jury commissioners should account for these changes to make sure that trials are not continued due to a lack of potential jurors secured or, alternatively, that more potential jurors appear than are needed.

Given the need for clear messaging to the public, it is recommended that the criteria for evaluating requests for excusals from, and deferrals for, jury service be generally consistent on a statewide basis during the resumption of jury trials. Consideration should be given to the creation of a workgroup to formulate such recommended criteria.

To evaluate requests for deferrals, particularly from prospective jurors identified as high risk, jury commissioners are encouraged to continue to gather demographic data, including census bureau data, and to communicate with public health officials to identify appropriate deferral criteria. In addition, local courts will need to evaluate their jury service policies, including viewing deferral as a preference to excusal from service.

Deferral policies should be re-evaluated. Following recommendations by the National Center for State Courts, consideration should be given for Arizona deferral policies to include:

- First deferral as a matter of right
- Extension of the first deferral period (for example, if currently 6 months, consider extending up to 12 months)
- Clarification of “good cause” for second deferral:
 - Persons currently testing positive for COVID-19 or in quarantine
 - Persons at high-risk of infection
 - Persons living with others at high risk of infection

- Health care professionals, first responders, and hospital cafeteria and custodial staff³

In deferral policies, courts should also include in the definition of “good cause” childcare responsibilities related to health directives that close schools or childcare providers. Courts must also ensure that deferral policies comport with state and federal laws.

Failure to appear (FTA) rates for jury service could change in the new normal. Points of discussion for FTA policies should consider:

- Adopting relaxed FTA policies.
- Continuing to follow up with non-responders and failure to appear jurors with a second notice/summons, using this as an opportunity to highlight the importance of juror response, and offer deferrals if a person falls into a particular category.
- Considering an “amnesty” program for a period of months after jury trials resume. For those who have not shown up in the past, courts should clearly explain that the court can either issue an order to show cause or a warrant, or if the person calls, they will simply be put in a new pool for the future.

E. Remote grand juries

Courts should explore ways to conduct grand jury proceedings remotely. Technology platforms should be configured to safeguard required secrecy of grand jury proceedings and deliberations with appropriate security measures to ensure confidentiality and privacy.

F. Alternatives to one day/one trial policies

Potential jurors are summoned weeks, if not months, before they need to report. Jury commissioners should consider whether jurors who have already been summoned can be kept on hold for a period of time and be called when the court resumes jury trials. If this is not possible, jury commissioners need to start summoning more jurors and communicate in advance with others involved in the process. If already-summoned jurors can be brought back to serve, procedural aspects of the process need to be addressed, including possible issuance of a new summons and how to contact the jurors (including electronically).

³ <http://www.ncsc-jurystudies.org/What-We-Do/COVID-Resources.aspx> (Last visited April 19, 2020).

G. Communication regarding safeguards used to ensure the health of potential jurors, jurors, and court staff

Courts must keep the public informed about jury service and the precautionary measures taken to prevent the spread of COVID-19. This information should be widely communicated to jurors, potential jurors, and court staff. Information about these precautions should be included on jury summonses and other communication outlets, including:

- Public service announcements, media advisories, and press releases
- Court websites and social media platforms
- Juror call-in messages
- Courthouse signage
- Other technologies, including text messaging and email

Examples:

Superior Court in Maricopa County

<https://superiorcourt.maricopa.gov/jury/juror-announcement-page/>

Superior Court in Pima County

https://www.sc.pima.gov/Portals/0/Library/SuperiorCourt_Jury_Notice.pdf?no-cache

Phoenix City Court

<https://www.phoenix.gov/court/jury-duty>

Scottsdale City Court

<https://www.scottsdaleaz.gov/court/jury-duty>

Public messaging to jurors is a critical part of planning for reinstituting jury trials. The National Center for State Courts recommends that courts convey two messages as they ramp up operations: (1) that courts take public health and safety seriously and have implemented policies to prevent the risk of infection and (2) show what the courts are doing to ensure confidence in those efforts.⁴

Courts need to continue to let everyone know that “Jurors are our heroes!” Courts also need to publicly acknowledge that jurors are critically important participants in the

⁴ <http://www.ncsc-jurystudies.org/What-We-Do/COVID-Resources.aspx> (Last visited April 19, 2020).

administration of justice. Communicating this message appeals to the civic mindedness, altruism, and importance of jury service.⁵

H. Continuously monitor innovations underway

The Superior Court in Maricopa County is currently exploring the implementation of a hybrid virtual jury selection process that combines in-person selection with some remotely connected jurors, a completely virtual trial, a virtual settlement conference program, a new electronic recording system to create the verbatim record that allows full functionality to have remote evidentiary hearings and trials, and a potential virtual mock trial partnering with law students to run through remote jury selection. A clearinghouse for these and other efforts around the country can be found at:

<https://judicialstudies.duke.edu/covid-19-response-resources-for-judges/>.

VII. BEST PRACTICES THROUGHOUT THE TRANSITION AND BEYOND

In response to the pandemic, Arizona courts have quickly implemented an array of court technology solutions providing 24/7 remote access to court services. In addition to pandemic safety considerations, the expanded use of online court technologies results in improved public access and efficiencies in internal court operations. Some of the re-engineered processes and supporting technologies appear to be scalable for wide-spread use, bringing about economies of scale.

Given these benefits, it is recommended that many of the re-engineered business processes remain in place and be expanded beyond the duration of the pandemic. Governing court rules and policies should be amended as necessary to support the continuing deployment of court technologies.

The AOC is working to create training videos, guides, and other materials to assist judges, court managers, and court staff navigate new technologies during these times. Courts are encouraged to continue to explore alternative educational resources to expand their knowledge of these platforms and other available technologies that may be useful.

A. Digital Courts

⁵ *Id.*

a. Expansion of electronic filing in general and limited jurisdiction courts

Currently, all general jurisdiction courts accept e-filed documents for civil cases, with some accepting e-filed documents for other case types. Work is underway to quickly expand e-filing services to include the following additional case types in general jurisdiction courts: criminal, family, probate, guardianship, and juvenile delinquency. Future e-filing initiatives include case initiation documents and e-filing in limited jurisdiction courts, e.g., small claims, civil, misdemeanor, and evictions.

- Courts should be flexible with implementing e-filing so that parties can file documents without coming into the courthouse.
- After e-filing has been implemented, courts should revisit their business processes to determine whether more efficient measures can be put in place.

b. Enhanced use of e-bench

E-bench, currently operational in Arizona Judicial Automated Case System (AJACS) supported general jurisdiction courts, supports a digital workflow process for judges and judicial support staff. E-bench functionality has been expanded to support the e-filing of court orders created by judicial officers. Integration provides for automated data entry of related information into the court's case management system.

B. Remote appearances where possible

Remote court appearances are now being conducted for a wide array of hearing types via telephonic and video-conferencing technologies, e.g., orders of protection, criminal arraignments, emergency family court matters, etc.

- Courts should explore the continued use and expansion of technology to conduct court proceedings that previously would have been held in person.
- The AOC has secured a statewide Zoom® license for video conferencing services that courts should use to conduct remote proceedings where possible.
- Courts should explore the live streaming functionality of these platforms. Zoom® allows for video live streaming, which can be used for public viewing of court proceedings, as well as remote video interpreter services. Most of the conferencing systems have electronic recording capacity, which can be employed to make the verbatim record of court proceedings, and some systems also support online interpreter services.

C. Online dispute resolution (ODR)

A one-year ODR pilot program for online resolution of criminal misdemeanor and family law cases recently concluded in the superior court in Pinal and Yuma Counties and in the Scottsdale City Court. The ODR process was not mandated in the pilot program, resulting in a relatively low number of litigants opting to use the ODR system. With that caveat, in cases in which the litigants chose to use the ODR system, the courts achieved relatively high rates of case resolution. The ODR system proved successful in serving litigants at long distances from the courthouse, providing access 24/7.

Planning is underway to expand Scottsdale City Court's criminal misdemeanor ODR project to other courts. This model program allows litigants to resolve cases without visiting the courthouse, further averting limitations in case processing that would otherwise occur during the pandemic. Courts should explore ways to expand the use of ODR, so in-person contact can be avoided to the greatest extent possible. Additionally, courts should explore ways to expand the use of ODR for resolution of misdemeanor, family, and consumer law cases, including small claims and civil disputes.

D. Allowing remote payment of financial obligations to the court

The Supreme Court recently implemented the Offsite Cash Payment service supported by the Pay Near Me network, allowing litigants to make cash payments for restitution, fines, and other court-ordered financial obligations at 7-Eleven®, Family Dollar®, and other retail locations across the state. Planning is underway to provide expanded availability of online citation payments, online enrollment into local courts' Fines, Fees, and Restitution Enforcement (FARE) programs and Compliance Assistance Programs (CAP), and online entry into time payment contracts. Courts should ensure that litigants are made aware of these payment options by posting information at the courthouse, on the court's website, and through social media.

E. Electronic recording of court proceedings

Production and preservation of a record of proceedings in a court of record are fundamental functions of the judicial branch. The Task Force to Supplement Keeping of the Record by Electronic Means examined the use of electronic recording to create the verbatim record and issued a report and recommendations in August 2019. The report and recommendations can be viewed here:

<https://www.azcourts.gov/Portals/74/SKREM/082919/Final%20SKREM%20Report.pdf?ver=2019-09-09-132821-173>

Administrative Order 2020-70 provides for electronic recording of court proceedings, except in grand jury proceedings, to create the verbatim record. This measure should temporarily continue.

- Except for grand jury proceedings, to expand capacity, courts can use electronic recording to create and maintain a complete and accurate record in proceedings where creating a verbatim record is necessary, notwithstanding a party's request that the proceedings be recorded by a court reporter.

F. Expanded use of text messaging communications

Text messaging services are available through a statewide services contract procured by the AOC. Some courts send text reminders to litigants regarding court hearing dates, financial payment options, failure to pay, and failure to appear.

- Courts should use and expand the use of text messaging to advise litigants of alternative hearing arrangements (e.g., video hearings, telephonic hearings, rescheduled hearings, etc.), remote e-court services, and alternative court locations.
- Text messaging reminders and communications should be implemented by all courts as a best practice, which has shown a reduction in failure to appear and failure to pay rates.

G. Use rules of reason and alternative means to confirm identity and related issues

As courts move forward with conducting more proceedings in a virtual environment, they should exercise rules of reason when considering the restrictions that should be imposed in these virtual environments as follows:

- Remove unintended barriers or additional challenges when creating policies and procedures for the virtual environment. For example, if checking a defendant's driver license was not a step taken at the in-person arraignment process, the court should not necessarily concern itself with checking the defendant's driver license through a video platform.
- Attempt to use resources and documents already in the case file, if there is a need to verify a party's identity. For example, if a court collects a copy of a plaintiff's driver license when they file a petition for an order of protection and the court later needs to verify the plaintiff's identity to grant a dismissal request, the court

can use the driver license copy already in the file to compare to the person appearing by video.

- Ensure that statutes that require biometric data be collected are adhered to when creating policies for video appearances and verifying identity.

H. Using tele-health technology

The American Medical Association recognizes that “[t]he use of telemedicine and remote care services are critical to the safe management of the COVID-19 pandemic, while also ensuring uninterrupted care for 100 million Americans with chronic conditions.”⁶ Using tele-health for mental health evaluations and restoration to competency education is a recommended practice, provided the following practices are ensured:

- Language aligns with national best practices and standards for competency and mental health evaluations
- Access to standards of care and administration of justice⁷
- Timely access to medical records for attorneys and evaluators

As a rural community, Graham County contracts with a psychologist who conducts the restoration sessions remotely. As a result of the COVID-19 pandemic, other courts have implemented similar practices so that mental health evaluations and restoration to competency sessions can be conducted remotely.

To implement these practices, the workgroup recommends that Arizona’s courts:

- Adopt the Committee on Mental Health and the Justice System’s approved guidelines and templates/forms for mental health evaluators.
<https://www.azcourts.gov/Portals/74/MHJS/Resources/PJSMarch2020MHEvalGuidelinesandForms.pdf?ver=2020-04-27-090424-643>
- Adopt the Committee on Mental Health and the Justice System’s recommended best practices for restoration to competency.
<https://www.azcourts.gov/Portals/74/MHJS/Resources/CompetencyRTCBPs2420.pdf?ver=2020-04-27-090342-170>
- Communicate the revised guidelines, templates, forms, and best practices to current practitioners and mental health evaluators.

⁶ <https://www.ama-assn.org/practice-management/digital/ama-quick-guide-telemedicine-practice> (Last visited April 17, 2020).

⁷ Includes time requirements, geographic differences, and the standards/requirements for the person who may be accompanying the defendant in the room during the evaluation.

- Create and implement training for practitioners.
- Implement protocols and orders for limited jurisdiction court judges to transfer a case to the superior court for further proceedings pursuant to Arizona Revised Statute § 13-4517 where the defendant has been found incompetent and not restorable, as allowed by Rule 11.5, Arizona Rules of Criminal Procedure.

The AOC is exploring the use of tele-services for other types of evaluations, treatment, screenings, group work, and education services specific to mental health, family counseling, DUI/SUD, sex offender counseling, and crisis intervention.

VIII. COMMUNICATION STRATEGIES

Ongoing communications are vital when making decisions related to the reduction or delay of court services. The need to share information and collaborate is essential during these trying times. The Chief Justice of the Arizona Supreme Court regularly confers with presiding superior court judges, clerks of court, and court administrators. Court leaders should engage with both their state and local partners and the public to provide consistent information on the availability of court services. Communication plans should include the following, accounting for appropriate social distancing:

- Periodic interaction of general and limited jurisdiction judges and court managers
- Meetings or communications with local justice partners
- Meetings or communications with the state and local bar associations
- Ongoing updates to all court staff
- Use of the Supreme Court's Public Information Officer (PIO) and local PIO or designees to share public information
- Posting updates on court services on social media outlets

Part of courts' communication responsibilities include making sure that the judicial branch serves our Limited English Proficiency (LEP) customers by complying with the requirements of Title VI of the United States Civil Rights Act of 1964, which includes the translation of court announcements, signage, and forms, and should comply with Americans with Disabilities Act. The AOC is translating into Spanish and posting on the Arizona Judicial Branch website information relating to the COVID-19 pandemic. Completed translations and translations in progress are highlighted in Appendix 2.

In addition, the Video Remote Interpreting (VRI) room at the AOC is still available for courts to use. The AOC building is open, and interpreters can enter safely with the

knowledge that the building's facilities staff have increased cleaning and disinfecting protocols for all commonly touched surfaces.⁸

To use the VRI room, courts can contact AOC language access staff (dsvoboda@courts.az.gov; kgray@courts.az.gov; cwashburn@courts.az.gov) to inquire as to its availability.

Courts looking for other ways to provide interpreters and protect their health and wellbeing during the pandemic can choose from the following:

- WebEx with computer audio and video enabled. This does not support simultaneous interpreting, but it does allow the interpreter to view the LEP person(s) and other participants.
- Zoom® is an internet-based videoconferencing tool that allows multiple people to meet online. Zoom® includes an interpreting feature that supports simultaneous interpreting. With this tool, an interpreter can connect from anywhere with an internet connection to a court hearing where Zoom® is being used.
- Interpreters can call into the courtroom with existing teleconference equipment from home or their office or by using their cell phone. This option requires hearings to proceed in the consecutive mode.
- Courts with on-site interpreters who wish to avoid the close contact with others that live in-person interpreting entails could use a work or cell phone to call the LEP person(s) and use their cell phones as ad hoc interpreting equipment.

The AOC is compiling information on best practices and resource materials on the pandemic response, both from local courts and national court improvement organizations. The workgroup recommends that the AOC create a secure portal, providing Arizona judges and staff ready access to this kind of information.

⁸ For those with Cisco VRI equipment installed in their courtrooms, the system allows for full simultaneous interpreting, as well as private attorney-client consultations when necessary. For courts without the Cisco VRI equipment, the AOC VRI room may still be able to connect to a court's videoconferencing equipment such as Polycom. In these instances, a test connection will need to be scheduled first to ensure connectivity, and the hearing will have to be held using consecutive interpreting rather than simultaneous.

APPENDIX 1—Draft Recommended Supreme Court Administrative Order

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
AUTHORIZING LIMITATION OF	)	Administrative Order
COURT OPERATIONS DURING A	)	No. 2020 – <u>XX</u>
PUBLIC HEALTH EMERGENCY	)	(Replacing Administrative
AND TRANSITION TO RESUMPTION	)	Order No. 2020-70)
OF CERTAIN OPERATIONS	)	
	)	

Due to concern for the spread of COVID-19 in the general population, the Governor of the State of Arizona declared a statewide emergency pursuant to A.R.S. § 26-303 and in accordance with A.R.S. § 26-301(15). On April 24, 2020, Administrative Order No. 2020-70 directed Arizona’s courts to conduct business in a manner that reduces the risk associated with this public health emergency. This order supersedes, revises, clarifies, and adds to that direction and provides direction on transition to resumption of certain operations.

Arizona courts remain open to serve the public. Nevertheless, given the current emergency, and in the interest of public safety, certain limitations and changes in court practices are necessary.

Therefore, pursuant to Article VI, Sections 3 and 5, of the Arizona Constitution,

IT IS ORDERED that all in-person proceedings in all Arizona appellate, superior, justice and municipal courts and before the presiding disciplinary judge be avoided to the greatest extent possible consistent with core constitutional rights until further order of this court.

IT IS FURTHER ORDERED that, unless waived or found to be waived, constitutional and statutory priorities for cases continue to apply.

IT IS FURTHER ORDERED that requests for time-sensitive matters, such as orders of protection, injunctions against harassment, ex parte temporary child custody orders, court-ordered inpatient medical treatment, evictions, temporary emergency orders, expedited election matters, temporary restraining orders, etc., should continue to be priority matters.

IT IS FURTHER ORDERED that empaneling of new petit juries scheduled through (DATE TO BE DETERMINED) be rescheduled.

IT IS FURTHER ORDERED that, employing appropriate management and social distancing measures, empaneling new petit juries may resume beginning (DATE TO BE DETERMINED).

IT IS FURTHER ORDERED that, for cases where a party has a jury trial right that has not been waived, where limits on capacity require prioritization and triage, the following priorities shall apply (recognizing constitutional and statutory preferences govern for specific issues raised in a specific case), starting with highest priority:

- 1) Criminal cases, where the defendant is in custody
- 2) Criminal felony cases, where the defendant is not in custody
- 3) Criminal misdemeanor cases, where the defendant is not in custody
- 4) Civil and any other cases.

IT IS FURTHER ORDERED that, where capacity limitations require prioritization and triage, the following priorities for general case types apply (recognizing constitutional and statutory preferences govern for specific issues raised in a specific case), starting with highest priority:

- 1) Criminal
- 2) Juvenile
- 3) Mental Health
- 4) Family (involving minor children)
- 5) Family (not involving minor children)
- 6) Probate
- 7) Civil
- 8) Tax and Administrative cases

IT IS FURTHER ORDERED [temporarily suspending, through December 31, 2020, all rules of court that afford litigants peremptory strikes for potential jurors] **or alternatively** [temporarily reducing, through December 31, 2020, the number of peremptory strikes for potential jurors to XX per side.]

IT IS FURTHER ORDERED [temporarily suspending, through December 31, 2020, all rules of court that afford litigants peremptory strikes for a judge assigned to a case] **or alternatively** [temporarily suspending, through December 31, 2020, all rules of court that afford litigants peremptory strikes for a judge assigned to a case in courts where there are five or fewer authorized judges.]

IT IS FURTHER ORDERED, to reduce the likelihood of an entire courthouse staff becoming infected from work-related contact, that wherever possible, court staff assigned to each courthouse should be divided into at least two teams with only one team physically at the courthouse at a time and the other working remotely.

IT IS FURTHER ORDERED that, where face-to-face in-court hearings are required for individuals in custody or receiving services pursuant to court order, efforts should be taken to

minimize the number of transportation events for such individuals, including combining hearings where possible to minimize mixing populations and eliminating avoidable quarantines when such individuals are returned to custody following court hearings.

IT IS FURTHER ORDERED that all courts are encouraged to:

- conduct juvenile hearings using technology, by consolidating hearings where possible and with limited public access, as appropriate, to ensure social distancing;
- take measures to ensure that high volume court calendars account for social distancing, including distancing in the courthouse and in courtrooms, between courtrooms being used, and in calendaring and scheduling; and
- continue to advance alternative dispute resolution options, including online dispute resolution platforms, to resolve issues and cases without the need to hold hearings in courtrooms.

IT IS FURTHER ORDERED that all courts should continue to:

- undertake needs assessments and planning for how to best allocate resources and identify appropriate processes when hearings resume in stayed proceedings, including how to triage, how to account for cases needing to be resolved, identifying available resources and new operational standards, including for jury selection and service (both petit and grand juries), and therapeutic/specialty/problem solving court operations;
- employ appropriate management and social distancing measures, and employ and, where appropriate expand, use of technology of all types to facilitate alternatives to face-to-face hearings, for grand jury proceedings;
- employ and, where appropriate expand, use of all types of technology identified during emergency operations to facilitate alternatives to face-to-face interactions that drive significant traffic to courthouses and other alternatives that have been effective and consistent with ensuring the preservation of the rights of all involved; and
- continue to identify ways to expand capacity and ensure social distancing to meet needs, including involving retired judges and judges pro tempore, temporary reassignment from rotational or other assignments, scheduling and allocation of interpreters and court reporters, overtime and temporary staff, extended hours (including weekends and evenings), and other measures.

IT IS FURTHER ORDERED that the presiding judge of each court shall determine how any in-person court proceedings and courthouse activities are to be conducted in each of the courts' courtrooms, consistent with state administrative orders, under conditions that protect the health and safety of all participants including:

- limiting in-person contact as much as possible by using available technologies, including alternative means of filing, teleconferencing, video conferencing, and use of email and text messages and issuing orders to reasonably ensure the health and safety of all participants;
- following CDC social distancing and gathering size recommendations, considering the

size of the court facility. Courts shall not schedule in person multiple, simultaneous hearings in a number that prevents appropriate social distancing or gathering size, considering the size of the courtroom, and in no event shall a court schedule more than 10 persons at one time. The intent of this order is to discourage the use of large group scheduling of court hearings. However, in extraordinary circumstances, and with appropriate precautions, the presiding judge may authorize groups larger than 10 but in no event larger than 25 provided social distancing measures are taken;

- requiring all scheduled participants to notify the court of any COVID-19 symptoms or suspected exposure and to refrain from coming to the courthouse;
- limiting any required in-person proceedings to attorneys, parties, victims, witnesses, jurors, court personnel, and other necessary persons, where necessary to maintain the recommended social distancing within a court facility, and authorizing trial judges to make reasonable orders to ensure the health and safety of hearing participants consistent with the parties' right to due process of law; and
- liberally granting continuances and additional accommodations to parties, witnesses, attorneys, jurors and others with business before the courts who are at a high risk of illness from COVID-19.

IT IS FURTHER ORDERED that presiding superior court judges of each county continue to meet with local criminal justice system stakeholders to coordinate how best to handle criminal proceedings, including grand jury proceedings.

IT IS FURTHER ORDERED that, until further order, the presiding superior court judge of each county is authorized to adopt or suspend any local rules and orders needed to address the current public health emergency in cooperation with public health officials and to take any reasonable action that the circumstances require to enable necessary operations of the superior, justice, and municipal courts in each county.

IT IS FURTHER ORDERED that any court rule that impedes a judge's or court clerk's ability to use available technologies to eliminate or limit in-person contact in the conduct of court business is suspended through December 31, 2020, except such suspension is subject to constitutional requirements. Judges may hold ex parte hearings on orders of protection electronically.

IT IS FURTHER ORDERED that if it becomes necessary to close court offices to the public during the period of suspension, these offices shall remain accessible to the public by telephone and email during their regular business hours to the greatest extent possible, including using drop boxes for documents that cannot be e-filed.

IT IS FURTHER ORDERED that for the period March 18, 2020 through (DATE TO BE DETERMINED) if a judge is unable to rule on a pending matter due to illness or is otherwise unable to work, the judge is deemed to be physically disabled and therefore that period is excluded from the calculation of the 60 days from the date of submission in which a matter must be determined under ARS §§ 11-424.02 and 12-128.01.

IT IS FURTHER ORDERED that the period March 18, 2020 through (DATE TO BE DETERMINED):

- Is excluded from calculation of time under rule provisions and statutory procedures that require court proceedings to be held within a specific period of time, including Rule 8, Rules of Criminal Procedure; Rules 17, 79, and 100, Rules of Procedure for the Juvenile Court; Rules 2 and 3, Rules of Procedure in Eviction Actions; and Rule 38.1(d)(2), Rules of Civil Procedure. A judge, pursuant to Rule 8, may extend this exclusion of time in criminal cases, for good cause.
- Is not excluded from calculation of time for:
The following proceedings for persons held in-custody: initial appearances, arraignments, preliminary hearings, in-custody probation violations, and conditions of release;
Domestic violence protective proceedings;
Child protection temporary custody proceedings;
Civil commitment hearings and reviews;
Emergency protection of elderly or vulnerable persons proceedings;
Habeas corpus proceedings;
COVID-19 public health emergency proceedings;
Juvenile detention hearings;
Election cases; and
Any other proceeding that is necessary to determine whether to grant emergency relief.

IT IS FURTHER ORDERED that the clerks of the court shall continue to issue marriage licenses and may do so remotely if the available technology allows licenses to be properly issued. A judge may perform a marriage ceremony at the courthouse with no more than 10 persons present with proper social distancing.

IT IS FURTHER ORDERED that the time for conducting preliminary hearings for in-custody defendants under Rule 5.1(a) and (d) and probation revocation arraignments under Rule 27.8 (a)(1), Rules of Criminal Procedure is extended to twenty (20) days from an initial appearance that occurs through (DATE TO BE DETERMINED).

IT IS FURTHER ORDERED that electronic, digital or other means regularly used in court proceedings may be used to create a verbatim record, except in grand jury proceedings, notwithstanding a party's request that the proceedings be recorded by a certified court reporter.

IT IS FURTHER ORDERED that, until (DATE TO BE DETERMINED), notwithstanding Rule 6 (b)(2), Rules of Civil Procedure, in an individual case the court may extend the time to act under Rules 50(b), 52(b), 59(b)(1), (c), and (d), and 60(c) as those rules allow, or alternatively, may extend the time to act under those rules for 30 days upon a showing of good cause.

IT IS FURTHER ORDERED that probation officers are authorized and encouraged to use social distancing and technology of all types to supervise those on adult and juvenile probation, including, where appropriate, for contacts with such individuals.

IT IS FURTHER ORDERED that the Court Appointed Special Advocate and Foster Care Review Board programs are authorized and encouraged to use technology of all types to ensure social distancing.

IT IS FURTHER ORDERED that the Administrative Office of the Courts is authorized and encouraged to use social distancing and technology of all types in continuing to implement the Certification and Licensing Programs under Part 7, Chapter 2, of the Arizona Code of Judicial Administration.

IT IS FURTHER ORDERED that limited jurisdiction presiding judges, or for limited jurisdiction courts that have only one judge, the judge of such a court, should be authorized to take actions consistent with these directives, provided they comply with constitutional and statutory requirements.

IT IS FURTHER ORDERED that the presiding superior court judge and the limited jurisdiction presiding judge, or for limited jurisdiction courts that have only one judge, the judge of such a court, shall notify court customers, the public, and the Administrative Director of all administrative orders issued under the authorization provided by this order using the most effective means available. All courts shall provide information regarding court access and operations in both English and Spanish.

Dated this XXX day of MONTH, 2020.

ROBERT BRUTINEL
Chief Justice

APPENDIX 2—Selected Resources

Articles

Nine Best Practices to Protect Your Next Virtual-Teleconferencing Meeting, courtesy of Jones, Skelton & Hochuli, PLC.

https://www.jshfirm.com/nine-best-practices-to-protect-your-next-virtual-teleconferencing-meeting/?inf_contact_key=e4299354174dc185eed83068599dfa31680f8914173f9191b1c0223e68310bb1

Some countries use temperature checks for coronavirus. Others don't bother. Here's why.

https://www.washingtonpost.com/world/coronavirus-temperature-screening/2020/03/14/24185be0-6563-11ea-912d-d98032ec8e25_story.html (Last visited April 27, 2020)

Broadcasts:

- Lights, Camera, Motion!, April 7, 2020 <https://vimeo.com/405221328>
- Lights, Camera, Motion!: Act II, April 15, 2020 <https://vimeo.com/408411009>
- Lights, Camera, Motion!: Act III, April 20, 2020 <https://vimeo.com/411552388>
- Access to Justice Considerations for State and Local Courts as They Respond to COVID-19 <https://vimeo.com/403847184>
- NCSC Tiny Chat 1: Introduction & Thinking About Court Users in the Response to COVID-19 <https://vimeo.com/404707855>
- NCSC Tiny Chat 2: Clear Communications <https://vimeo.com/407555606>
- NCSC Tiny Chat 3 Federal Pass-Through Funding <https://vimeo.com/410000945>

Tools and Guides

- NCSC Coronavirus and the Courts: <https://www.ncsc.org/pandemic>
- Jury Planning: <http://www.ncsc-jurystudies.org/Jury-Managers-Toolbox.aspx>
- Cybersecurity During a Pandemic:
<https://www.ncsc.org/~media/Files/PDF/Newsroom/Coronavirus%20Resources/Pandemic-Cybersecurity-Threats-Cyber-Hygiene.ashx>

- Implementing Technology in a Crisis:
<https://www.ncsc.org/~media/Files/PDF/Newsroom/Coronavirus%20Resources/Tech-In-Crisis.ashx>
- Cushman and Wakefield *Recovery Readiness: A How-to Guide for Reopening Your Workplace*, <https://www.cushmanwakefield.com/en/insights/covid-19/recovery-readiness-a-how-to-guide-for-reopening-your-workplace>

Translations

Local courts may link to, copy, borrow, or modify any of these materials to adapt them to their current procedures.

Completed translations include:

- Administrative Office of the Courts' COVID-19 information and update webpage
- Notice on AZPoint instructing users to contact their court for information on hearings held via telephone or videoconference
- Guidelines for parenting plans during the pandemic
- Common signage language for courts
- Alternate payment plan information on FARE collection notices for those whose income has been negatively affected by the pandemic
- Information on delayed eviction actions for residential leases, including the tenant's notice to landlord form
- Answers to general questions about court operations developed in collaboration with AZCourtHelp.org, including information on potential changes to courts' hours of operations; restrictions on in-person appearances; options for telephonic or video appearances; relaxed requirements for the filing of documents; delays to eviction actions; etc.

Translations in progress include:

- COVID court visitor screening flyer
- Administrative Orders and Directives with information pertaining to the public, including AO 2020-60 and 2020-70 regarding the limitation of court operations due to the pandemic; AO 2020-59 regarding the modification of court rules during the pandemic; and Administrative Directive 2020-03 regarding time requirements for the CASA and Legal Document Preparer programs
- Notice on Supreme Court Clerk's Office operations

- Notices on the current operations during the pandemic for both Divisions One and Two of the Arizona Court of Appeals



Protocol for In-Courthouse COVID-19 Symptom
or At-Risk Condition by a Participant in Arizona
State Courts

(Version 4.0, As of October 29, 2020)

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Continuity of Court Operations During Public Health Emergency
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PREAMBLE

This document sets forth a recommended protocol for courts to address in-courthouse symptom(s) or at-risk condition(s) by a participant in Arizona State Courts. This Protocol is the product of the Supreme Court of Arizona's COVID-19 Continuity of Court Operations During a Health Emergency Workgroup and the Jury Management Subgroup (collectively, the "Plan B Workgroup") in response to a question raised during the Superior Court Presiding Judges' Meeting on Monday, June 22, 2020.

This Protocol Version 4.0 is current as of October 29, 2020 and replaces the original Protocol, which was current as of July 1, 2020, Version 2.0, which was current as of July 20, 2020, and Version 3.0, which was current as of August 20, 2020. For ease of reference, changes of consequence in this Protocol Version 4.0, when compared to Protocol Version 3.0, are underlined; otherwise, the text of the Protocol Version 3.0 remains unchanged in this Version 4.0. Accordingly, new or different information in this Protocol Version 4.0, when compared to the Protocol Version 3.0, is in redline (underlined) showing the new or different information.

This Protocol Version 4.0 is prompted by the issuance of Arizona Supreme Court Administrative Office of the Courts Administrative Directive (A.D.) 2020-22, "Health Screening Protocols" (October 22, 2020). A.D. 2020-22 replaces A.D. 2020-17, "Health Screening Protocols" (August 10, 2020). The primary change in A.D. 2020-22, when compared to A.D. 2020-17, is to account for a revised definition of "close contact" promulgated by the Centers for Disease Control and Prevention (CDC) on October 21, 2020. A.D. 2020-22 is attached as Appendix 1. The primary focus of this Protocol Version 4.0 is to account for A.D. 2020-22, and to ensure that this Protocol Version 4.0 uses consistent terminology with A.D. 2020-22.

This Protocol Version 4.0, as with Protocol Versions 2.0 and 3.0, follows the most recent Arizona Supreme Court Administrative Order (A.O.) 2020-143 (August 26, 2020), "Authorizing Limitation of Court Operations During a Public Health Emergency And Transition To Resumption Of Certain Operations." A.O. 2020-143 is the most recent comprehensive directive for court operations in Arizona. A.O. 2020-143 provides additional directives on transition to "resume certain operations in an orderly way that prioritizes the safety of the public, judicial officers, and employees of the judiciary." This Protocol Version 4.0 is written to provide a resource for local courts to help implement A.O. 2020-143.

The primary focus of Protocol Version 2.0 was to incorporate comments and suggestions provided to the Plan B Workgroup by individuals at the Mel and Enid Zuckerman College of Public Health at the University of Arizona. Those comments and suggestions remain in this Protocol Version 4.0. These public servants were kind enough to provide, at the request of the Plan B Workgroup, comments and suggestions from a public health perspective that helped fill an enormous need. The Plan B Workgroup owes an enormous, but unpayable, debt to those individuals for their willingness to do so. The Plan B Workgroup recognizes, thanks, and commends Dr. Kelly Reynolds, MSPH, PhD, Professor, Department Chair of Community, Environment and Policy; Dr. Joe Gerald, MD, Associate Professor & Program Director, Public Protocol for In-Courthouse COVID-19 Symptom or At-Risk Condition by a Participant in Arizona State Courts

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Health Policy & Management; Dr. Kristen Pogreba-Brown, PhD, MPH, Assistant Professor of Epidemiology; and Leila Barraza, J.D., M.P.H., Associate Professor and Interim Director, Arizona Area Health Education Centers, for taking time to review and comment on the original Protocol. This Protocol Version 4.0, as with Protocol Versions 2.0 and 3.0, continues to have benefitted greatly from their generous contributions and insight.

This Protocol Version 4.0 builds on the June 1, 2020 Plan B Workgroup Jury Management Best Practice Recommendations During the COVID-19 Public Health Emergency¹ and the May 1, 2020 COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup Best Practice Recommendations². Those Recommendations and this Protocol Version 4.0 focus on enhancing and maintaining the safety of the courthouse environment, recognizing COVID-19 transmission may occur among those who are without symptoms, and known exposures means that the physical space of a courthouse is of upmost importance. Masking and social distancing is particularly important. Although masking and social distancing cannot eliminate all risk, such measures can reduce risks. In addition, frequent disinfection of common surfaces (e.g., door handles, tables) and bathrooms should be a priority as well. Other measures, such as workplace testing, merit consideration but are beyond the scope of those Recommendations or this Protocol Version 4.0. In addition, individuals who have been incarcerated should be considered at higher risk of active infection owing to greater rates of transmission in institutionalized settings than in the general public.

Finally, because knowledge is changing quickly, additional information available (from a public health perspective, based on experience in courts, and other resources) should be referenced in addressing any incident that arises.

I. “PARTICIPANT” DEFINED

In this Protocol, “Participant” is defined as including each of the following: (1) a criminal defendant; (2) a juror (defined to include both a potential juror and a juror selected to participate in a trial); (3) the judge presiding over a matter; (4) a witness; (5) an attorney representing a party or witness; (6) a party, other than a criminal defendant, and including a party representative; (7) a victim, victim representative, and victim advocate; (8) a court reporter; (9) an interpreter; (10) security personnel (particularly where a criminal defendant is in custody), and (11) court staff involved in a matter, including a bailiff, a deputy clerk, and others present. These Participants are

¹ <https://www.azcourts.gov/Portals/216/Pandemic/JuryManagementWkGp.pdf?ver=2020-06-02-131720-410>

² <https://www.azcourts.gov/Portals/216/Pandemic/050120CV19COOPRecommendations.pdf?ver=2020-05-06-150156-047>

discussed in four categories (criminal defendant; potential juror or juror; judge; and all others) in Section VI below.

II. “SYMPTOMS” AND “AT-RISK CONDITIONS” DEFINED

Arizona Supreme Court Administrative Order 2020-143 (August 26, 2020) at 3 directs the Administrative Office of the Courts to provide a health screening protocol, directing that individuals who do not pass the protocol be excluded from any courthouse. A.D. 2020-22 defines COVID-19 “Symptoms” (“persistent unexplained symptoms at any time within the last 10 days”) and “At-Risk Conditions” for (1) judicial and court personnel and (2) the public coming to the courthouse (i.e., all other individuals coming to the courthouse). This Protocol uses the definitions for “Symptom” and “At-Risk Condition” reflected in A.D. 2020-22, in conjunction with information provided by public health agencies.

“Symptom” means any one or more³ of the following, that are persistent and unexplained, at any time within the last 10 days:

- Fever over 100.4 degrees Fahrenheit or body chills;
- Cough;
- Shortness of breath or difficulty breathing;
- Fatigue;
- Muscle or body aches;
- Headache;
- New loss of taste or smell;
- Sore throat;
- Congestion or runny nose;
- Nausea or vomiting;
- Diarrhea; or
- Additional conditions identified by a public health agency. See, e.g., <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (listing symptoms)

“At-Risk Condition” means:

³ It is important to note that the presence of a single Symptom will activate the protocol.

- Have had a COVID-19 diagnosis or a positive test result during the last 10 days; or
- A close contact as defined by being within 6 feet of an infected person for a cumulative total of 15 minutes or more within a 24 hour period starting from 2 days before the infected person's illness (symptoms) onset or, for asymptomatic persons, 2 days prior to the positive test specimen collection from the infected person.

Judicial officers and court personnel with any Symptom or At-Risk Condition “should notify their supervisor/presiding judge and Human Resources Department for information and direction on returning to the workplace and, if needed, seek medical advice/treatment.” [A.D. 2020-22 at 3] Other participants with any Symptom or At-Risk Condition shall be excluded from entering the courthouse. [A.D. 2020-22 at 5]

The CDC and other public health agencies have identified symptoms of COVID-19 and what is considered having close contact with someone who has COVID-19 or has exhibited symptoms consistent with COVID-19. Recognizing that symptoms and the definition of close contact may change as additional information is identified, when crafting a protocol for a specific court or courthouse, local courts should consult the most recent information available from the CDC, the Arizona Department of Health Services, county and local health agencies, and other trusted sources for the most current identified symptoms, definition of close contact, and best practices more generally in addressing COVID-19. Local courts also should frequently reference those trusted sources in clarifying, modifying, and changing a protocol for a specific court or courthouse. As of October 29, 2020, such information can be located at:

- CDC:
 - <https://www.cdc.gov/coronavirus/2019-ncov/index.html> (COVID-19 information)
 - <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (symptoms of coronavirus)
 - <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html> (when to quarantine)
 - <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html> (people at increased risk)
- Arizona Department of Health Services: <https://azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/index.php#novel-coronavirus-home>
- Arizona Counties:
 - Apache: <https://www.apachecountyaz.gov/>
 - Cochise: <https://covid-cochisehealth.hub.arcgis.com/>
 - Coconino: <https://www.coconino.az.gov/2294/COVID-19-Information>

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- Gila: https://www.gilacountyaz.gov/news_detail_T5_R475.php
- Graham: <https://www.graham.az.gov/CivicAlerts.aspx?AID=181>
- Greenlee: <https://www.co.greenlee.az.us/departments/health-county-services/>
- La Paz: <https://www.lpchd.com/>
- Maricopa: <https://www.maricopa.gov/5460/Coronavirus-Disease-2019>
- Mohave: <https://covid-19-mohave.hub.arcgis.com/>
- Navajo: <https://www.navajocountyaz.gov/Departments/Public-Health-Services/COVID-19>
- Pima: <https://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=527452>
- Pinal: <https://www.pinalcountyaz.gov/publichealth/Coronavirus/Pages/Home.aspx>
- Santa Cruz: <https://www.santacruzcountyaz.gov/732/COVID-19-Novel-Coronavirus>
- Yavapai: <https://www.yavapai.us/chs>
- Yuma: <https://www.yumacountyaz.gov/government/health-district/divisions/emergency-preparedness-program/coronavirus-2019-covid-19-yuma-county-updates-3651>

III. NEED FOR COMMUNICATION WITH APPROPRIATE COURT STAFF WHEN A PARTICIPANT WITH ANY SYMPTOM OR AT-RISK CONDITION IS DENIED ACCESS TO THE COURTHOUSE

Courts should adopt return to work criteria for judicial officers and court personnel with any Symptom or At-Risk Condition consistent with guidance from the CDC and state and county health authorities [A.D. 2020-22 at 3], and judicial officers and court personnel should comply with such criteria established by the courts. See e.g., <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/returning-to-work.html>

Under screening protocols currently in place, any Participant (including judicial officers and court personnel in courts that have not adopted return to work criteria) with any Symptom or At-Risk Condition seeking to enter a courthouse, “shall be excluded from entering the courthouse until: (1) Ten days have passed since the onset of Symptoms [and/or positive test], 24 hours have passed since fever resolved without use of medication, and other symptoms have improved; (2) Fourteen days have passed after [the last time the Participant had] close contact with someone with COVID-19 illness with no development of symptoms. A close contact is defined as being within 6 feet of an infected person for a cumulative total of 15 minutes or more within a 24 hour period starting from 2 days before the infected person’s illness (symptoms) onset or, for asymptomatic persons, 2 days prior to the positive test specimen collection from the infected person; (3) if exclusion is for a symptom, a medical diagnosis other than COVID-19 *Protocol for In-Courthouse COVID-19 Symptom or At-Risk Condition by a Participant in Arizona State Courts*

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explains that symptom; (4) negative COVID-19 test results indicate no COVID-19 infection under CDC guidelines.” [A.D. 2020-22 at 5]⁴ This includes, where applicable, self-screening. [A.D. 2020-22 at 4-5] Any Participant who self-screens and reports a Symptom or At-Risk Condition, “should call the court to reschedule or be referred to appropriate electronic or on-line options for finding information, filing of motions, or other court services.” [A.D. 2020-22 at 5] Any Participant who is refused entrance to a courthouse for any of these reasons, “will be provided a phone number to reschedule or be referred to appropriate electronic or on-line options for finding information, filing motions, or other court services.” [A.D. 2020-22 at 5-6] Courts are required to provide notice to the public of this and other screening information through communications about any court proceeding, by posting the information on the court’s website and posting signage at all entrances at the courthouse. [A.D. 2020-22 at 5 & 6]

Local courts should identify, communicate, and implement a communication protocol to immediately relay to appropriate court personnel when a Participant with any Symptom or At-Risk Condition is denied access to the courthouse, based on self-reporting or screening. Such communication is essential to ensure that appropriate measures are taken, to ensure that other Participants are not waiting for extended periods of time for a Participant who has been refused entrance to the courthouse and, as a result, will not be appearing, and to prevent warrants from being issued or matters proceeding by default for a failure to appear. To the extent this involves private health information, such information should be shared only as necessary and with efforts to safeguard it.

Although guided by the needs and structure of the specific local court, at a minimum, the communication protocol likely would involve immediately communicating the fact of a Participant with any Symptom or At-Risk Condition being refused access to the courthouse, based on self-reporting or screening, as follows:

- **Criminal Defendant with any Symptom or At-Risk Condition:** Immediately communicate to court administration and the specific trial judge/division where the criminal defendant was set for a hearing the fact of being refused access to the courthouse and any available details, including the name of the individual. In addition, if the individual is or was in custody, immediately communicate to appropriate personnel where the individual is being held or was held in custody.
- **Potential Juror or Juror with any Symptom or At-Risk Condition:**
 - **For a potential juror:** Immediately communicate to court administration and the jury commissioner the fact of the potential

⁴ The bracketed language from this quote taken from A.D. 2020-22 clarifies the requirements consistent with other provisions in that directive.

juror being refused access to the courthouse and any available details, including the name of the individual.

- **For a juror:** Immediately communicate to court administration and the specific trial judge/division where the juror was serving the fact of the juror being refused access to the courthouse and any available details, including the name of the individual.
- **Judge Presiding Over the Matter with any Symptom or At-Risk Condition:** Immediately communicate to court administration, the presiding judge of the court and, if applicable, the relevant department presiding judge, and the specific trial judge division where the judge presiding over the matter was serving, the fact of being refused access to the courthouse and any available details.
- **Other Participant with any Symptom or At-Risk Condition:** Immediately communicate to court administration, the presiding judge of the court, and the specific trial judge(s)/division(s) where the other Participant was set for a hearing(s), the fact of being refused access to the courthouse and any available details, including the name of the individual. If the Other Participant is a court employee, they should be directed to contact Human Resources to discuss COVID-related benefits.

IV. NEED FOR JUDGE PRESIDING OVER CALENDAR TO DIRECT PARTICIPANTS TO REPORT ANY SYMPTOM OR AT-RISK CONDITION BY PARTICIPANTS TO THE COURT

During the final pretrial conference, at the beginning of a jury trial when jurors are selected, and at the beginning of each court day, the judge presiding over the calendar should direct Participants in court (including the jurors), on the record, of the need for all Participants to bring to the judge's attention, through a pre-determined manner (ideally through electronic means, but with other options available), any concerns about any Symptom or At-Risk Condition by any Participant as soon as possible after learning of such information. This would include reporting of any Symptom or At-Risk Condition of any Participant to the court through electronic or other means what means are appropriate, recipients of such information (including more than one recipient to ensure redundancy, such as the judge's judicial assistant, bailiff, and a court administrator), specific contact information for recipients, and the need, upon receipt of such a report, for the court to take appropriate actions, including to undertake questioning based on such a report to understand the details and circumstances and decide how to proceed. Jurors should also be directed of the need for Participants to bring any health safety concerns to the court's attention.

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Attached as Appendix 2 are samples of: (1) an advisement to be given at the beginning of each court day and at the beginning of each day of trial (or, as appropriate, each matter) when the appropriate Participants are present; (2) notification language in an ongoing matter; (3) notification language in a completed matter; (4) questions for a jury regarding any Symptom or At-Risk Condition; and (5) a disclosure.

V. MANNER OF REPORTING OF ANY SYMPTOM OR AT-RISK CONDITION

A. *Remote Reporting Through Electronic Means*

Because any Participant with any Symptom or At-Risk Condition should not be allowed to enter a courthouse until they meet one of the qualifying criteria under A.D. 2020-22, reporting of such Symptom or At-Risk Condition by any Participant **should** be made remotely by electronic means, which could include electronic mail, text message, telephone, or video conferencing. In that case, the participant with any Symptom or At-Risk Condition **should not** be allowed in the courthouse and **should not** be asked to return to the courthouse. Instead, as soon as possible, appropriate questioning of the participant with any Symptom or At-Risk Condition should be attempted and made (if possible) by the appropriate individual (typically the judge presiding over the calendar or, if the judge has any Symptom or At-Risk Condition, another judge) on the record through electronic means and then appropriate disclosure and follow-up taken, as discussed below in Section VII.

B. *In-Courthouse Reporting*

If a Participant with any Symptom or At-Risk Condition either reports such information while in the courthouse, or becomes symptomatic while in the courthouse, that Participant: (1) should be isolated; (2) should be removed from the courthouse immediately; and (3) as soon as possible after having been removed from the courthouse, appropriate questioning of the Participant with any Symptom or At-Risk Condition should be attempted and made (if possible) by the appropriate individual (typically the judge presiding over the calendar or, if the judge has any Symptom or At-Risk Condition, another judge) on the record through electronic means and then appropriate disclosure and follow up should be taken, as discussed below in Section VII.

Attached as Appendix 3 is a Checklist summarizing appropriate steps to be taken, depending upon the manner such information is reported, as well as the protocols for specific types of Participants.

VI. PROTOCOLS FOR SPECIFIC TYPES OF PARTICIPANTS

A. Criminal Defendant with any Symptom or At-Risk Condition

If the Participant with any Symptom or At-Risk Condition is a criminal defendant, a record should be made of the Symptom or At-Risk Condition, with the criminal defendant present remotely using electronic means (and, if such remote appearance by the criminal defendant is not possible, in the absence of the criminal defendant). Unless the criminal defendant with any Symptom or At-Risk Condition does not have a right to be physically present or properly waives the right to be physically present, either by agreeing to be remotely present using electronic means (unless such remote appearance is not possible) or to not be present at all, and is found to have knowingly, voluntarily, and intelligently waived the right to be physically present, the judge presiding over the matter would need to either (1) continue the matter until the criminal defendant could again properly be present in court to participate or (2) if a trial, and the trial cannot be continued, declare a mistrial. Appropriate disclosure and follow-up would need to be taken as discussed below in Section VII.

B. Potential Juror or Juror with any Symptom or At-Risk Condition

If the Participant with any Symptom or At-Risk Condition is a potential juror or juror, the court should determine whether jury selection and the trial can proceed and if any disclosures to other Participants is appropriate (which would depend, chiefly, on whether the potential juror or juror with any Symptom or At-Risk Condition was ever in the courthouse during the time period in question).

Questions 8 and 19, posted in a Q&A on June 20, 2020⁵, provide the following protocol addressing jurors who are selected to serve:

8. Does any court have contingencies if a juror is exposed to a COVID-19 case during trial?

This should be handled on a case-by-case basis by the trial judge. Jurors must follow the screening protocol required by Administrative Directive [2020-22] each day before they travel to the courthouse. It is recommended that the judge who is presiding over the trial have some type of daily check-in with the jurors, i.e., a reminder to bring to the judge's attention, through

⁵

<https://azcourts.sharepoint.com/:b:/s/EmergencyPlanning/EViUhYtiHjxGiEr8otkyRc0BoeZJaBzlaTWHa1vk4hcBcA?e=nrCXpF> (Last visited on August 20, 2020).

a pre-determined mechanism, any concerns about the juror's health. If a seated juror reports an exposure to COVID-19, the judge may need to question the juror to understand the circumstances and consider releasing the juror if necessary. This can be done remotely with a juror who stays home based on the self-screening.

The court should have a conversation with the other jurors as it relates to their ability to continue to serve, e.g., are they going to be too concerned, does the court need to take further steps, etc. This will be judge-specific, case-specific, and juror-specific, based on the information that is provided. Additionally, the CDC recommended protocol for response to exposure in the workplace should be used in the jury context: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

19. Are there any confidentiality concerns when a juror or potential juror discloses health information during the voir dire/selection process?

When a juror discloses concerns based on health issues, or a potential juror discloses during the qualification/voir dire process a similar concern, there needs to be a re-enforced caution on that as confidential information. If this discussion becomes an "in chambers" discussion, this adds another complexity, much like side-bar conferences. Courts may consider a telephonic alert from the juror of significant symptoms, then a video conference to interview the juror on the record. The explanation to the rest of the panel can then become a generic, "Juror #6 has been excused upon his/her request for personal reasons."

Technically, if a juror with any Symptom or At-Risk Condition is excused and there are sufficient alternate jurors to allow the trial to proceed (or an agreement/waiver that the trial could proceed without the juror), the remaining jurors could continue and allow the trial to proceed. Practically, however, the inquiry by the presiding judge with the remaining jurors, on the record with the parties present, would provide information for the trial judge to determine whether the trial properly should proceed. That decision would be based on the responses provided, the estimated duration of the trial, the Symptom or At-Risk Condition involved, input from the parties and other Participants, and other case-specific information.

Excusing a juror with any Symptom or At-Risk Condition implicates numerous other issues: What information should be disclosed to the other jurors, bearing in mind the privacy rights of the persons infected with the virus? What types of questions should be asked of the

remaining jurors? When did the issue arise (at the beginning of trial, in the middle of trial, during deliberations)? If an At-Risk Condition is involved, what was the nature of the At-Risk Condition and did measures taken during the trial sufficiently minimize the risk to other Participants? How much information, and when, should be disclosed to jurors and what type of follow-up questions would be necessary and appropriate with jurors to determine their ability to proceed forward and to be fair and impartial jurors? In addition, appropriate disclosure and follow-up would need to be taken as discussed below in Section VII.

C. Judge Presiding Over the Matter with any Symptom or At-Risk Condition

If the Participant with any Symptom or At-Risk Condition is the judge presiding over the matter, that judge should immediately leave the courthouse and should report such Symptom or At-Risk Condition to court staff and the applicable presiding judge, or other applicable court administrator, by electronic means. The issue should be raised with counsel and the parties on the record, with another judge presiding, and appropriate questioning of the originally assigned judge presiding over the matter with any Symptom or At-Risk Condition should be attempted and made (if possible) on the record through electronic means and then appropriate disclosure and follow-up should be taken, as discussed below in Section VII.

Whether another judge could replace the judge presiding over the matter who developed any Symptom or At-Risk Condition would involve a case-by-case inquiry in consultation with the parties and their attorneys. The inquiry in a criminal matter is governed by Arizona Rule of Criminal Procedure 19.4, which by analogy would provide guidance for all jury trials and other matters. Rule 19.4 provides that, where a judge presiding over a criminal matter “becomes ill or is otherwise incapacitated, that judge may be replaced by another judge of the same court,” or if no such judge is available, the matter must be continued “until selection of another judge to resume the proceeding.” Ariz. R. Crim. P. 19.4. “If the new judge believes after reviewing the record that continuing the proceeding would be unduly prejudicial, the judge must order a new trial or proceeding. The judge should consider the manifest necessity of declaring a mistrial over the objection of the defendant before ordering it.” *Id.*

D. Other Participants with any Symptom or At-Risk Condition

Other Participants in a matter include witnesses; attorneys representing parties or witnesses; parties (other than a criminal defendant) and party representatives; a victim, victim representative, and victim advocate; court reporters; interpreters; security personnel and other court staff, such as a bailiff and a deputy clerk; and others present. The manner of reporting of any Symptom or At-Risk Condition by these other Participants should follow the protocol in Section V above.

If the other Participant with any Symptom or At-Risk Condition is one of these other Participants, the issue should be raised with the judge presiding over the matter, counsel, and the parties, on the record, and appropriate remote questioning of the other Participant with any Symptom or At-Risk Condition should be attempted and made (if possible) on the record through

electronic means and then appropriate disclosure and follow-up should be taken, as discussed below in Section VII.

When any Symptom or At-Risk Condition is reported for such other Participant, in deciding how the matter should continue, the judge presiding over the matter should consider whether the other Participant could be replaced, whether the participation of the other Participant could be waived, or whether the other Participant could remotely participate.

i. Could the Participation of the Other Participant with any Symptom or At-Risk Condition Be Replaced or Waived?

Resolving this question would be based on a case-by-case inquiry addressing relevant issues that could include: (1) is the other Participant a witness? (2) if so, could another witness provide the necessary testimony instead? (3) if so, is the other Participant's testimony necessary? (4) if the other Participant is an attorney, is co-counsel available to continue? (5) can the involvement of the other Participant be waived (for example, a client or client representative in a civil matter or trial, or a case agent in a criminal trial)? (6) if the other Participant is a member of court staff, is there another member of court staff who could replace that person? and (7) any other factors that would impact the ability of the other Participant to be replaced or waived. Depending upon the case-specific answers to these questions, and any other issues identified by the parties, the judge presiding over the matter would then need to decide whether the matter should continue with the other Participant being replaced, whether the participation of the other Participant could be waived, or whether the other Participant could participate remotely.

ii. Could the Other Participant with any Symptom or At-Risk Condition Participate Remotely?

If the other Participant cannot be replaced or their presence waived, consideration should be given as to whether the other Participant could remotely participate. Resolving this question would be based on a case-by-case inquiry addressing relevant issues that could include: (1) is the other Participant a witness? (2) if so, has the witness begun testifying? (3) is the witness medically well enough to complete testimony remotely? (4) does the Confrontation Clause apply? (5) if the Confrontation Clause does apply, could remote testimony be allowed?⁶ (6) is remote participation feasible given available technology? (7) is remote participation feasible given the role of the other Participant in the proceeding? and (8) any other factors that would impact the ability of the other Participant to participate remotely. Depending upon the answers to these case-specific questions, as well as any other issues identified by the parties, the judge presiding over the matter

⁶ See *Maryland v. Craig*, 497 U.S. 836, 850 (1990) (authorizing remote testimony where the State shows that (1) the denial of face-to-face confrontation is necessary to further an important public policy; (2) the reliability of the testimony is otherwise assured; and (3) there is a case-specific showing of necessity for the accommodation); see also *State ex rel Montgomery v. Kemp*, 239 Ariz. 332, 336 ¶ 19 (Ariz. Ct. App. 2016) (adopting *Maryland v. Craig* standard for the use of two-way video testimony in a criminal trial).

would need to decide whether the matter should continue with the other Participant participating remotely, whether a continuance would be needed, or whether a mistrial should be declared.

VII. APPROPRIATE FOLLOW-UP AND DISCLOSURE

Regardless of whether the matter continues, is suspended, or a mistrial is declared, appropriate follow-up and disclosure is essential any time the court learns that a Participant has any Symptom or At-Risk Condition. This includes the judge presiding over the matter (or, if the judge presiding over the matter has any Symptom or At-Risk Condition, another judge or other appropriate court personnel) immediately gathering and then acting on the following:

A. Immediately Gather Available Details About When and How the Participant with any Symptom or At-Risk Condition Developed Symptoms or Was Exposed

While protecting privacy rights, gathering available details about when and how the Participant with any Symptom or At-Risk Condition developed the Symptom or experienced the At-Risk Condition may provide critical information to help prevent further potential spread. Accordingly, immediately gathering available relevant details may be essential to further those significant public health functions. To the extent practical or possible, such information should be gathered by the court in a manner that furthers privacy rights. In addition, the court should safeguard information so that it is shared only with appropriate health officials inside and outside of the court.

B. Identifying Contacts the Participant with any Symptom or At-Risk Condition Had While In Court

This inquiry focuses on where, physically, the Participant with any Symptom or At-Risk Condition was located while participating in the court proceedings. This would include identifying specific entries, security screening facilities, rooms, courtrooms, elevators, and other spaces in the courthouse. This also includes confirming whether the Participant wore a mask at all times when in the courthouse (and, if not, when and where), identifying who was closest to the Participant and whether others were close enough to cause At-Risk Condition concerns for others, facilities used by the Participant in the courthouse, items touched by the Participant (e.g., paper documents, writing instruments, electronic display screens, etc.), and other issues and facts relevant to ensuring safety for others. If possible, courts also should take measures to identify other individuals who were present in the courthouse and where they were present in the courthouse, if notification under this protocol is indicated, including under Section VII(C) below.

This information needs to be identified quickly to undertake numerous important follow-up cautions, including communication, remediation, target increased cleaning, isolation, etc. Unless a local court already has a plan in place for such actions (including training for appropriate

personnel), continuing education is recommended for the individuals involved in this investigation so that they have the appropriate training to undertake such an investigation.

C. Communicating With Participants Who Had or May Have Had Contact with the Participant with any Symptom or At-Risk Condition While In Court

As a follow-up to these identification efforts, measures should be taken, where possible, to immediately communicate through electronic or other appropriate means with other Participants who had or may have had contact with the Participant with any Symptom or At-Risk Condition while in court to advise them of that fact, any details that can be provided, and recommend that those Participants and other individuals get tested. Privacy considerations are important, so the notification should not reveal the name of the Participant with any Symptom or At-Risk Condition. Another consideration is that the local court may receive many questions following this communication. It may be helpful to be prepared to answer these questions, perhaps with a script or list of available resources (such as local or state health department websites). Courts also should explore whether such efforts may be undertaken by local health officials outside of the court.

D. Communicating With Courthouse Personnel To Ensure Remedial Efforts Are Undertaken

To supplement safety measures, including screening, social distancing, and deep and frequent cleaning in courthouses, when a Participant with any Symptom or At-Risk Condition is identified, along with ensuring that individual is not allowed back in the courthouse and encouraging that person to seek medical care, communication efforts should relay the information, including available details, to the presiding judge, court administration, court security, and any other individuals involved in the courthouse to allow for those individuals to take measures to ensure safety and security in the courthouse. Subsequent follow-up would include deep cleaning and other remedial efforts, appropriate quarantines, clarification in protocol based on information learned, and documentation of such measures undertaken by the court. Such communication may also involve others implicated, including agencies providing services and assigning counsel to represent individuals.

As resources, the CDC has a listing of information about quarantines including various scenarios and a calendar. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/quarantine.html>. In addition, the Maricopa County Health Department has guidelines for quarantine after a COVID-19 close contact. See <https://www.maricopa.gov/DocumentCenter/View/58864/Quarantine-Guidance-for-Household-and-Close-Contacts?bidId=> ("Quarantine Guidance for Household and Close Contacts"); see also <https://www.maricopa.gov/5512/Sick-or-Exposed-to-COVID-19> ("Sick or Exposed to COVID-19"). The United States Department of Labor has guidance for measures in the

workplace. See <https://www.osha.gov/Publications/OSHA3990.pdf> (“Guidance on Preparing Workplaces for COVID-19”).

Appendix 1 (Administrative Directive 2020-22)

IN THE SUPREME COURT OF THE STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

In the Matter of:	)	
	)	
HEALTH SCREENING PROTOCOLS	)	Administrative Directive
	)	No. 2020 - <u>22</u>
	)	(Replacing Administrative
	)	Directive No. 2020-17)
	)	

To protect courthouse safety during the COVID-19 pandemic, the Chief Justice issued Supreme Court Administrative Order No. 2020-143, effective August 26, 2020. The Order requires the Administrative Office of the Courts to provide judicial leadership with health screening protocols to be used to detect COVID-19-related symptoms consistent with recommendations by public health officials to prevent the spread of the virus.

Therefore, pursuant to Administrative Order No. 2020-143,

IT IS DIRECTED that the “Arizona Courts Health Screening Protocols for Judicial and Court Personnel” and “Arizona Courts Health Screening Protocols for the Public” attached to this Directive are hereby approved and provided to judicial leadership for use in implementing Section I, paragraphs (9) and (10) of Administrative Order No. 2020-143.

IT IS FURTHER DIRECTED that this Directive replace Administrative Directive No. 2020-17.

Dated this 23rd day of October, 2020.

DAVID K. BYERS
Administrative Director of the Courts



Updated October 23, 2020

**ARIZONA COURTS HEALTH SCREENING PROTOCOLS
FOR JUDICIAL OFFICERS AND COURT PERSONNEL**

The Arizona Judiciary is committed to the safety of the public, judges and court personnel. Pursuant to Supreme Court Administrative Order No. 2020-143, the Administrative Office of the Courts has established the following updated health screening protocols for judicial officers and court personnel, effective on Oct 23, 2020:

Daily Wellness Check

All judicial officers and court personnel are required to conduct a daily wellness check, prior to coming into the workplace, that includes checking for any of the following:

- Persistent unexplained symptoms any time within the last 10 days:
 - Fever over 100.4 degrees Fahrenheit or body chills
 - Cough
 - Shortness of breath or difficulty breathing
 - Fatigue
 - Muscle or body aches
 - Headache
 - New loss of taste or smell
 - Sore throat
 - Congestion or runny nose
 - Nausea or vomiting
 - Diarrhea
- At- risk conditions:
 - Have had a COVID-19 diagnosis or a positive test result during the last 10 days.
 - A close contact as defined by being within 6 feet of an infected person for a cumulative total of 15 minutes or more within a 24 hour period starting from 2 days before the infected person's illness (symptoms) onset or, for asymptomatic persons, 2 days prior to the positive test specimen collection from the infected person.

Judicial officers and court personnel who have one or more of these symptoms or conditions should notify their supervisor/presiding judge and Human Resources Department for information and direction on returning to the workplace and, if needed, seek medical advice/treatment.

The above-mentioned listing of symptoms and conditions may change based on updated guidance from the Center for Disease Control and Prevention (CDC) and state and county health authorities.

Return to Workplace

Courts should adopt return to workplace criteria consistent with guidance from CDC and state and county health authorities.

Temperature Taking

Court leadership may implement body temperature screening for judicial officers and court personnel.

Notes:

1. Information on COVID-19 symptoms and the self-check process are updated frequently and can be found on the CDC website at <https://www.cdc.gov/coronavirus>. The CDC website also provides information on the differences between the symptoms of COVID-19 and Influenza (Flu). Please refer to this website for the most current guidance.
2. CDC advises that the foregoing list of symptoms does not include all symptoms. CDC recommends calling your medical provider for any other symptoms that are severe or concerning to you.
3. Having a temperature reading at 100.4 degrees Fahrenheit or above does not necessarily mean a person is sick with COVID-19. Some activities, the intake of caffeine, and some medical conditions can raise your body temperature.

Approved October 23, 2020

Administrative Directive No. 2020-22



Updated October 23, 2020

ARIZONA COURTS HEALTH SCREENING PROTOCOLS FOR THE PUBLIC

The Arizona Judiciary is committed to the safety of the public, judges and court personnel. Pursuant to Supreme Court Administrative Order No. 2020-143, the Administrative Office of the Courts has established the following health screening protocols for Arizona's courts, effective on October 23, 2020:

LEVEL 1: BASIC SCREENING (No Security Personnel; No Body Temperature Screening)

In courts that do not have security screening, courts should ask the public to self-screen and not come to court with any of the following:

- Persistent unexplained symptoms any time within the last 10 days:
 - Fever over 100.4 degrees Fahrenheit or body chills
 - Cough
 - Shortness of breath or difficulty breathing
 - Fatigue
 - Muscle or body aches
 - Headache
 - New loss of taste or smell
 - Sore throat
 - Congestion or runny nose
 - Nausea or vomiting
 - Diarrhea
- At-risk conditions:
 - Have had a COVID-19 diagnosis or a positive test result during the last 10 days.
 - A close contact as defined by being within 6 feet of an infected person for a cumulative total of 15 minutes or more within a 24 hour period starting from 2 days before the infected person's illness (symptoms) onset or, for asymptomatic persons, 2 days prior to the positive test specimen collection from the infected person.

Note: Information on COVID-19 symptoms and a self-check process are updated frequently and can be found on the Centers for Disease Control and Prevention (CDC) website at <https://www.cdc.gov/coronavirus>. The CDC also provides information on the difference between symptoms of COVID-19 and Influenza (flu). Please refer to this website for the most current guidance.

Courts shall provide notice to the public of this additional screening through communications about any court proceeding, posting the information on the court's website, and posting signage at all courthouse entrances.

Service to Individuals Who Report Symptoms or Conditions: Courthouse visitors who have any of the above symptoms or conditions should call the court to reschedule or be referred to appropriate electronic or on-line options for finding information, filing of motions, or other court services. Court staff should take appropriate action to provide access to court services while maintaining appropriate safeguards. In-person proceedings should not be scheduled until cessation of symptoms, a diagnosis of a non-contagious condition that explains a symptom, or negative COVID-19 test results no longer indicate COVID-19 infection under CDC guidelines or direction from other state and county health authorities.

LEVEL 2: BASIC + ENHANCED SCREENING
(Security Personnel; No Body Temperature Screening)

In courts with security screening, security officers or other designated court staff shall ask courthouse visitors the following two questions:

1. Have you tested positive or experienced any symptoms of COVID-19 in the last 10 days?
2. Have you had contact with someone who has tested positive for the COVID-19 virus in the last 14 days?

If a courthouse visitor answers "yes" to any of these questions, the visitor shall be excluded from entering the courthouse until:

1. Ten days have passed since the onset of symptoms, 24 hours have passed since fever resolved without use of medication, and other symptoms have improved.
2. Fourteen days have passed after close contact with someone with COVID-19 illness with no development of symptoms. A close contact defined as being within 6 feet of an infected person for a cumulative total of 15 minutes or more within a 24 hour period starting from 2 days before the infected person's illness (symptoms) onset or, for asymptomatic persons, 2 days prior to the positive test specimen collection from the infected person.
2. If exclusion is for a symptom, a medical diagnosis other than COVID-19 explains that symptom.
3. Negative COVID-19 test results indicate no COVID-19 infection under CDC guidelines.

Courts shall provide notice to the public of this additional screening through communications about any court proceeding, posting the information on the court's website, and posting signage at all courthouse entrances.

Service to Individuals Refused Entry: Courthouse visitors who are refused entrance will be provided a phone number to reschedule or be referred to appropriate electronic or on-line options for finding information, filing of motions, or other court services. Security and other court staff should take appropriate action to provide access to court services while maintaining appropriate safeguards.

Security officers should be masked and gloved while screening courthouse visitors.

**LEVEL 3: ENHANCED + SECURITY PERSONNEL
DOING BODY TEMPERATURE SCREENING**

If approved by Judicial leadership pursuant to AO 2020-143, Section I (10), courthouse visitors may be screened for body temperature at entrances to the courthouse if:

1. Temperature screening is conducted by court personnel with a non-touch, calibrated human electronic temperature device;
2. Security is masked and gloved; and
3. Equipment is frequently sanitized for everyone's protection.

In the event that a courthouse visitor is found to have a temperature of 100.4 degrees Fahrenheit or above, the visitor should be retested after the initial temperature test. If the temperature is not below 100.4 degrees Fahrenheit, the visitor shall be excluded from entering the courthouse until body temperature is below 100.4 degrees Fahrenheit, a diagnosis of a non-contagious condition that explains an excessive temperature, or negative COVID-19 test results indicate no COVID-19 infection under CDC guidelines.

Courts shall provide notice to the public of this additional screening through communications about any court proceeding, posting the information on the court's website, and posting signage at all courthouse entrances.

Service to Individuals Refused Entry: Courthouse visitors who are refused entrance will be provided a copy of this protocol, a phone number to reschedule or be referred to appropriate electronic or on-line options for finding information, filing of motions, or other court services. Security and other court staff should take appropriate action to provide access to court services while maintaining appropriate safeguards.

Note: Courts should check manufacturer specifications to confirm temperature screening devices being used are accurate when used in high-temperature climates.

Approved October 23, 2020

Administrative Directive No. 2020-22

Appendix 2 (Sample Advisements, Notifications, and Questions)⁷

Sample Advisement to be Given at the Beginning of Each Court Day and at the Beginning of Each Day of Trial When the Appropriate Participants are Present

Attention Courtroom Participants: ____ County is currently responding to a public health crisis related to COVID-19. As you saw before entering the courthouse today, the court is taking various safety precautions to help minimize your risk while you are in the courthouse. As you know, you had your temperature taken upon entry, you are required to wear your mask while in the building, and we are asking that you keep at least 6 feet distance from others while you are in the courthouse.

We understand that the virus is present in the community and may be present in the courthouse. As we continue our operations, we anticipate that we will have individuals who are diagnosed with COVID-19 or test positive for the virus, who develop symptoms or at-risk conditions of the virus. Symptoms of the virus include any one of the following conditions or persistent and unexplained symptoms:

- Fever over 100.4 degrees Fahrenheit or body chills;
- Cough;
- Shortness of breath or difficulty breathing;
- Fatigue;
- Muscle or body aches;
- Headache;
- New loss of taste or smell;
- Sore throat;
- Congestion or runny nose;
- Nausea or vomiting;
- Diarrhea;
- Have had a COVID-19 diagnosis or positive test result during the last 10 days; or
- Additional conditions identified by a public health agency. [Refer to most updated symptoms, including referring to most recent version of CDC guidelines. <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (listing symptoms); <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/returning-to-work.html> (providing return to work guidance).]

Exposure includes close contact with someone who has tested positive for COVID-19 or has symptoms consistent with the COVID-19 virus during the last 14 days. A close contact is defined

⁷ Given the verbal nature of this admonition, and for simplicity, the events listed in Symptoms and At-Risk Conditions are combined in the definition of Symptoms.

as anyone who was within 6 feet of an infected person for a cumulative total of at least 15 minutes or more within a 24 hour period starting from 2 days before the onset of the infected person's illness or symptoms or, for non-symptomatic persons, 2 days before the positive test specimen collected from the infected person. Exposure also includes close contact with someone who has COVID-19 or has exhibited symptoms consistent with COVID-19 as defined by a public health agency. [Reference to the then current definitions of exposure and close contact by public health agencies and other trusted sources should be referenced.]

We have developed a protocol in conjunction with public health recommendations to address those situations when they arise. You will be notified by court staff if we receive confirmation of a positive diagnosis, report of a symptomatic person, or report of exposure by a participant present during a proceeding in which you were present. We expect that we will be able to continue forward with many of our court proceedings during the public health crisis, but we may have some delays as we continue to evaluate the safest process for all involved.

If you are not feeling well, if you are diagnosed with COVID-19, test positive for COVID-19, develop any of the symptoms of COVID-19 or are exposed to someone with COVID-19, please immediately contact and let any of the following individuals know: my judicial assistant INSERT NAME HERE or bailiff INSERT NAME HERE or OTHER SPECIFIC PERSON NAMED HERE. Please do so by calling them at XXX, via text message at XXXX, by electronic mail via XXX or by telling them, while at least 6 feet distant. Thank you.

Sample Notification Language in an Ongoing Matter

Attention Courtroom Participant: The court has been advised that on __, 20__ an individual was present in the courtroom between __ and __; was seated at ____ (if known) and that individual reported to the court on ____, 20__ as [AS APPLICABLE: having been diagnosed with COVID-19; tested positive for COVID-19; whose symptoms were consistent with COVID-19; was exposed to someone with COVID-19; and/or was exposed to someone whose symptoms were consistent with COVID-19]. As a result, the court has immediately delayed any further proceedings in this matter until ____, 2020. The delay will allow for additional information to be gathered and shared, if possible, as well as additional deep cleaning of the courtroom and other relevant portions of the courthouse before any further proceedings are being held in the courtroom. As additional information becomes available to share, including further scheduling in this matter, you will be contacted by court staff. In addition, you may be contacted by public health and you may wish to consult your own health care provider for further guidance. At this time, you are free to leave the courthouse and you need not return until you are later contacted with further details. [Consider additional language if the trial will be continued or a mistrial declared]

Sample Notification Language in a Completed Matter

Attention Courtroom Participant: The Court has been advised that on __, 20__ an individual was present in the Courtroom __ between __ and __; was seated at ____ (if known) and that individual reported to the court on ____, 20__ as [AS APPLICABLE: having been diagnosed with COVID-19; tested positive for COVID-19; developed at least one symptom of COVID-19; was exposed to someone with COVID-19; and/or was exposed to someone with at least one symptom of COVID-19]. As a result, additional deep cleaning is being undertaken in the courtroom and

other relevant portions of the courthouse before any further proceedings are held in the courtroom. As additional information becomes available to share, you may be contacted by court staff. In addition, you may be contacted by public health and you may wish to consult your own health care provider for further guidance.

Sample Questions for Reported Symptom or At-Risk Condition

NOTE: Arizona Supreme Court Administrative Directive 2020-22 lists who would conduct symptom screening for individuals attempting to enter a courthouse, depending on the nature of the court, including self-screening, security officers and other designated court staff. Along with those individuals, courts should determine who has the designated role and authority to ask these questions for any reported Symptom or At-Risk Condition.

Symptoms and Close Contact

1. How are you feeling?
2. Have you experienced any symptoms consistent with COVID-19 within the past 10 days (with a current list of symptoms provided to the individual for a self-assessment)?
3. How long have you had these symptoms?
4. Have you had any recent contact with a person suffering with COVID-19?
5. If YES, when was your most recent contact with that person?
6. Who have you been in ***close contact*** with in the courthouse? (The CDC defines “close contact” as being within 6 feet of an infected person for a cumulative total of 15 minutes or more within a 24 hour period starting from 2 days before the infected person’s illness (symptoms) onset or, for asymptomatic persons, 2 days prior to the positive test specimen collection from the infected person.⁸ Which of your fellow jurors have you talked to about how you feel?

At-Risk Condition

1. Why do you think you have been exposed to a person infected with COVID-19?
2. When was your most recent contact with that person? (The prior two weeks is the relevant time-period)
3. Were you in ***close contact*** with this person? (The CDC defines “close contact” as being within 6 feet of an infected person for a cumulative total of 15 minutes or more within a 24 hour period starting from 2 days before the infected person’s illness (symptoms) onset or, for asymptomatic persons, 2 days prior to the positive test specimen collection from the infected person.)
4. Has the person with which you had contact been tested for COVID-19?
5. If YES, was the test positive for COVID-19?
6. If NO to question 4, why do you think the person is infected with COVID-19?
7. How are you feeling?

⁸ <https://www.cdc.gov/coronavirus/2019-ncov/php/public-health-recommendations.html>

8. What symptoms are you having, if any? ⁹

Note: The relevant inquiries likely will change over time, and frequent reference should be made to conditions identified by a public health agency. See, e.g., <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html> (listing symptoms); <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/returning-to-work.html> (providing return to work guidance).

If Excused

Please see a doctor immediately and ask to be tested for COVID-19. Please inform _____ about your test results so we can take care of those who may have had close contact with you.

NOTE: The July 1, 2020 Protocol contained Exhibit A that follows. Comments received included that it was not clear how this information will be used and may not be necessary. If the Participant identifies through self-assessment that they have experienced COVID-19 symptoms in the last 10 days, that should be enough to drive the next steps of isolation. This also avoids having to consider how this information will be maintained and stored. Accordingly, although retained here because it was in the July 1, 2020 Protocol, if such an assessment is used, those caveats apply and it also will need to be updated frequently to ensure that it complies with the most recent information identified by public health agencies.

Exhibit A

CDC COVID-19 SYMPTOM ASSESSMENT

COVID-19 Symptoms	Presence of Symptoms	Date of Onset	Duration
Shortness of breath or difficulty breathing	Check Box (Y/N/U/R)	Date of onset	Number of days
Fatigue	Check Box (Y/N/U/R)	Date of onset	Number of days
Muscle or body aches	Check Box (Y/N/U/R)	Date of onset	Number of days
Fever over 100.4 degrees Fahrenheit or body chills	Check Box (Y/N/U/R)	Date of onset	Number of days

⁹ See Exhibit “A” for a checklist of COVID-19 symptoms as of August 20, 2020.

CDC COVID-19 SYMPTOM ASSESSMENT

COVID-19 Symptoms	Presence of Symptoms	Date of Onset	Duration
Headache	Check Box (Y/N/U/R)	Date of onset	Number of days
Cough	Check Box (Y/N/U/R)	Date of onset	Number of days
New loss of taste or smell	Check Box (Y/N/U/R)	Date of onset	Number of days
Sore throat	Check Box (Y/N/U/R)	Date of onset	Number of days
Congestion or runny nose	Check Box (Y/N/U/R)	Date of onset	Number of days
Nausea or vomiting	Check Box (Y/N/U/R)	Date of onset	Number of days
Diarrhea	Check Box (Y/N/U/R)	Date of onset	Number of days
Malaise	Check Box (Y/N/U/R)	Date of onset	Number of days
Have had a COVID-19 diagnosis or positive test result during the last 10 days	Check Box (Y/N/U/R)	Date of onset	Number of days
Additional conditions identified by a public health agency	Check Box (Y/N/U/R)	Date of onset	Number of days
Persistent pain or pressure in the chest*	Check Box (Y/N/U/R)	Date of onset	Number of days
New confusion*	Check Box (Y/N/U/R)	Date of onset	Number of days
Inability to wake or stay awake*	Check Box (Y/N/U/R)	Date of onset	Number of days

Protocol for In-Courthouse COVID-19 Symptom or At-Risk Condition by a Participant in Arizona State Courts
Version 4.0 as of October 29, 2020

CDC COVID-19 SYMPTOM ASSESSMENT

COVID-19 Symptoms	Presence of Symptoms	Date of Onset	Duration
Bluish lips or face*	Check Box (Y/N/U/R)	Date of onset	Number of days
Other symptom(s)	Check Box (Y/N/U/R)	Date of onset	Number of days

Y = Yes U = Unknown

N = No R = Refused

Sample Disclosure of Any Symptom or At-Risk Condition

We have learned that (a fellow juror, a member of court staff, trial participant, etc.) has reported (symptoms or exposure to a person with symptoms) that may be consistent with COVID-19. The nature of this report is (***summarize report while respecting confidentiality***). We have determined that the nature of the exposure (***prevents us / does not prevent us***) from continuing with trial.

Judicial Options:

Mistrial: Excuse the jury and encourage the jurors see a medical professional to consider testing for COVID-19.

The Trial Continues: Inform jurors to tell the bailiff if they have questions or concerns with continuing to serve as a juror in this matter. Inform them that their questions or concerns will be shared with the judge, and the judge will consult with the lawyers in the case. The court may ask to have a private conversation with the juror to explore these issues further.

Take a recess to allow for questions or concerns.

Appendix 3

Checklist for In-Courthouse COVID-19 Symptom or At-Risk Condition by a Participant in Arizona State Courts

(Version 4.0, As of October 29, 2020)

This Checklist is provided as a quick reference for courts to address any in-courthouse COVID-19 Symptom or At-Risk Condition by a Participant in Arizona State Courts. This Checklist is based on the Protocol for In-Courthouse COVID-19 Symptom or At-Risk Condition by a Participant in Arizona State Courts Version 4.0 (as of October 29, 2020) (“Protocol”). Along with portions of the Protocol referenced here, the Protocol in its entirety should be referenced for definitions, details, and guidance. This Checklist is designed to be available on the bench and elsewhere to guide immediate and appropriate responsive action upon receipt of information regarding any Symptom or At-Risk Condition by a Participant, based on answers to two primary questions:

1. **HOW WAS THE SYMPTOM OR AT-RISK CONDITION BY A PARTICIPANT REPORTED?**

- A. **IN THE COURTHOUSE** (i.e., the Participant with any Symptom or At-Risk Condition is currently in the courthouse)

IMMEDIATELY: (1) take action to isolate the Participant; (2) have the Participant removed from the courthouse; (3) obtain appropriate information remotely; (4) take appropriate action and institute communications as necessary; and (5) take appropriate action based on the identity of the Participant with any Symptom or At-Risk Condition and those persons with whom they had contact as indicated in Question 2 below. [**Protocol Version 4.0 §§ III; V(B); VII**]

- B. **REMOTELY** (i.e., the Participant with any Symptom or At-Risk Condition is not currently in the courthouse)

PROMPTLY: (1) obtain appropriate information remotely; (2) take appropriate action and institute communication as necessary; and (3) take appropriate action based on the identity of the Participant with any Symptom or At-Risk Condition and those persons with whom they had contact as indicated in Question 2 below. [**Protocol Version 4.0 §§ III; V(A); VII**]

2. **WHO WAS THE PARTICIPANT WITH ANY SYMPTOM OR AT-RISK CONDITION?**

- A. **CRIMINAL DEFENDANT WITH ANY SYMPTOM OR AT-RISK CONDITION**

1. Make a record with the criminal defendant present remotely using electronic means (and, if such remote appearance by the criminal defendant is not possible, in the absence of the criminal defendant).
2. Does the criminal defendant have a right to be physically present for the upcoming proceeding(s)?

- a. If no, consider proceeding accordingly.
- b. If yes, and the criminal defendant is present remotely using electronic means, does the criminal defendant waive the right to be physically present, either by agreeing to:
 - be remotely present using electronic means (if possible), **or**
 - not be present at all?
3. If the criminal defendant wishes to waive the right to be physically present, is the waiver knowing, voluntary, and intelligent?
 - a. If yes, make the finding and consider proceeding accordingly.
 - b. If no, and after consulting with the parties and hearing from any victim or victim representative,
 - continue the matter and schedule periodic status hearings (e.g., once per week) until the criminal defendant can again properly be present in court to participate, **or**
 - if it is a trial and the trial cannot be continued, declare a mistrial, and reschedule a new trial.
4. Make appropriate disclosure and follow-up as described in Protocol Version 4.0 § VII.

[Protocol Version 4.0 §§ VI(A) and VII]

B. POTENTIAL JUROR/JUROR WITH ANY SYMPTOM OR AT-RISK CONDITION

1. Make a record with the parties present.
2. If the Participant with any Symptom or At-Risk Condition is a potential juror, determine whether jury selection and the trial can continue and if any disclosures to other Participants is appropriate (which would depend, chiefly, on whether the potential juror with any Symptom or At-Risk Condition was ever in the courthouse during the time period in question).
3. If the Participant with any Symptom or At-Risk Condition had been selected and was serving as a juror:
 - a. Are there sufficient alternate jurors to allow the trial to proceed (or an agreement/waiver that the trial could proceed without the juror)?
 - If no, declare a mistrial.
 - If yes, practically, discuss and determine disclosure to and inquiry of the remaining jurors, on the record with the parties present (remotely, if appropriate), that is appropriate to provide information for the trial judge to determine whether the trial properly should proceed.
 - b. After undertaking that disclosure and inquiry with the remaining jurors, and after consulting with the parties and hearing from any

victim or victim representative in a criminal matter, determine whether the trial can proceed as scheduled, whether a continuance is necessary, or whether a mistrial should be declared.

4. Make appropriate disclosure and follow-up as described in Protocol Version 4.0 § VII.

[Protocol Version 4.0 §§ VI(B) and VII]

C. JUDGE PRESIDING OVER THE MATTER HAS ANY SYMPTOM OR AT-RISK CONDITION

1. A different judge makes a record with the parties present.
2. Determine whether the proceedings can continue with a different judge.
 - a. If yes, proceed forward with having a different judge conduct the proceedings, with appropriate disclosures.
 - b. If no, and after consulting with the parties and hearing from any victim or victim representative in a criminal matter, either:
 - i. Reschedule the proceedings to allow sufficient time for the judge presiding over the proceedings who had any Symptom or At-Risk Condition to rejoin the proceedings after being cleared medically, **or**
 - ii. Begin anew the proceedings before a different judge (including declaring a mistrial if the issue arises during trial).
3. Make appropriate disclosure and follow-up as described in Protocol Version 4.0 § VII.

[Protocol Version 4.0 §§ VI(C) and VII]

D. OTHER PARTICIPANT WITH ANY SYMPTOM OR AT-RISK CONDITION

1. Make a record with the parties present, either in the absence of the Participant with any Symptom or At-Risk Condition, or with that Participant appearing by electronic means.
2. Can the role of the Participant with any Symptom or At-Risk Condition be filled by another individual?
 - a. If yes, consider moving forward accordingly.
 - b. If no, can the presence of the Participant with any Symptom or At-Risk Condition be waived?
 - i. If yes, and if waived (or if a waiver is not necessary), consider moving forward accordingly.
 - ii. If no, can the Participant with any Symptom or At-Risk Condition appear remotely?

1. If yes, consider moving forward accordingly.
2. If no, after consulting with the parties and hearing from any victim or victim representative in a criminal matter, determine whether to continue the proceedings and, if the issue arises during trial, declare a mistrial.
3. Make appropriate disclosure and follow-up as described in Protocol Version 4.0 § VII.

[Protocol Version 4.0 §§ VI(D) and VII]



Meeting Date: May 6, 2021

Subject: COVID-19 Eviction Actions Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Mike Baumstark, AOC Deputy Director

Presenters: (Same)

Discussion: The presenter will update members on the impact of COVID-19 on eviction actions.

Recommended motion: None.



Meeting Date: May 6, 2021

Subject: Update on AZCourtHelp.org enhancements and use

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Dr. Kevin Ruegg, Executive Director, Arizona Foundation for Legal Services & Education, and Cathleen Cole, Content Manager, Arizona Foundation for Legal Services & Education

Presenters: (Same)

Discussion: Updated statistics and analysis from Google Analytic reports for AZCourtHelp.org website, COVID-related information, and enhancements and improvements to the website since the last report.

Recommended motion: None.

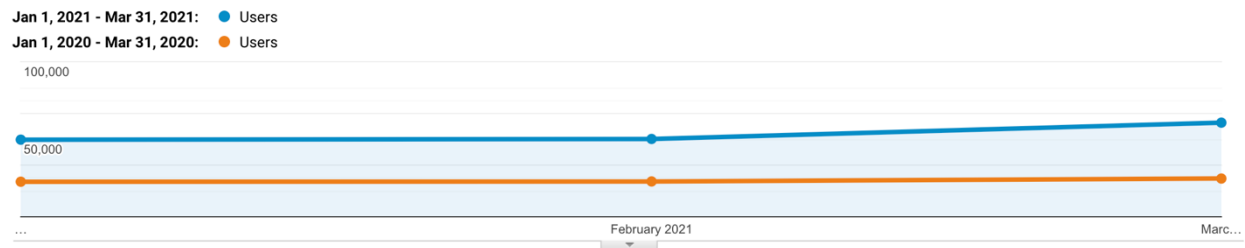


AZCourtHelp.org

Google Analytic Results

Timeframe	Users	New Users	Pageviews
1/01/2020-3/31/2020	68,462	67,252	234,251
1/01/2021-3/31/2021	156,209	153,377	433,962
Change	+128%	+128%	+85%

This timeframe compares the first quarter of 2021 to the first quarter of 2020.



Devices Used

Timeframe	Desktop	Cell Phone	Tablet
1/01/2020-3/31/2020	32,394 (47%)	34,674 (50%)	1,734 (3%)
1/01/2021-3/31/2021	62,591 (40%)	90,523 (58%)	2,529 (2%)
Change	+93%	+161%	+45%

Since the pandemic, cell phone usage has been on the rise and continues to surpass desktop use.

Acquisition of Users

Timeframe	Organic Search	Referral	Direct	Google Ad	Social Media
1/01/2020-3/31/2020	42,664	14,757	6,167	7,387	747
1/01/2021-3/31/2021	115,235	23,858	11,493	10,633	1,292
Change	+170%	+62%	+86%	+44%	+339%

With the optimization of the metadata and metatags within AZCourtHelp, the average position on Google is now 10th in the United States. The top 3 pages viewed from Google search results are Court Records, Marriage Licenses, and Warrant Types; all of which are found within the first 10 search results on Google.

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Top 10 Referrals to AZCourtHelp

1/1/2020-3/31/2020	1/1/2021-3/31/21
AZCourts.gov – 6,447	AZCourts.gov – 7,641
Azpoint.azcourts.gov – 2,957	Azpoint.azcourts.gov – 6,043
AZLawHelp.org – 2,169	AZLawHelp.org – 4,067
Phoenix.gov – 1,004	Yumacountyaz.gov – 1,287
courts.Yavapai.us – 540	sc.Pima.gov – 1,200
clerkofcourt.maricopa – 319	Superiorcourt.maricopa.gov – 827
Housing.az.gov – 174	Phoenix.gov – 810
jp.Pima.gov – 174	clerkofcourt.maricopa – 621
sc.Pima.gov – 159	courts.Yavapai.us – 237
Goodyearaz.gov – 99	jp.Pima.gov – 227

Top 10 Cities

1/1/2020-3/31/2020	1/1/2021-3/31/21
Phoenix – 18,771	Phoenix – 40,405
Mesa – 3,613	Tucson – 7,321
Tucson – 3,424	Mesa – 6,008
Tempe – 3,032	Los Angeles – 6,007
Los Angeles – 2,498	Las Vegas – 3,778
Chandler – 1,870	Scottsdale – 3,390
Scottsdale – 1,707	Chandler – 5,050
Glendale – 1,271	Gilbert – 4,927
Gilbert – 1,216	Glendale – 4,463
Las Vegas – 1,123	Tempe – 4,462

During the pandemic, users in 4,894 municipalities in the United States, 137 locations were in Arizona, have found assistance on AZCourtHelp. We do find that those from Arizona spend more time on the website and are apt to view more than one page on the site.

Top 10 Pages Viewed 1/01/2020-3/31/2020

#Views	Page Name/Link
13,011	Find My Court
12,871	Electronic Court Records
9,583	Forms
4,811	Self-Representation Portal
4,797	Justice Court Locations
3,660	Court Calendars
3,658	Courthouse Weddings
3,511	Municipal Court Locations
3,440	Qué significa días calendario?
3,369	Marriage

Top 10 Pages Viewed 1/01/2021-3/31/2021

#Views	Page Name/Link
23,491	Find My Court
18,383	Electronic Court Records
14,616	Forms
12,903	Types of Warrants
10,412	Marriage Licenses
7,374	Municipal Court Locations
7,138	Justice Court Locations
6,015	Self-Representation Portal
5,685	Tenant Forms
5,132	Evicting Unwanted Occupants

The Legal Info Sheet regarding evictions of unwanted occupants under ARS § 33-1378 has appeared in the top ten pages viewed on AZCourtHelp for the first time. This page was first published on July 2, 2020 and has seen a steady increase in pageviews each month.

There has been a 152% increase in document downloads. Of the 22,857 documents downloaded in the first quarter. *Adult Name Change* and *Declaration to Landlord for a Temporary Halt in Residential Evictions* were the most popular forms.

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Most Clicks in Google Search Results

<i>Search Term</i>
Arizona court records
Arizona court case lookup
Pima County Superior Court
Types of warrants
AZ Court Records
How to get married in Arizona
AZ Court case lookup
Getting married in Arizona
How to get married in Arizona during COVID-19
Warrant quashed meaning

Top 10 Searched Terms on ACH

<i>Search Term</i>
Name change
Order of Protection
Divorce
Child Support
Marriage
Forms
Power of Attorney
Motion
Eviction
Marriage License

Live Chat Statistics

	<i>1/01/2020-3/31/2020</i>	<i>1/01/2021-3/31/2021</i>
<i>Item</i>	<i>Value</i>	<i>Value</i>
Number of Active Chat Operators	7	9
Number of Chat Sessions	499	385
Total Amount of Chat Time	75hrs 56min	61hrs 19min
Average Length of Chat Sessions	9min	9min

The Live Chat program is operated by Law Library staff who assist when they are able.

Live Chat Topics

<i>#Mentions</i>	
1	Appeals
2	Property Matters
3	Adoption
3	Garnishment
7	Probate
8	Court Scheduling
9	Criminal Matters & Set Aside
10	Small Claims
11	Child Support
11	Fines, fees, payments
14	Guardianship

<i>#Mentions</i>	
16	Civil Cases
20	Court Records or Case Files
21	Separation/Divorce/ Annulment
22	LDMPT
24	Landlord/Tenant
24	Marriage Licenses and Weddings
27	Name Change
29	Traffic Issues
36	Other
37	General Forms/Filing/Service
50	Orders of Protection & IAH's

To contribute content or provide feedback - Cathleen.Cole@azflse.org



COVID-19 Resources

On April 7, 2020, AZCourtHelp published a page dedicated to pertinent resources related to COVID-19. It contains:

- A link to the COVID-19 Q&A portal on AZLawHelp – covid19.azlawhelp.org
- Mini Legal Talks on COVID-19 subjects
- A link to the AOC's COVID-19 information page
- Find My Court component on AZCourtHelp
- Attorney General's scams, frauds, and price gouging reporting information
- Contact information for the State Law Librarians
- Legal Aid Resources page on AZCourtHelp

There have been 5,881 pageviews of COVID-19 related pages on AZCourtHelp since publication.

COVID-19 Videos

From 1/1/2020-3/31/2021, there have been 3,960 views of legal talks and videos provided to AZCourtHelp. Coconino Law Library has been producing mini legal help videos related to COVID-19, the first of which was published on April 9, 2020. Currently, there are 5 videos which are hosted on YouTube and embedded in AZCourtHelp. There has been a total of 1,656 views of the various videos.

Video Name	Publish Date	# Views
Changing Child Support During COVID-19	4/13/2020	596
Getting a Protective Order During COVID-19	4/9/2020	449
COVID-19 Parenting Time	4/23/2020	226
Getting Married at the Courthouse During COVID-19	4/9/2020	310
COVID-19: Changes to the Landlord/Tenant Law (Removed after 7/31/20)	4/13/2020	75

To contribute content or provide feedback - Cathleen.Cole@azflse.org



Meeting Date: May 6, 2021

Subject: Legal Information Hotline Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Joel England

Presenters: Joel England

Discussion: Legal Information Hotline Update

- Radio Interview in January 2021
- Horizon Appearance with Chief Justice Brutinel in February 2021
- Ceased taking calls on April 15, 2021 after over 10 months of operation
- Answered 3,145 calls
- Made 859 referrals for free attorney consultations
- Top areas of assistance included: housing, employment issues, financial matters
- 72% of calls from Maricopa County followed by Pima County (16%)

Recommended motion: N/A



Meeting Date: May 6, 2021

Subject: Public Information and Messaging Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Aaron Nash

Presenters: Aaron Nash

Discussion: Update on 2020 ACAJ Annual Report distribution and presentation to Arizona Judicial Council and Presiding Judges. PIM is back to working on videos and other outreach.

Recommended motion: N/A



Meeting Date: May 6, 2021

Subject: Report from Justice in Government Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Chris Groninger, Chief Strategy Officer, Arizona Bar Foundation

Presenters: Chris Groninger

Discussion: Update on intergovernmental collaboration efforts of the Justice in Government Workgroup in 2020 including SB1661 as model for housing assistance or navigator programs.

Recommended motion: None.



Meeting Date: May 6, 2021

Subject: Judicial and Attorney Engagement Report

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Joe Kreamer, Workgroup Chairperson

Presenters: same

Discussion: Update on activities of the A&E workgroup

Recommended motion: None



Meeting Date: May 6, 2021

Subject: Workgroup Report: SRL-LJC

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Anna Huberman, SRL-LJC Chair

Presenters: (Same)

Discussion: Judge Huberman will update members on SRL-LJC's work.

Recommended motion: None.



Meeting Date: May 6, 2021

Subject: Workgroup Report: CARES Act Compliance

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: CARES Act Compliance Workgroup

Presenters: Judge Samuel Thumma

Discussion: This workgroup was formed to provide public awareness and education and promote access to court forms and other resources concerning eviction proceedings that did not comply with the CARES Act. The workgroup has met several times. The workgroup has four subgroups addressing the following (1) Public Education and Resources; (2) Court Based Solutions; (3) Litigation based Solutions and (4) Quick Analysis and Education in Response to Future Federal Pandemic Relief. The most recent workgroup meeting discussed responses to the CDC order extension and related issues. The discussion also included the November 2020 representation by the Arizona Multihousing Association that it is undertaking a lookback of 900 cases (more recently, nearly 1,500 cases) that may have violated the CARES Act as well as other information the AMA has indicated it will be providing although has not yet provided to date. The meetings also have included a report back from the four subgroups.

Recommended action: None at this time.



Arizona Commission on Access to Justice

Virtual Meeting Agenda

November 2, 2021 - 9:00 a.m. to 12:00 p.m.

[ACAJ WEBPAGE](#)

TIME	AGENDA ITEM	PRESENTER
9:00 a.m.	Welcome and opening remarks • Membership changes	<i>Judge Samuel Thumma, Chair</i>
	Approval of minutes from May 6, 2021	
	☐ Formal Action/Request	
9:05 a.m.	Tribute	<i>Judge Thumma</i>
9:35 a.m.	Report from the Governor's Office	<i>Anni Foster</i>
9:55 a.m.	Family Court Improvement Committee – Incarceration, Re-Entry, and Child Support Pilot Update	<i>Judge Bruce R. Cohen</i>
10:10 a.m.	Task Force on Jury Data Collection, Practices, and Procedures A.O. No. 2021-35	<i>Judge Pamela Gates Jennifer Albright</i>
10:25 a.m.	Law4AZ Library Project update	<i>Gretchen Hornberger</i>
10:40 a.m.	10-MINUTE RECESS (Members please mute your microphones and return in 10 minutes)	
10:50 a.m.	AZEviictionHelp.org website update	<i>Chris Groninger</i>
11:00 a.m.	COVID-19 Eviction Actions Update	<i>Marcus Reinkensmeyer, Deputy Director, AOC</i>
11:10 a.m.	Afghan Refugee Pro Bono Project	<i>Kevin Groman</i>

11:25 a.m.	Update on AZCourtHelp.org enhancements and use	<i>Dr. Kevin Ruegg and Cathleen Cole Arizona Bar Foundation for Legal Services & Education</i>
11:30 a.m.	Workgroup report: Public Information and Messaging	<i>Alberto Rodriguez, Public Information Officer, AOC</i>
11:35 a.m.	Workgroup report: Justice in Government	<i>Chris Groninger</i>
11:40 a.m.	Workgroup report: Attorney and Judicial Engagement	<i>Judge Joe Kreamer</i>
11:45 a.m.	Workgroup report: Self-Represented Litigants in Limited Jurisdiction Courts Workgroup	<i>Charles Adornetto</i>
11:55 a.m.	Potential Future Agenda items: • LJC Administrators' Association (Warrants) • AZPoint – Arizona Protective Order Initiation & Notification Tool Update (https://azpoint.azcourts.gov/)	<i>Judge Thumma</i>
11:55 a.m.	Good of the Order / Call to the Public	<i>Judge Thumma</i>
12:00 p.m.	Adjournment	

Save the ACAJ meeting dates in 2022:

Thursday, February 3

Thursday, May 5

Thursday, November 3

Arizona Commission on Access to Justice
MINUTES
Thursday, May 6, 2021
9:00 a.m. to 12:00 p.m.
Virtual Meeting

Virtual attendees: Judge Lawrence Winthrop (chair), Judge Samuel Thumma (co-chair), Kip Anderson, Mike Baumstark, Pam Bridge, Stacy Butler, Judge Bruce Cohen, Joel England, Kevin Groman, Judge Anna Huberman, Joe Kanefield, Judge Joseph C. Kreamer, Maria Morlacci, Judge Maurice Portley (Ret.), Janet Regner, Kevin Ruegg, Rodolfo Sanchez, Dr. Rebecca Sandefur, Kathy Schaben, Valerie Wyatt, Anthony Young

Absent/Excused: Judge Dean Christoffel, Anni Foster, William Knight

Presenters/Guests: Chief Justice Brutinel, Joanna Carr, Cathleen Cole, Scott Davis, Blythe Edmonson, Judge David Gass, Chris Groninger, Jake Hinman, Aaron Nash, Makenzie Pish, Joan Serviss, Lara Slifko, Mark Zinman

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Julie Graber, Sabrina Nash, Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the May 6, 2021 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair at 9:01 a.m.

Chief Justice Brutinel congratulated Judge Winthrop on his upcoming retirement and thanked him for his many years of service as chair of the commission and on the Court of Appeals. He welcomed Judge Thumma as the new chair of the commission and stated that he knew Judge Thumma would continue the excellent work of the commission.

Judge Winthrop thanked AOC staff for their hard work and support in implementing the ACAJ's mission, ideas and proposals.

B. Approval of Minutes

The draft minutes from the February 4, 2021 ACAJ meeting were presented for approval.

Motion: Anthony Young moved to approve the February 4, 2021 minutes. **Seconded:** Judge Maurice Portley. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Chairperson's Report

- Judge Winthrop noted that the ACAJ's annual report has been electronically distributed across the state judicial system and the executive and legislative branches and thanked Alicia Moffat, Aaron Nash, Kathy Sekardi and the entire Public Information Messaging work group for their efforts developing and pulling the report together.
- Chief Justice Brutinel's letter that accompanied the annual report to Arizona's judiciary and legislative branch was provided within the meeting materials. The letter is the Supreme Court's 2020 update to the five-year strategic agenda and many of the commission's projects and issues were noted. Judge Winthrop and Judge Thumma presented the annual report to the Presiding Judges and the Arizona Judicial Council.

- The American Bar Association (ABA) Law Day is a yearly collaborative effort between the ABA, the State Bar, the Judicial Branch, the Bar Foundation and this Commission. The goal is to meet with our elected officials in Washington to advocate for legal aid funding through the Legal Services Corporation, and usually one additional issue that is topical. The last two years COVID-19 pandemic has reduced those meetings to virtual ones, wherein several individuals participated in those meetings, including Commission and workgroup members Judge Thumma, Kevin Ruegg and Chris Groninger. Several other lawyers – in both the public and private sectors – also participated, including ABA President Trish Refo. With no budget bill currently pending, Arizona representatives met with our elected officials and their legislative directors to discuss including legal aid as an “essential service” in any supplemental funding enacted by Congress this year. Additionally, the second topic of enhancing judicial security in light of multiple incidents of violence directed against judicial officers, was also discussed.
- Judge Winthrop noted that pressure is on for increasing Legal Services Corporation (LSC) funding in any additional supplemental recovery and infrastructure funding this year. In the materials is a bipartisan letter to the members of the House supporting “robust” funding for FY2022 budget funding for LSC. The official request for that budget year is \$1 billion, an amount that represents the need for civil legal aid services in this country. The members were encouraged to write their own letters to increase LSC’s FY2022 budget.
- Executive Branch actions concerning housing and eviction relief continues. The Consumer Financial Assistance Bureau last month issued an interim final rule in support of the Centers for Disease Control (CDC) eviction moratorium. That rule requires debt collectors to provide written notice to tenants of their rights under the eviction moratorium and prohibits debt collectors from misrepresenting tenants’ eligibility for protection against eviction under the CDC order. Violations of this rule can be prosecuted by federal agencies and state attorneys general for violation of the Fair Debt Collection Practices Act and are also subject to private lawsuits by tenants.
- The Sixth Circuit Court of Appeals has recently held, however, that the CDC exceeded its authority in issuing or extending the moratorium. The Chair of Arizona Senate Judiciary Committee has asked our Chief Justice why the Arizona Supreme Court has not issued any order or decision that reaches the same conclusion. Through its Chief Counsel, the Court has responded to that letter. It is possible that this issue will be headed to the US Supreme Court in the future.

Judge Winthrop congratulated:

- **Judge Joe Kreamer:** who will receive the 2021 State Bar Association James A. Walsh Award, recognizing “that judge whose career exemplifies the highest standards of judicial conduct for integrity and independence; who is knowledgeable of the law and faithful to it; who is not swayed by partisan interests, public clamor, or fear of criticism; who is patient, dignified and courteous to all who appear before that judge; and who endeavors to improve the administration of justice and public understanding of, and respect for, the role of law in our society.”
- **Judge Maurice Portley:** who will receive the Bar Foundation’s 2021 Walter E. Craig Distinguished Services Award, given to “that attorney who has manifested adherence to the highest principles and tradition of the legal profession and service to the public in the community.”
- **Chris Groninger:** who will receive the 2021 State Bar Association Award of Appreciation, given to “an individual who is not a member of the Bar in recognition of outstanding service toward the creation of a better understanding of the legal profession and the administration of justice, the judiciary or the legislative process.”

B. Report from the Governor's Office (taken out of order)

Judge Winthrop read Anni Foster's report as she had a scheduling conflict. Highlights include:

- If anyone has ideas on how the federal funding coming to Arizona could be used, she is happy to relay those thoughts to the Governor for consideration.
- Currently the focus is on housing assistance through Department of Economic Security.
- The Governor recently appointed Tom Simplot as the new housing director, there will be an increased focus on homelessness, and the elderly.
- There is concern about child abuse reporting as a result of children not being seen by school personnel.

The Governor's Office is still awaiting guidance from the federal government and they are still working on plans for the funding. The funding has more specifics regarding what it can be used for and it is not as immediately available as it was before.

C. Update on Recommendations from the Arizona Housing Coalition Eviction Policy Task Force (taken out of order)

Joan Serviss, Executive Director, Arizona Housing Coalition, stated that the goal of the workgroup is to reduce evictions statewide and address homelessness. Ms. Serviss presented the following Arizona Housing Coalition's Eviction Policy Recommendations:

- Creation of an Evictions Specialty/Eviction Diversion Court to consolidate eviction issues into one court to reduce procedural issues by ensuring consistency. Eviction Courts could offer services and resources such as mediation offered by law students/legal aid agencies, coordination of service providers and wrap around services to help the tenants and landlords.
- Mandate periodic training for judges and court staff and implement a training review to audit procedure for accountability in the areas of the Arizona Residential Landlord and Tenant Act, Residential Mobile Home Property Landlord and Tenant Act and the Residential Vehicle Property Landlord and Tenant Act.
- In the absence of an Evictions Specialty Court provide a rental assistance administrator or legal aid representative to be stationed at court to provide to renters targeted resources to those most in need of assistance. Partner with Emergency Rental Assistance Fund administrators with on-site rental assistance applications and fund processing.
- Increase access to courts by extending ability to do virtual or telephonic court appearances, request courts not issue a default judgement should the tenant lose connection during a hearing and, require attaching details of legal and rental assistance resources to the copy of the complaint and summons provided to the renter.
- Increase renter education by distributing existing renter education resources, ensuring that renter information documents are available in Spanish, partnering with local jurisdictions to create outreach and education efforts on available rental assistance resources, providing procedural information to tenants and landlords on the eviction process.
- Encourage landlord/tenant communication by educating landlords on resources available for their tenants, providing information about available emergency assistance programs available, including information on mediation/alternative dispute resolution services.

Discussion on the recommendations included the possibility of establishing mediation/settlement conferences, revisiting the timeframe and speed of eviction cases in the courts, exploring some of the recommendations which may need statutory changes.

D. University of Arizona: Innovation for Justice Program: Innovation in the COVID Era (taken out of order)

Makenzie Pish, Program Manager, University of Arizona, discussed the innovation and technology projects underway in the Innovation for Justice Program and discussed how the work took on new and urgent relevance during the COVID-19 pandemic. Below is a short list of current projects highlighted by Ms. Pish:

- Licensed Legal Advocate Pilot
- Human Trafficking Advocate Toolkit
- Cost of Eviction Calculator
- Legal Empowerment for People Experiencing Medical Debt
- Legal Empowerment for People Experiencing Housing Instability
- Building Innovation for Justice Student Pipelines

E. Video Tour of New Mohave County Courthouse (taken out of order)

Kip Anderson, Court Administrator, Superior Court in Mohave County, shared a guided virtual tour of the new Mohave courthouse highlighting design areas that improve access to justice. The new courthouse is centrally located in historic downtown Kingman for easy access. Also, the justice court will be moved into the old superior courthouse, connected to the new courthouse by a bridge. Other features of the new courthouse are:

- Automated Navigation Digital Interface (ANDI), a holographic receptionist designed to assist patrons to determine their hearing time and courtroom location through voice recognition or a touch panel. ANDI can respond in English and Spanish.
- Fully staffed law library to assist the public with forms, directions and access to law materials.
- Entrance monitors that display all courtroom calendars and evidence PC laptop input.
- Separate entrances for staff and judicial officers, and separate circulation paths for the public, staff and in-custody individuals.

A suggestion was made that it would be helpful if Mr. Anderson would write up a summary of things to consider when building a new courthouse to share with other courts that may be considering building a new courthouse in the future.

F. Access to Justice Innovations Learned from COVID-19 Continuity of Court Operations During a Health Emergency Workgroup (Plan B Workgroup)

Judge Samuel Thumma, Co-chair, provided a brief history on the workgroup's charges. The best practices recommendations made by the workgroup are in the meeting materials and cover the following:

- COVID-19 Vaccine Guidance for Arizona Courts
- Protocol for In-Courthouse COVID-19 Symptom or At-Risk Condition by a Participant in Arizona State Courts
- Jury Management Subgroup Best Practices Recommendations
- COVID-19 Continuity of Court Operations

Judge Thumma stated he will present the recommendations to the Judicial Conference in June 2021. He also stated that the workgroup is working on "*What to Keep in the Post-COVID-19 World*" which will be forthcoming in June 2021.

G. COVID-19 Eviction Actions Update (taken out of order)

Mike Baumstark, Deputy Director, AOC, updated the commission on eviction actions in the state.

- Two administrative orders have been issued, the first administrative order issued March 30, 2021 extended the CDC Eviction Order deadline to June 30, 2021 and made changes to what is required in the pleadings to cover rental assistance, and if an agreement has been entered into subsequent release of claims. It also requires landlords/property

owners to provide, as part of the pleading, a Qualified Written Request (QWR) to assure the court that the property is/was not covered by the CARES Act. The second administrative order issued on April 15, 2021 made corrections to the March 30, 2021 administrative order.

- Senate Bill 1322 signed by the Governor goes into effect 90 days after the legislative session ends. This legislation is related to eviction proceedings and addresses special/forcible detainer proceedings that permits participation in the initial appearance virtually via telephone or video.
- The CDC Eviction Order expires on June 30, 2021 and the AOC is currently working on a document entitled “*Procedures Upon Tenants Vacating Premises and Expiration/Termination of CDC Eviction Order*” in anticipation of the order expiring or being terminated by the District court order.

H. Update on COVID-19 Legal Information Hotline

Joel England, Chief Executive Officer, State Bar of Arizona, reported:

- A radio interview was conducted in January 2021.
- A Horizon appearance with Chief Justice Brutinel was aired in February 2021 to discuss Law Day.
- The Legal Information Hotline ceased taking calls on April 15, 2021 after 10 months of operation. During that time the Hotline answered 3,145 calls and made 859 referrals for free attorney consultations.
- Top legal issues in which attorney assistance was requested included: housing, finance or money, employment/unemployment.
- 72% of calls came from Maricopa County followed by Pima County.

I. Update on AZCourtHelp.org Enhancements and Use

Cathleen Cole, Arizona Bar Foundation for Legal Services & Education, discussed Google Analytic results from January 2021 through March 2021. There were 153,377 new AZCourtHelp users, up 128% from the same period in 2020. There were 433,962 pageviews.

Devices used to access AZCourtHelp:

- Cellphone usage increased 161%
- Desktop usage increased 40%
- Tablet usage increased 45%

Acquisition of Users:

- Organic searches were up 170%
- Referrals up 62%
- Social media up 339%

Top referrals to AZCourtHelp:

- AZCourts.gov – 7,641
- AZPoint.gov – 6,043
- AZLawHelp.org – 4,067

Top pages viewed:

- Find my court – 23,491
- Electronic court records – 18,383

The Legal Info Sheet regarding evictions of unwanted occupants under A.R.S. §§ 33-1378 has appeared in the top ten pages viewed on AZCourtHelp for the first time. There has been a 152% increase in document downloads— Adult Name Change and Declaration to Landlord for a Temporary Halt in Residential Evictions were the most downloaded forms.

There were 385 Live Chat sessions totaling 61 hours and 19 minutes. The average length of each chat was ten minutes. Top chat topics were; orders of protection, landlord/tenant issues, traffic issues, court scheduling, and criminal matters and set aside. There have been 5,881 pageviews of COVID-19 related pages on AZCourtHelp since April 7, 2020.

J. Update from the Public Information and Messaging Workgroup

Aaron Nash, Public Information Officer, AOC, mentioned that the AZCourtHelp Resource Center was submitted for a competitive Chapman Award for contributing to the improvement of justice. An addendum to the application included updated information that reflected the pandemic period. Other projects PIM is working on are outreach efforts through traditional outlets and public libraries and expanding videos and information. The workgroup also plans to develop warrant information videos and legal info sheets. Mr. Nash also requested members to provide information about what ACAJ and the other workgroups are working on to either his office or Sabrina Nash. This information will be used in the 2021 annual report.

K. Update from the Justice in Government Workgroup

Chris Groninger stated that in March 2020 Judge Winthrop sent a letter to state-elected officials regarding CARES Act funding providing the opportunity to include legal services as an essential service to allow local governments to direct money to those necessary efforts. An example of a successful partnership resulting from CARES funding is the City of Phoenix and Community Legal Services program that created the Tenant Eviction Prevention (TEP) program. In March 2021 another letter was sent to Arizona elected officials and county board of supervisors again asking them to include legal services as an essential service. This follow-up correspondence resulted in Pima County, the cities of Phoenix and Tucson reaching out for more information.

L. Update from the Judicial and Attorney Engagement Workgroup

Judge Joseph Kreamer stated that the workgroup met on April 23, 2021 and had a good discussion on Supreme Court Rule 38 and how to engage retired and senior lawyers. Activities underway include:

- Pat Gerrich and Michelle Mirto, Arizona State Bar, are developing an educational seminar on Rule 38. The workgroup discussed broader ideas about engagement and potential changes to Rule 38 to address perceived barriers.
- Re-igniting work on a Judicial Public Service/Pro Bono Web Portal to provide judicial officers with information on pro bono and public service opportunities. Judge Kreamer shared that Judge Perkins had created a draft of the potential layout and content for the web portal. The State Bar Foundation graciously offered support the web portal.
- Judge Kreamer is working with the Arizona and the U.S. Attorney's offices and other government agencies to brainstorm ideas for further bolstering ways to engage attorneys.

M. Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup

Judge Anna Huberman, reported that the workgroup is working on scripting, reviewing, updating and translating into Spanish 11 videos on Consumer Debt. She anticipates the videos will be ready to post in June/July 2021.

N. CARES Act Workgroup Report

Judge Samuel Thumma explained the workgroup was formed to provide public awareness and education and promote access to court forms and other resources concerning eviction proceedings that did not comply with the CARES Act. The workgroup met several times and has four subgroups addressing the following (1) Public Education and Resources; (2) Court Based Solutions; (3) Litigation based Solutions and (4) Quick Analysis and Education in Response to Future Federal Pandemic Relief.

O. Potential Future Agenda Items (taken out of order)

Judge Samuel Thumma asked that commission members consider next steps and provide ideas, information to AOC via email for discussion at November meeting. He suggested having the following discussions or updates as future agenda items:

- LJC Administrators Association
- Law4AZ Library Project Update
- AZPoint-Arizona Protective Order Initiation & Notification Tool Update
- Task Force on Jury Data Collection, Practices and Procedures Update

III. OTHER BUSINESS

A. Good of the Order

In closing Judge Thumma again thanked Judge Winthrop for his foundational work. He described Judge Winthrop as a great leader who is persistent, creative, thoughtful, a good friend and mentor.

Other members of the commission also offered their thanks and congratulations to Judge Winthrop for his service on the commission and his retirement.

B. Call to the Public

No members of the public requested to speak.

Next Meeting Date:

November 2, 2021

2022 Meeting Dates to add to your calendar:

February 3, 2022

May 5, 2022

November 3, 2022

Adjourned at 12:05 p.m.



Meeting Date: November 2, 2021

Subject: Report from Governor's Office

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Ms. Anni Foster, General Counsel, Office of Governor Doug Ducey

Presenters: Same

Discussion: Ms. Foster will discuss what efforts the Executive Branch intends to make to enhance access to justice for Arizonans.

Recommended motion: None.



Meeting Date: November 2, 2021

Subject: FCIC – IRCS Pilot Report

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: The FCIC Incarceration, Re-entry, and Child Support Workgroup

Presenters: Judge Bruce R. Cohen, Presiding Judge in Family Court

Discussion: Judge Cohen will discuss the recent efforts made by this workgroup to launch a pilot program in the Superior Court in Maricopa County Family Law Department.

As previously reported, the objective of this work is to create a streamlined and easily secured system for seeking modification of child support when a parent becomes incarcerated within the Arizona Department of Corrections prison system.

Recommended motion: None at this time.



**ARIZONA DEPARTMENT OF ECONOMIC SECURITY DIVISION OF CHILD
SUPPORT SERVICES**
For Pilot Only- REQUEST FOR TITLE IV-D CHILD SUPPORT SERVICES
Modification Only *for individuals entering incarceration.*

Applicant Name	Date of Birth	Social Security Number ¹

Child Support Orders

	Child Support Case 1		Child Support Case 2		Child Support Case 3	
Child Support Order Number, if known						
Court that entered the child support order County/State						
Name of other parent						
Children covered by this order and their age	Name	Age	Name	Age	Name	Age
ATLAS Number, if known						

I am applying for IV-D child support services from the Arizona Department of Economic Security, Division of Child Support Services (DCSS) for the limited purpose of having my child support modified because of my incarceration. I understand that it may take up to six months for a petition to be filed and a case where the children have reached the age of 18 (arrears-only case) cannot be modified. I further understand that I have the right to file my own modification petition if I want the modification to be effective sooner. I agree to accept service of process through alternative service methods, such as first-class or electronic mail. I consent to the IV-D case being closed once the modification order has been entered.

I swear or affirm under penalty of perjury that the information provided above is true and correct to the best of my knowledge and belief.

Applicant's Signature	Date

Please complete, scan and email this form and a copy of photo Identification (if possible) to the Arizona Department of Economic Security (DES) / Division of Child Support Services (DCSS) at COCIncarceratedMods@Azdes.gov or fax (602-353-5711). Questions? Please contact DCSS Customer Service at (602-252-4045).

¹ The Arizona Department of Economic Security (DES) / Division of Child Support Services (DCSS) is requesting that you voluntarily provide your Social Security Number as part of the *application* process. DES/DCSS will use this information solely as authorized by law to provide child support services and to assist in locating your cases.



Meeting Date: November 2, 2021

Subject: Update on the Task Force on Jury Data Collection, Practices, and Procedures

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: The Task Force on Jury Data Collection, Practices, and Procedures

Presenters: Judge Pamela S. Gates, Civil Presiding Judge, Maricopa Superior Court
Jennifer Albright, AOC, Sr. Policy Analyst

Discussion: Report on Task Force on Jury Data Collection, Practices, and Procedures and the Statewide Jury Selection Workgroup recommendations. This will include an update on what action the AJC took on the Jury Task Force Final report and Recommendations at its October meeting. And an update on what the recommendations and report of the Statewide Jury Selection Workgroup were.

Recommended motion: None.



Meeting Date: November 2, 2021

Subject: Law4AZ Library Project Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Gretchen Hornberger, Coconino County Superior Court Law Librarian

Presenters: Same

Discussion: Update on completion of the Arizona Justice Gap Map and launch of the Law4AZ legal reference training program for public libraries.

Recommended motion: None.

LAW4AZ

Arizona Public Libraries as Access-to-Justice Allies



Two Phases

Measure the Justice Gap -
✓ 2020-2021

Train Public Libraries -
2021 and beyond



Measuring the Justice Gap In Arizona

32 access-to-justice indicators

424 courts and libraries



Access-to-Justice Indicators — Resources



- Court building
 - Internet
 - Computer
 - Printer
 - Copy Machine
 - Website
- Public Library
 - Internet
 - Computer
 - Printer
 - Copy Machine
 - Website
- Law Library
 - Internet
 - Computer
 - Printer
 - Copy Machine
 - Arizona caselaw in print
 - A.R.S. Annotated
 - Westlaw/LexisNexis
 - County-specific forms
- Legal Aid office
- At least 1 free wifi hotspot
- At least 5 attorneys

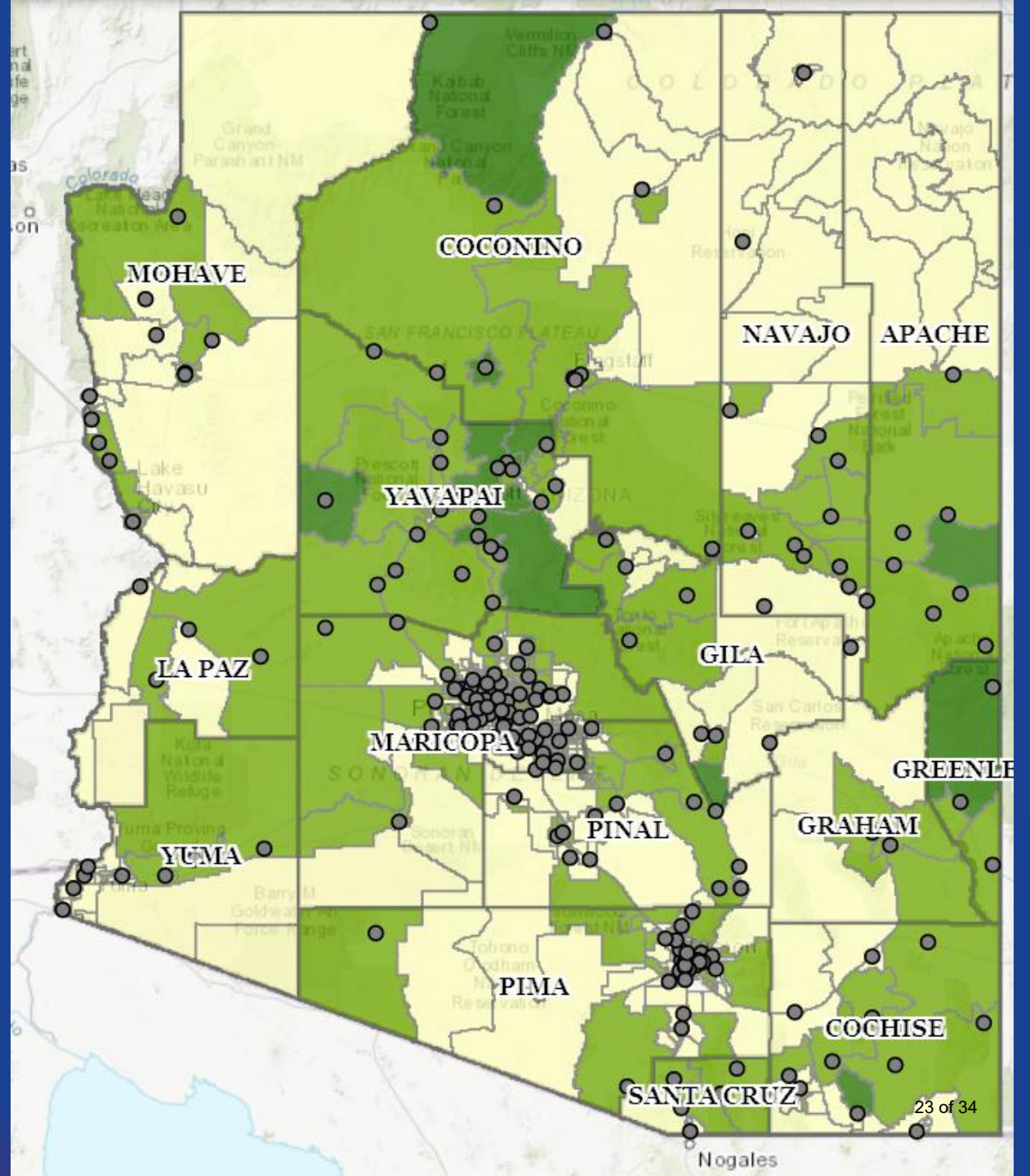
Access-to-Justice Indicators

Demographics

- High school graduates
- Household income over \$35,000
- Citizens
- Speak English “very well”
- Have a computer at home
- Have internet at home
- Own a smartphone
- Own a vehicle



Justice Gap Map



Civil Legal Justice Course



Civil Legal Justice 1 - The Justice Gap and the US Legal System

Format: Self-paced Course

Developed by: WebJunction, in collaboration with Legal Services Corporation

Length: 2 hours

Overview

In the four lessons of this course you will learn about the civil legal justice gap in the United States, the complexities of our legal systems and procedures

Learning Objectives

Learners successfully completing this course will be able to:

- Describe the scope and impact of the civil legal justice gap and the role public libraries can play in addressing it
- Provide appropriate legal information to patrons while recognizing and avoiding crossing the line into legal advice
- Describe the 51 US legal systems, three types of primary law, and the distinction between civil and criminal legal issues

Civil Legal Justice 2 - Civil Legal Issues and Resources

Format: Self-paced Course

Developed by: WebJunction, in collaboration with Legal Services Corporation

Length: 2 hours

Overview

In this course you will learn in more detail how to identify when a patron's problem may have a civil legal solution. We will look at the most common types of civil legal issues. You will also learn about evaluating and choosing between physical and online resources.

Learning Objectives

Learners successfully completing this course will be able to:

- Identify the most common types of civil legal issues that people are likely to experience
- Prepare a legal reference collection specific to the library's location and local community needs
- Evaluate the accuracy, relevance, and currency of online and print legal resources

Tailor your legal reference collection to your community

Civil Legal Justice Course



☉ Civil Legal Justice 3 - Partnering with Legal Service Providers

Format: Self-paced Course

Developed by: WebJunction, in collaboration with Legal Services Corporation

Length: 2 hours

Overview

In this course you will learn about the range of legal assistance options, how to find the providers who are available in your location, and finally how you

Learning Objectives

Learners successfully completing this course will be able to:

- Describe the range of legal assistance options that might be available to individuals experiencing civil legal issues

- Provide a legal referral appropriate to the patron's situation and circumstances

- Identify and establish positive relationships with organizations offering legal aid, information, and referrals to individuals in your location

☉ Civil Legal Justice 4 - The Legal Reference Interview

Format: Self-paced Course

Developed by: WebJunction, in collaboration with Legal Services Corporation

Length: 3 hours

Overview

This course focuses on the core skill set necessary to conduct a successful legal reference interview. You will learn how to identify the barriers of legal in addition to being able to address stress and anxiety among patrons dealing with legal issues. Identifying the specific legal issue, source of applicable law,

Learning Objectives

Learners successfully completing this course will be able to:

- Recognize and address patron stress related to their legal issues and the personal circumstances behind them

- Identify a patron's specific legal issue through the legal reference interview process

- Identify the applicable body of law, secondary reference source, and specific legal reference material that addresses a patron's issue

Connect with legal services
in your area

Gretchen Hornberger
Law Librarian
Coconino County Law Library
ghornberger@coconino.az.gov
928-679-7540

Civil Legal Justice Course:

learn.webjunction.org/course/index.php?categoryid=60





Meeting Date: November 2, 2021

Subject: AZEvictionHelp.org Website

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Arizona Bar Foundation

Presenters: Chris Groninger

Discussion: Overview of the AZEvictionHelp.org website & chat feature

Recommended motion: None



Meeting Date: November 2, 2021

Subject: COVID-19 Eviction Actions Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Marcus Reinkensmeyer, Deputy Director, Administrative Office of the Courts

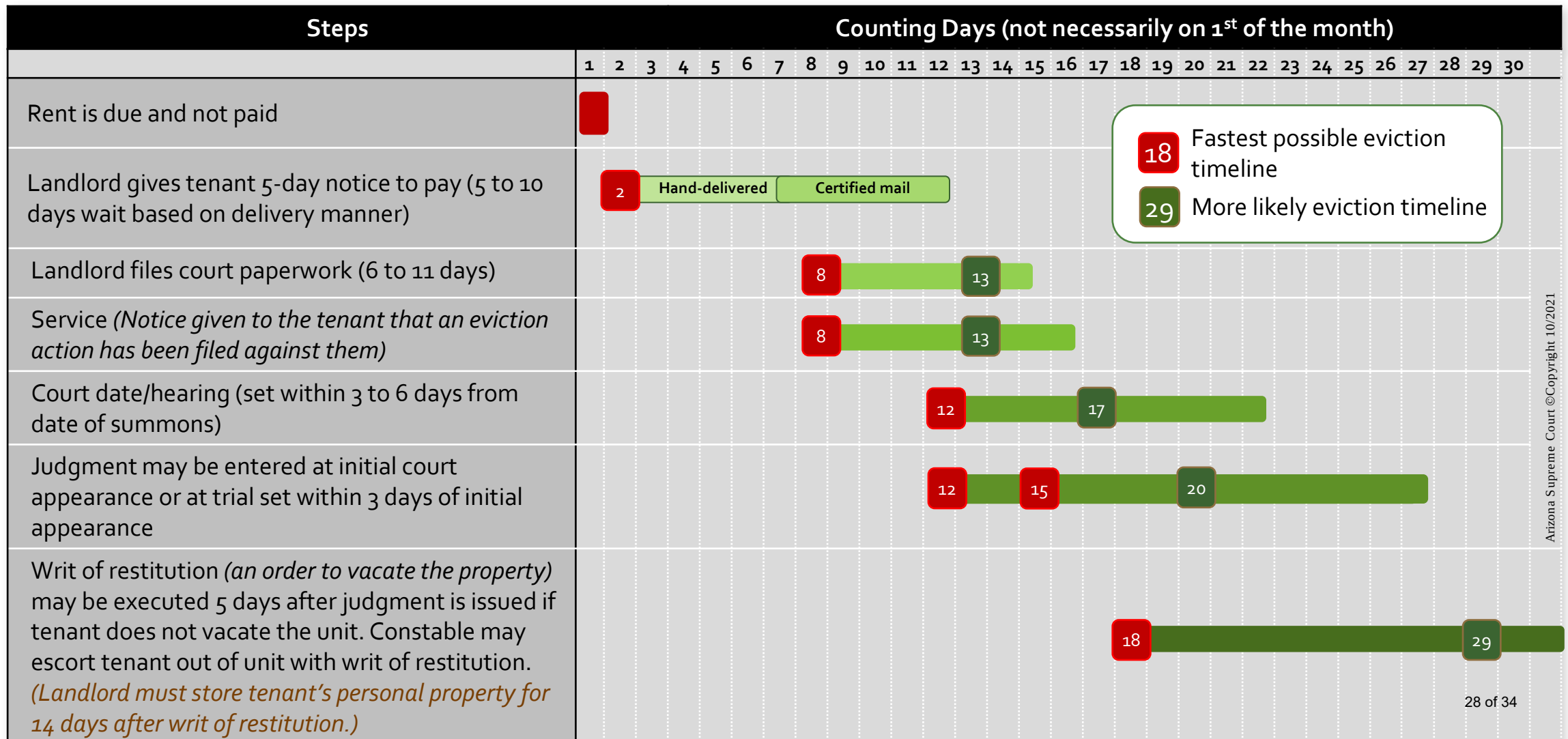
Presenters: Marcus Reinkensmeyer

Discussion: Mr. Reinkensmeyer will update members on:

- Infographic for Arizona evictions for non-payment of rent
- Department of Economic Security Navigators program
- Updated COVID-19 Eviction Action webpage

Recommended motion: None.

TIMELINE FOR NEWLY FILED EVICTION CASES (NONPAYMENT)





Meeting Date: November 2, 2021

Subject: Afghan Refugee Pro Bono Project

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Kevin Groman

Presenters: Kevin Groman

Discussion: An overview of the Afghan Evacuee Effort and the pro bono opportunity that it presents here in Arizona.

Recommended motion: N/A



Meeting Date: November 2, 2021

Subject: AZCourtHelp.org update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Dr. Kevin Ruegg, Executive Director, Arizona Foundation for Legal Services & Education, and Cathleen Cole, Legal Information and Access Director at Arizona Bar Foundation

Presenters: Dr. Kevin Ruegg and Cathleen Cole

Discussion: Updated statistics and analysis from Google Analytic reports for AZCourtHelp.org website, COVID-related information, and enhancements and improvements to the website since the last report.

Recommended motion: None.



Meeting Date: November 2, 2021

Subject: Public Information Messaging Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Alberto Rodriguez, Co-chair of Public Information Messaging Workgroup

Written report only: Alberto Rodriguez, Public Relations Manager, State Bar of Arizona

AZCourtHelp

- AZCourtHelp was recognized at the Strategic Agenda Awards in Flagstaff for the Law Librarians Live Chat Operators program. Congratulations!
- Copies of the most recent report provided by the Arizona Bar Foundation are attached.

Annual Report

Planning has begun for the 2021 annual report. The submission deadline for content is December 17, 2021 and should be sent to Sabrina Nash.

Recommended motion: None.



Meeting Date: November 2, 2021

Subject: Justice in Government Workgroup Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Arizona Bar Foundation

Presenters: Chris Groninger

Discussion: Chris Groninger will provide a brief update on the Justice in Government Workgroup activities.

Recommended motion: None



Meeting Date: November 2, 2021

Subject: Judicial & Attorney Engagement Workgroup Update

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Judge Joseph Kreamer,

Presenters: Judge Joseph Kreamer

Discussion: Judge Kreamer will update members on the workgroup's activities.

Recommended motion: None.



Meeting Date: November 2, 2021

Subject: Self-Represented Litigants in Limited Jurisdiction Courts (SRL-LJC) Workgroup

Type of action requested:

- ☐ Formal action or request
- ☒ Information only
- ☐ Other

From: Charles Adornetto, Chair of the SRL-LJC Workgroup

Presenters: Charles Adornetto

Discussion: Introduce the new chair and update members on the SRL-LJC's work regarding eviction and consumer debt.

Recommended motion: None.