

**COMMITTEE ON SUPERIOR COURT
MINUTES**

Friday, February 6, 2015 10:00 a.m. to 12:00 p.m.
Conference Room 119 A/B
1501 West Washington Street
Phoenix, Arizona 85007

Present: Judge Janet Barton, Judge Kyle Bryson, Judge James Conlogue, Judge David Cunanan, William Gibbs, Judge Charles Gurtler, William Klain, Judge David Mackey, Judge Colleen McNally, Ronald Overholt, Megan Spielman, Judge Randall Warner

Telephonic: Judge Richard Gordon, Joshua Halversen, Judge John Nelson, Judge Monica Stauffer

Absent/Excused: Judge Sally Duncan, Judge Steven Fuller, Judge Celé Hancock, Judge Charles Harrington, Toni Hellon, Judge Michala Ruechel, Judge Samuel Vederman, Todd Zweig

Guest: Yordy Purnomo

Administrative Office of the Courts (AOC): Jerry Landau, Mark Meltzer, Theresa Barrett, Jennifer Greene, Patrick Scott, Paul Julien, Jeff Schrade, Anne Marie Bruno, Kwyn Boggs

AOC Staff: Kay Radwanski, Sabrina Nash

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The February 6, 2015, meeting of Committee on Superior Court (COSC) was called to order at 10:04 a.m. by Judge David Mackey, chair. Judge Mackey welcomed new members William Gibbs and Todd Zweig. He also thanked Josh Halversen for his six years of service to the committee. Mr. Halversen's term ends March 31, 2015, and he is not seeking reappointment.

B. Approval of Minutes

The draft minutes from the November 7, 2014, meeting of the COSC were presented for approval.

Motion: Judge James Conlogue moved to approve the November 7, 2014, meeting minutes, as presented. **Seconded by:** Mr. William Klain. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update – Jerry Landau, AOC government affairs director, presented the following update on pending legislation:

H2089 Aggravated Assault: Elected Officials – Representative Borrelli introduced a bill that included Supreme Court justices, Court of Appeals, Superior Court judges, and Justices of the Peace. However, it did not include commissioners, hearing officers, and municipal court judges. There is no legislative support for adding other court personnel. Mr. Landau has prepared two amendments to the bill; one is to amend the bill to include judicial officers, and the other is a strike everything amendment.

H2164 Release; Bailable Offenses; Evidence – Includes additional factors for courts to consider when determining the method of release or the amount of bail, such as whether the accused has prior convictions for crimes of violence and any other evidence that the accused presents a danger to others in the community. Mr. Landau noted that the bill does not define “crime of violence.”

H2310 Mental Health Courts; Establishment – Authorizes the presiding judge of the superior court in each county to establish a mental health court. The judge must establish the eligibility requirements for referral to the mental health court. For counties with a population of less than 250,000, the superior court presiding judge may enter into an intergovernmental agreement to establish a regional mental health court.

H2320 Firearms; Permit Holders; Public Places – Allows that if there is no armed security at a public building, even if it is posted no firearms, a person with a valid concealed weapons permit cannot be prosecuted for carrying a deadly weapon.

H2553 Human Trafficking Victim; Vacating Conviction – Permits a person convicted of prostitution or any other non-dangerous offense to apply to have the conviction vacated if the person can prove to the court that the offense was committed as a direct result of the person being a victim of human trafficking.

HCR2006 State Officers; Judges; Legislative Removal – Would amend the state Constitution to allow the Legislature to remove any state officer who is not elected at any time by a 2/3 vote.

S1048 Vexatious Litigants; Fees; Costs – Offers an amendment to ensure that if a vexatious litigant is the subject of a domestic relations petition, the superior court is allowed to grant a waiver of court fees.

S1116 Fines; Fees; Costs; Community Restitution – Provides the court with the ability to authorize community service restitution in lieu of payment for all or part of a fine. The service performed must be credited toward the fine, fee or incarceration costs at a rate of \$10.00 per hour. This bill applies primarily to DUI and substance abuse cases.

S1439 Judicially Appointed Psychologists; Complaints – The Board of Psychologist Examiners is no longer prohibited from considering complaints against a judicially appointed psychologist arising out of the court-ordered evaluation, treatment or psycho-education of a person.

S1447 Foreign Country Money Judgments; Enforcement – Establishes a procedure for courts to recognize a foreign country’s judgment and whether the judgments fit the perimeter of the statutes.

SCR1002 Supreme Court; Procedural Rules; Amendment – Would allow the 2016 election ballot to ask whether to amend the state Constitution to make state Supreme Court rules relative to all procedural matters in any court subject to amendment by the Legislature by joint resolution or by the people by initiative or referendum.

B. Petition to Amend Supreme Court Rule 123 – Jennifer Greene, assistant counsel, AOC Legal Services, explained that the petition to amend Rule 123 addresses several issues, including inquiries from unsuccessful applicants regarding information provided by former or current employers and references. The proposed amendments to Rule 123 would:

1. Clarify public access to personnel and applicant records;
2. Mandate that courts remove case information from their websites in accordance with current record retention schedules; and
3. Update references to the Judicial Branch procurement code.

Ms. Greene noted that comments are due by April 27, 2015. If the petition is amended, it will be filed by May 20, and a second round of comments will be open until June 15, 2015.

Discussion: A concern was expressed regarding release of information about a request for qualifications (RFQ). Ms. Greene noted that the rule does not protect an RFQ but a county procurement code may address that as well as scoring notes taken by interviewers. Another member questioned whether the rule amendment could increase litigation from aggrieved applicants who do not have access to hiring records that deal with their grievance. With the member's permission, Ms. Greene said she will post his comments to the Rules Forum. Judge Mackey reminded committee members that they may comment individually or as a committee on the Rules Forum.

- C. Proposed ACJA § 3-405: Protecting Peace Officers' Identifying Information in Superior Court Records** – Patrick Scott, AOC specialist, Court Services Division, explained that this proposed amendment to the Arizona Code of Judicial Administration would allow certified peace officers to petition the presiding judge of superior court to prohibit the public from accessing records maintained by the clerk of superior court that contain the peace officers personal identifying information. "Personal identifying information" means the officer's residential address, telephone number, and contact information as stated in the court records.

Motion: Mr. Klain moved to recommend adoption of the amendment. **Seconded by:** Judge Conlogue. **Vote:** Unanimous.

- D. 2015 Rule 28 Petitions** – Mark Meltzer, AOC specialist, Court Services Division, informed COSC that a task force on the Arizona Rules of Civil Procedure was established by administrative order in November 2014. The charge of the task force is to align Arizona's rules, where possible, with the federal rules and to clarify the rules. During discussion, Mr. Klain said that the task force meets every month, and meetings are open to the public. The proposed changes, which are primarily stylistic, should be drafted by the end of June, and after further vetting, a rule petition is expected to be filed in January 2016.

Mr. Meltzer provided an update on other pending Rule 28 petitions.

- R-14-0030** – Criminal Rule 7.2. This petition, adopted on an expedited basis, took effect December 16, 2014, but it remains open for comment until May 20, 2015. The proposed rule change is needed to comply with the Ninth Circuit's ruling in Lopez-Valenzuela v. Arpaio, 770 F.3d 772 (9th Cir. 2014), *stay denied*, 574 U.S. ____ (2014) and to promote uniform statewide implementation of this change in the law. The Ninth Circuit found unconstitutional the provisions of an Arizona law that prohibit bail or pretrial release for undocumented immigrants arrested for a range of felonies, regardless of the arrested person's flight risk or dangerousness.
- R-15-0028** – Criminal Rule 31.5 would give a defendant the right of self-representation on appeal by filing a written notice to the courts within 30 days of filing a notice of appeal.
- R-15-0017** - Criminal Rules 9.1, 14.3, 26.11, and 41 would assure that criminal defendants are given proper notice that they lose their right to directly appeal a guilty verdict if they prevent sentencing from occurring by voluntarily failing to appear for sentencing within 90 days after conviction.

- R-15-0024** – Criminal Rule 41 (forms) requests that the court remove the eight existing warrant forms from the rule and approve a new, single warrant form as mandatory for use by Arizona courts.
- R-15-0013** – Juvenile Rule 44 would provide procedures for disclosure and discovery of information in dependency and termination cases.
- R-14-0028** – SCR Rule 45 would require the State Bar’s ads for mandatory continuing legal education seminars to disclaim that the course “will improve any attorney’s competence or protect the public.”
- R-15-0006** – ARFLP 74 addresses multiple issues concerning parenting coordinators, such as fees, qualifications, the necessity of appointing a parenting coordinator, the manner of appointment and selection of the parenting coordinator, and the term of service.
- R-15-0019** – ARFLP 67.1 proposes to implement the Uniform Collaborative Law Rule in Arizona.
- R-15-0010** – ARPOP (all rules) proposes to “restyle, simplify, and clarify the entire set of ARPOP rules. The changes include new definitions and a provision on address confidentiality.
- R-14-0029** – JPR Rules, Rule 2 would eliminate legislative members and having a judge as the chair.
- R-15-0018** – Changes to Supreme Court Rules 31, 34, 38, 39, and 43 include a proposal that a mediator who prepares a written mediation agreement must be an active member of the State Bar or be certified as a legal document preparer.

Discussion ensued regarding petition R-15-0018. Rule 31 currently includes an exemption for court-employed and court-appointed mediators, but the proposal would strike that exemption. It was noted that if court employees or court appointees who provide mediation services are prohibited from preparing agreements, court mediation centers would be effectively closed down, unless the court employees are licensed attorneys or certified document preparers. Members agreed that this proposal would severely impact the courts’ ability to provide mediation services, which are used heavily in domestic relations cases.

Judge Janet Barton said that the Maricopa County Superior Court is likely to file a comment, and she will share a draft with COSC. Noting that COSC is uniquely situated to make a comment, Judge Conlogue proposed that COSC file a written comment objecting to the change to Rule 31. The comment will be considered further at the May 1 COSC meeting.

Motion: Judge Conlogue moved that COSC file a written comment objecting to the change to Rule 31. **Seconded by:** Judge Monica Stauffer. **Vote:** Unanimous.

- E. International Law and Child Custody** – Judge Mackey explained that this topic was raised at the December Arizona Judicial Council meeting when Mr. Yordy Purnomo made a public comment about problems he is having with his ex-wife about joint legal decision-making over their child. He had told the AJC that his ex-wife, with a court’s permission, had taken their child, a U.S. citizen, to Indonesia. Indonesia is not a signatory to the Hague Convention, and Mr. Purnomo has had limited contact with the child since then and has been unable to force the child’s return to the United States. At the AJC meeting, Chief Justice Scott Bales referred the issue to COSC for review.

Judge Mackey noted that COSC’s charge as a committee, according to ACJA § 1-105, is the development and implementation of policies designed to improve the quality of justice,

access to the court, and efficiency in court operations as well as to recommend uniform administrative policies and procedures to improve judicial administration. Based on this premise, Judge Mackey suggested that the committee consider the following:

1. Whether Mr. Purnomo's concern is a statewide issue that impacts the Superior Court?
2. Can policies be developed or implemented to improve the quality of justice, access to the courts, and efficiency in court operations regarding international law and child custody?
3. Would training on issues of international law and child custody improve judicial administration?

Jeff Schrade, director, AOC Education Services Division, and Paul Julien, AOC judicial education officer, were present to discuss judicial training on international law and child custody. Mr. Schrade provided information on a national judicial training institute set for March 2-April 2, 2015, titled "The Hague Child Abduction Convention – International Perspective." The program is a self-paced webinar, and there are no fees for participation. Regarding New Judge Orientation (NJO), Mr. Julien explained that NJO typically does not deal with transnational issues. He noted that with the shrinking of the globe, it is an issue that should be included and could be covered in NJO and by bench briefings.

Discussion: During discussion, it was acknowledged that international custody cases do arise, and there is a vast disparity in the way different countries participate in the Hague Convention. A member noted that the factors a judge must consider in legal decision-making are established in statute by the Legislature, which means legislators would need to amend the statute to include international custody issues. It was explained to Mr. Purnomo that he would have to work with legislators on any statutory changes. The courts can focus on providing additional family law training on the Hague Convention and international law and child custody.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

Mr. Julien informed COSC members of the upcoming NJO training from March 2-6. He said approximately 25 new judges, mostly from Maricopa County, have enrolled.

B. Next Meeting Date

Friday, May 1, 2015; 10:00 a.m.
Arizona State Courts Building, Room 119 A/B
1501 West Washington Street
Phoenix, Arizona 85007

The meeting adjourned at 12:00 p.m.

**COMMITTEE ON SUPERIOR COURT
MINUTES**

Friday, May 1, 2015
Conference Room 119 A/B, Arizona State Courts Building
1501 West Washington Street
Phoenix, Arizona 85007

Present: Judge Janet Barton, Judge Kyle Bryson, Judge Steven Fuller, Judge Richard Gordon, Judge Charles Gurtler, William Klain, Judge David Mackey, Judge John Nelson, Ronald Overholt, Megan Spielman, Judge Samuel Vederman, Judge Randall Warner

Telephonic: Judge Celé Hancock, Scott Mabery, Judge Michala Ruechel, Judge Monica Stauffer

Absent/Excused: Judge James Conlogue, Judge David Cunanan, Judge Sally Duncan, William Gibbs, Judge Charles Harrington, Toni Hellon, Judge Colleen McNally, Eric Silverberg

Guest: Paul Thomas, Mesa Municipal Court

Administrative Office of the Courts (AOC): Jerry Landau, Annemarie Bruno, Kwyn Boggs, David Withey, Eric Ciminski, JL Doyle, Patrick Scott

AOC Staff: Kay Radwanski, Sabrina Nash

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

The May 1, 2015, meeting of Committee on Superior Court (COSC) was called to order at 10:02 a.m. by Judge David Mackey, chair. Judge Mackey thanked Judge Steven Fuller, Judge Janet Barton, and Judge Kyle Bryson for their service to the committee. Judge Barton and Judge Bryson will become presiding judges of their respective courts beginning July 1, 2015. Judge Mackey welcomed Scott Mabery, chair of the Committee on Probation, and Eric Silverberg, court administrator in Cochise County, to COSC.

B. Approval of Minutes

The draft minutes from the February 6, 2015, meeting of COSC were presented for approval.

Motion: William Klain moved to approve the February 6, 2015, meeting minutes, as presented. **Seconded:** Judge Charles Gurtler **Vote:** Unanimous.

BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Jerry Landau, AOC government affairs director, introduced Kwyn Boggs and Annemarie Bruno, the two interns who worked with the Legislative Affairs Group this session. Mr. Boggs reported that the 81-day session was the shortest legislative session since 1968. He stated that of the 1,163 bills introduced to the legislature, 819 died and 344 were

passed. Of the 344 bills that passed, 324 were signed by the governor, and 20 were vetoed. Ms. Bruno stated that all four of the Arizona Judicial Council bills passed. She also noted that 89 memorandums and resolutions were introduced, 36 of which passed. Mr. Landau continued the update with the following:

HB2310 – Mental Health Courts Establishment permits the presiding judges in counties with fewer than 250,000 residents to enter into an agreement to establish a regional mental health court.

SB1048 – Vexatious Litigants is a constituent-driven follow-up to a bill passed last year that prohibits the courts from waiving fees for a person who has been found by a court to be a vexatious litigant.

HB2553 – Sex Trafficking Vacation of Conviction will allow a court to vacate the conviction of a person convicted of prostitution if the person can prove, within the parameters of the bill, that he or she was trafficked. The person is then considered a crime victim, and victims' right will apply. This applies only to conviction under the Arizona prostitution statute, not municipal prostitution ordinances.

B. Resolving Rule 11 Matters in the Limited Jurisdiction Courts

Paul Thomas, court administrator, Mesa Municipal Court, explained that Mesa and Glendale municipal courts were pilot courts for the proposed project to allow limited jurisdiction courts to conduct Rule 11 competency hearings. He noted that limited jurisdiction judges are qualified to make Rule 11 rulings as they often preside as pro tem judges in superior court. Mr. Thomas reported that the prosecution and defense bars have supported this process. He noted that for limited jurisdiction courts, defendants' charges typically are for public nuisance-type offenses. This model, which is proposed as optional, will shorten the Rule 11 process primarily in high-volume, urban courts.

Mr. Thomas described the project, explaining that once a Rule 11 motion is filed, the pre-evaluation is by-passed and the process goes straight to evaluation. The evaluation takes place within 30 days, with a stipulation of one evaluation by one doctor, who comes to the court. In the pilot, the doctor was paid \$500 a day, regardless of the number of defendants seen that day. The doctor issues a written report on the same day, the attorneys are notified, and pretrial is scheduled within 10 days. If neither the prosecutor nor the defense attorney objects to the report, the matter moves forward without delay, and the judge then makes a ruling. A Rule 11 matter is typically resolved within 60 days. By contrast, in superior court, a Rule 11 proceeding requires a pre-evaluation and evaluations by two doctors, with the process taking nine months to a year to complete.

Mr. Thomas outlined the benefits as:

- Greatly improved service to defendants and the public
 - Reduced case processing times and improved case management
 - Reduced no-show rates, with the failure-to-appear rate going from 40 percent to 5 percent during the pilot
 - Significant cost savings
 - An excellent response to increasing mental health demands
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Mr. Thomas also mentioned that this pilot project is in alignment with two of Chief Justice Bales' Access to Justice Strategic Agenda goals.

C. Follow-Up to HB2553: Sex Trafficking Victim; Vacating Conviction (taken out of order)

David Withey, AOC chief legal counsel, presented a draft emergency rule petition to implement HB2553. The proposed amendment to Rules 29 and 41 (Form 21), Rules of Criminal Procedure, establishes procedures for submitting and processing applications for vacating a conviction, withdrawing a guilty plea, and restoring a defendant's civil rights. A sex trafficking victim may apply to the court that pronounced sentence to vacate the conviction if the offense was committed prior to July 24, 2014. The new law applies only to convictions based on the state prostitution statute.

Under the proposed rule, the prosecutor may file a written objection at least 10 days before the date of the hearing. If the prosecutor does not oppose the application or respond timely, the court may grant the application without a hearing and issue an order vacating the conviction. The petition also provides that the court must order that all records of the vacated conviction be sealed and notation be made in law enforcement and prosecution records that the conviction was vacated and the applicant is a crime victim.

Eric Ciminski, AOC, explained that from an electronic standpoint, if one charge is sealed, the entire case is sealed. As there is currently no way to separate a charge from a conviction, the entire case will be shielded from public access.

D. Update: International Law and Child Custody

Judge Mackey reported on his recent presentation to the Arizona Judicial Council (AJC) about issues relating to international law and child custody. He conveyed to the AJC at its March meeting that more judicial training would be beneficial and that legislative changes might be needed. In response, the AJC asked COSC to take another look at the issue to determine whether it could be resolved statutorily or through a rule change. Chief Justice Scott Bales recommended contacting the National Center for State Courts to see if other jurisdictions have taken international law and child custody into account in their custody statutes. Dave Byers, AOC administrative director, suggested exploring the possibility of a family law conference for domestic relations judges.

Mr. Withey explained that ARS § 25-408 (H) provides factors for determining whether a relocation of the child is in the child's best interest. He specifically referred to subsection (H)(4)—the likelihood that a parent with whom the child will reside after the relocation will comply with parenting time orders. He also pointed out subsection (H)(5)—whether the relocation will allow a realistic opportunity for parenting time with each parent.

Judge Monica Stauffer recently participated in training on the Hague Convention and child custody, which she said was invaluable. She recommended training for family court judges to increase their awareness of the extensive rules and processes among Hague Convention countries.

Judge Mackey will report members' comments to the AJC in June.

E. ACJA § 6-106 Personnel Practices

JL Doyle, AOC, presented proposed revisions to ACJA § 6-106: Personnel Practices. The first modification is a technical change to conform to ACJA § 6-111 to conduct annual criminal history and MVD records checks of all probation department employees who need to operate state, county, or personal vehicles in the execution of their duties. The second substantive change relates to employee drug testing. In keeping with current drug use trends in Arizona, ecstasy, oxycodone, and heroin will be added to list of drugs tested for and PCP will be removed.

Motion: Judge Gurtler moved to approve the proposed changes to ACJA § 6-111 as presented. **Seconded:** Judge John Nelson **Vote:** Unanimous

F. Update: Arizona Commission on Access to Justice (ACAJ)

Judge Janet Barton, Superior Court in Maricopa County, presented a brief background on the ACAJ. Among the ACAJ workgroups, Judge Barton co-chairs the Self-Represented Litigant – Family Court Workgroup (SRL-FC) with Janet Fisher of the Arizona State Library. One of the workgroup's primary projects is the Court Navigator Pilot Project, which is being piloted in California. The California Court Navigator Pilot Project, funded by AmeriCorps, uses college students to work the self-service and resource centers to help litigants fill out forms, get them to the filing counters, and conduct informational classes on various topics for litigants. Judge Barton said that Arizona State University has written a letter of support for the project and has agreed to commit college students to work the center.

Other workgroup projects include:

- Partnering with public libraries to create resource centers to assist self-represented litigants and working with superior courts in rural counties to collaborate with larger counties with pilot locations.
- Simplifying instructions, standardizing forms, and making them available to each county's superior court.
- Developing a physical and virtual service center in a rural county to host and provide family court educational programs, such as webinars and regularly scheduled classes.

G. Amendments to ACJA § 5-206 Fee Deferrals and Waivers

Patrick Scott, AOC, presented proposed amendments to ACJA § 5-206: Fee Deferrals and Waivers. He explained that the AOC has drafted an amendment to incorporate statutory changes involving vexatious litigants. SB 1048 amended the fee deferral and waiver statute, ARS § 13-302, to include a provision prohibiting vexatious litigants from being eligible for fee waivers in certain circumstances and requiring the court to order payment of fees that were deferred or waived in a case if the litigant is declared vexatious.

Motion: Judge Bryson moved to approve the proposed amendments as presented.
Seconded: Judge Randall Warner **Vote:** Unanimous

H. COSC Comment to Rule 28 Petition R-15-0018 (Amending Rule 31, SCR)

Judge Mackey explained that a proposed change to Rule 31 (d)(25)(A), Rules of the Supreme Court, would require that a person who drafts a mediated agreement be either a licensed attorney or a certified legal document preparer. He noted that the proposed change would greatly impact the courts and at the February 2015 COSC meeting, the committee discussed and agreed to draft a comment. Kay Radwanski, AOC staff to COSC, drafted a comment for the committee to review and then possibly file.

Motion: Judge Warner moved to file the comment as presented. **Seconded:** Judge Bryson **Vote:** Unanimous

OTHER BUSINESS

I. Good of the Order/Call to the Public

No one from the public was present.

- J. Next Meeting:** Friday, September 11, 2015; 10 a.m.
Arizona State Courts Building, Conference Room 119 A/B
1501 West Washington Street
Phoenix, AZ 85007

The meeting adjourned at 11:50 a.m.

**COMMITTEE ON SUPERIOR COURT
MINUTES**

Friday, September 11, 2015
Conference Room 119 A/B, Arizona State Courts Building
1501 West Washington Street
Phoenix, Arizona 85007

Present: Judge David Mackey, chair; Judge David Cunanan; Judge Thomas Fink, William Gibbs; Judge Lee Jantzen (proxy for Judge Charles Gurtler); Judge Charles Harrington; Judge Celé Hancock; Toni Hellon; William Klain; Judge Kenneth Lee; Scott Mabery; Judge Paul McMurdie; Judge John Nelson; Judge Cathleen Brown Nichols; Ronald Overholt; Judge Michala Ruechel; Eric Silverberg; Megan Spielman; Judge Sam Vederman; Judge Randall Warner; Judge Joseph Welty

Telephonic: Judge Sally Duncan; Judge Richard Gordon

Absent/Excused: Judge Samuel Myers

Administrative Office of the Courts (AOC): Jerry Landau, Amy Love, Kevin Christen (extern), Jennifer Hancock (extern), Theresa Barrett, Kathy Waters, David Withey, Amy Wood, Tom O'Connell, Mark Meltzer

AOC Staff: Kay Radwanski, Sabrina Nash

I. REGULAR BUSINESS

Welcome and Opening Remarks. The September 11, 2015, meeting of Committee on Superior Court (COSC) was called to order at 10:01 a.m. by Judge David Mackey, chair. In remembrance of September 11, members observed a moment of silence. Judge Mackey welcomed new members Scott Mabery, chair of the Committee on Probation, and Eric Silverberg, court administrator in Cochise County.

A. Approval of Minutes from May 1, 2015

Motion: William Klain moved to approve the May 1, 2015, meeting minutes, as presented. **Seconded:** Judge Celé Hancock. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update. Jerry Landau, AOC government affairs director, introduced Amy Love, AOC legislative liaison, and ASU externs Kevin Christen and Jennifer Hancock.

Ms. Love presented the following family court legislative proposals:

2016-01: Temporary order; preliminary injunction – current law requires the Clerk of the Court to issue a preliminary injunction in actions to establish paternity, legal decision making and parenting time, insurance coverage for a child, or permit a party to remove a child from the jurisdiction of the court. This proposal will apply some of these injunctions to cases where the parties were never married in an effort to reduce emergency petitions and temporary order requests. The injunction would not address disposition of property.

Motion: Judge Randall Warner moved to support. **Seconded:** Judge Hancock.
Vote: Unanimous.

2016-02: Child support; probation and court orders – requires probation officers to monitor the payment of child support and other court-ordered financial obligations.

Some members expressed concern about combining a family law case with a criminal case, conflating civil contempt with a criminal violation of probation. A concern also was expressed regarding increased costs to probation departments for monitoring child support payments.

Motion: William Klain moved to oppose. **Seconded:** Judge John Nelson. **Vote:** 19-2 agreed to oppose this proposal.

2016-03: Special needs/adult guardianship –

- Requires an alleged incapacitated person, or any person filing a petition for the appointment of a guardian on the incapacitated person's behalf, to provide the probate court with existing family court findings for review.
- Authorizes the court to order a person or the person's attorney, or both, who engage in unreasonable conduct in a guardianship for an incapacitated person to pay the parent or relative for some or all of the professional fees and expenses caused by the unreasonable conduct.
- Amends the guardianship appointment priorities to prioritize a parent or relative of the incapacitated person who has lived with the person for more than six months before the filing of the petition over a person nominated by will.
- If the family court makes a finding pursuant to A.R.S. § 25-403 that creates a rebuttal presumption that the current legal-decision making is in the ward's best interest and should be preserved after the appointment of a guardian the presumption can be rebutted if the court finds good cause.
- If the court has not made prior orders concerning legal decision making and parenting time and both parents are seeking appointment as guardian, the court may consider all factors.

During discussion, it was noted that it is helpful for the Probate Court judge to have a copy of any family court order, but concerns were raised that the other provisions limit the judge's discretion.

Motion: Judge Charles Harrington moved to oppose. **Seconded:** Judge Kenneth Lee. **Vote:** 18-3 agreed to oppose this proposal.

2016-04: Guardianship of foreign citizens – Removes the requirement that a foreign citizen be under age 21 in order to be eligible for guardianship under the statute.

In discussion, it was noted that this type of case is extremely rare.

Motion: Judge Nelson moved to oppose. **Seconded:** Judge Warner. **Vote:** Unanimous.

2016-10: FCRB sunset – Extends the Foster Care Review Board for another ten years until July 1, 2026.

Motion: Toni Hellon moved to support. **Seconded:** Judge Hancock. **Vote:** Unanimous.

Mr. Landau then presented the following civil and criminal court legislative proposals for 2016:

2016-05: Entry on records; stipulation; court order – When granting an order stating that a person has been cleared because of wrongful arrest, indictment, or charge, a judge is required to notify only the law enforcement agency of the petitioner's request instead of all law enforcement agencies.

Motion: Judge Joseph Welty moved to support. **Seconded:** Judge Hancock. **Vote:** Unanimous.

2016-06: Adult probation; GPS; restitution; lifetime probation; earned time credit –

1. Provides the court discretion in determining whether a person convicted of a dangerous crime against children and mandated to register as a sex offender is required to be placed on global position monitoring.
2. Proposes amending A.R.S. § 13-903 to spell out clearly that a probation sentence is tolled while a probationer is in the Department of Corrections.
3. Allows a review of process for those on lifetime probation. Probation may be reviewed after ten years at the request of the probation department or the prosecutor. If the probationer has made full payment of court-ordered restitution and any other monetary obligation in a given month, the probationer is eligible for earned time credit.
4. Removes the requirement that the probationer is current on community supervision in order to receive earned time credit.

A concern was raised as to whether Paragraph 3 would be a violation of a plea agreement. A question also was asked about what would happen to the remaining hours of community supervision referenced in Paragraph 4.

Motion: Judge Hancock moved that COSC take a neutral position. **Seconded:** Judge Nelson. **Vote:** Unanimous.

2016-07: CORP; service credit – Would allow probation, surveillance, or detention officers to elect to purchase up to 60 months of prior service by paying into the plan.

Motion: Mr. Klain moved that COSC take no position. **Seconded:** Judge Hancock. **Vote:** Unanimous.

2016-08: Juvenile court; disposition; commitment – Removes redundant provisions and also allows the juvenile court more discretion in determining levels of supervision, responses to certain violations based on an expansion in allowable activities and guided by objective assessment of risk, levels of need and supporting evidence-based practices that identify the importance of families as a factor in reducing recidivism. These changes would be applicable to the juvenile intensive probation and dispositional statutory provisions.

Motion: Judge Lee Jantzen moved to support. **Seconded:** Judge Welty. **Vote:** Unanimous.

2016-09: Title 12 statutes; Rules of Civil Procedure – Proposes to remove inconsistencies between the proposed rule and current statute by simplifying the process for including “costs” in a final judgment and clarifying the process for court appointment of a receiver.

Motion: Judge Harrington moved to support the first part of the proposal regarding the “costs” change and defer the second part of the proposal regarding “notice on receivership” pending more information. **Seconded:** Judge Nelson. **Vote:** Unanimous.

B. Language Interpreter Credentialing. Amy Wood, manager, AOC Court Services Division, Caseflow Management Unit, introduced David Svoboda, the AOC’s new language access coordinator. He replaces Carol Mitchell, who has taken a position in the AOC’s Certification and Licensing Division.

Ms. Wood announced that there is now a court interpreter webpage on the Judicial Branch website (azcourts.gov). The webpage provides information on becoming a court interpreter, registering as a court interpreter, and video remote interpreting.

Ms. Wood then presented information about a proposed court interpreter credentialing program that she will present to the Arizona Judicial Council in October. Arizona’s proposed certified court interpreter program will have four tiers. All court interpreters would have to pass the foundational tier (first tier), which focuses more on language skills than interpreting skills. The first tier would include ethical standards for all interpreters, provide a statewide registration method for all languages, ensure interpreters

have a basic understanding of the courts, a command of English and the target language, and clear a background check.

A potential interpreter would have to:

- Submit an application;
- Complete an orientation program (fee);
- Participate an online ethics training and sign an acknowledgement form;
- Pass a written English test with at least a score of 80% (fee);
- Complete an oral proficiency interview;
- Complete a background check; and
- Receive a registration approval ID number in a statewide registry.

Courts would be asked to show a preference for credentialed interpreters, manage interpreter complaints locally, and use discretion in managing staff interpreters that do not pass the oral exam. Tiers 2–4 would require interpreters to have completed Tier 1, prepare for an oral examination with online resources, and pay for and pass the National Center for State Courts' court interpreter written and oral examinations with a passing score to yet be determined.

During discussion, it was noted that the four-tier credentialing program would raise the bar for interpreters and increase the quality of services provided while leaving the courts with sufficient discretion in interpreter management. But others contended that Tier 1 alone might be sufficient and could avoid appeals. The concern was that a defendant could argue that his or her case merited a Tier 4 interpreter, but the court could provide only a Tier 1 interpreter. Ms. Wood noted that a credentialing program with standards that are too high could reduce the pool of interpreters, but a program with standards that are too low would do nothing to improve the interpreter pool. She agreed to take another look at programs in other states that use multiple tiers.

A concern also was raised about the code of ethics for interpreters. It was noted that in some rural counties, volunteers assist with interpreting in the courts. Holding volunteers to a code of ethics could cause them to discontinue their service to the court. Ms. Wood explained that there is a difference between holding a conversation with a court customer and courtroom interpreting. Many volunteers assist customers with directions in the building, reading instructions on forms, and the like. They are offering legal information, whereas the courtroom interpreter is providing language access services in a court case. For interpreters, maintaining an ethical standard is important, she noted.

Other concerns included establishing too-high barriers that result in unintended consequences, creating another bureaucracy with reporting requirements imposed on the courts, and generating grounds for appeal by having classifications of interpreters.

Motion: Judge Hancock moved to not support the court interpreter credentialing program. **Seconded:** William Gibbs. **Motion passed:** 11-9.

C. Determining Eligibility for Appointment of Counsel under Criminal Rule 6.4(b).

David Withey, AOC chief legal counsel, discussed an issue relating to appointment of counsel for indigent defendants. He explained that this issue came to the AOC during an operational review of a limited jurisdiction court. In that situation, a new judge denied a defendant's request for appointment of counsel; the judge's ruling was overturned upon appeal on the basis that the judge made insufficient inquiry about the defendant's financial circumstances. Criminal Rule 6.4(b) requires an examination of the defendant, under oath, regarding the defendant's financial circumstances. Many judges rely on information the defendant has provided on Form 5(a) regarding his or her financial circumstances.

Mr. Withey is trying to determine what action, if any, is needed for limited jurisdiction courts. He presented two proposals. The first would provide for more extensive commentary in the LJC Bench Book, explaining the process and factors to be considered when deciding whether to appoint counsel for the defendant. The second proposal would be possible amendments to Form 5(a) to clarify the defendant's financial ability to acquire counsel.

Members discussed the relevance of the questionnaire, noting that a defendant may be illiterate, under the influence, angry, or antagonistic. The form may not be filled out completely or may be unintelligible. The form is not completed under oath. Even so, it is rare that a request for appointment of counsel is denied and even rarer that appeals to superior court are made on this issue. The consensus was that this is training issue, and to comply with Rule 6.4(b), the defendant should be sworn in and questioned.

D. Pre-Trial Services Assessment Programs. Kathy Waters, director of the AOC's Adult Probation Services Division, and Tom O'Connell, APSD pre-trial program manager, spoke about the new pre-trial services assessment program. Ms. Waters explained that the Chief Justice is interested in evidence-based pretrial implementation. Her goal is to implement pretrial services in the adult probation division, working county by county to find funding and capacity for pretrial programs. She helps to determine each county's needs for assessment and supervision, if supervision is required based on risk and conditions of release. She also spoke about the validity of the pre-trial services assessment (PSA), which is a universal assessment tool.

Discussion focused on funding for pretrial services and the validity of the information in the PSA. The assessment considers a defendant's criminal history. It was suggested that a county be allowed to customize the assessment so that it accounts for risk factors in a specific county. Ms. Waters noted that the human factor builds in bias, but she added that the assessment is just one piece of the judge's decision and is not meant to impact the judge's discretion. The assessment is simply part of the totality of information that judges use to determine risk and supervision.

Counties are not required to participate in the PSA program, but those that do must use the PSA tool. In a pilot project in Mesa, court staff were trained in how to interpret criminal histories. Probation staff are not required to gather this information, and its

collection does not involve an interview with the defendant. It was suggested that since interviews with defendants are not required, counties could pool resources to complete the PSAs. As to reporting requirements, the AOC pulls data and creates reports from APETS.

- E. Task Force on the Arizona Rules of Civil Procedure.** Mark Meltzer, AOC Court Programs Unit, provided an overview of the Task Force on the Arizona Rules of Civil Procedure. He called attention to the tremendous amount of dedication, time, and effort the task force members have spent on this project. The task force is working to align Arizona's Rules of Civil Procedure closer to the federal Rules of Civil Procedure, paying meticulous attention to detail to ensure that the formatting of the rules is uniform with the federal formatting. The task force expects to have a draft of all the rules in a single document available at the November 6, 2015, COSC meeting for vetting. In the meantime, another draft will be emailed to COSC members for review and comment. The task force plans to file a rule petition in January 2016.
- F. Rules Agenda Meeting.** Mark Meltzer, AOC Court Programs Unit, provided a summary of the outcome of the August rules agenda meeting of the Supreme Court. Of note is the restyling of the Arizona Rules of Protective Order Procedure (R-15-0010) in their entirety and amendments to the Arizona Rules of Family Law Procedure, specifically Rule 67.1 (uniform collaborative law) and Rule 74 (parenting coordinators).

Rule petitions of interest to superior courts include:

- **R-15-0004, Civil Rule 11:** proposes curbs on reported abuses of Rule 11 by adopting the federal rule provisions on "certification." The amendments would also require that a motion for sanctions under the rule be filed separately from any other motion and that the motion specifically describe the conduct that warrants a sanction. This petition was continued.
- **R-15-0021, Civil Rule 55(a):** seeks to clarify a void following the depublication of *Neeme Systems v. Spectrum* (COA 1, 2011). To clarify the notice requirement in Rule 55(a)(1)(ii), the petition proposes language that would require notice to any attorney who represents the defaulting party either "in the action in which default is sought or in a related matter," whether or not the attorney has formally appeared. This petition was adopted.
- **R-15-0005, Criminal Rule 7.5:** allows the court to issue a warrant or a summons upon receiving a written report from pretrial services, or if the court does not want to issue a warrant or a summons, the court can issue a notice scheduling a hearing. This petition was adopted as modified.
- **R-15-0011, Criminal Rules 15.5 and 39:** would require all redactions to be identified in documents produced in discovery, and the party making the redaction must state the legal basis for the redaction if it is not clear from the context. This petition was adopted as modified.
- **R-15-0017, Criminal Rules 9.1, 14.2, 14.3, and 26.3:** these amendments, along with four amended forms, serve to advise the defendant that failure to appear at

sentencing may result in the loss of the right to a direct appeal. This petition was adopted as modified.

- **R-15-0024, Criminal Rule 41 (forms):** creates a single version of a warrant as opposed to multiple versions of a warrant. This petition was adopted.
- **R-15-0026, Criminal Rule 41:** is an amendment to Forms (4a) and 4(b) to inquire into the defendant’s military service, homeless status, desire to have an interpreter and English proficiency. This petition was adopted as modified.
- **R-15-0013, Juvenile Rule 44:** proposed multiple changes to Rule 44, which provides procedures for disclosure and discovery of information in child welfare matters. This petition was continued, with the exception of a proposed change to Rule 44(B)(2)(d), which is adopted effective January 1, 2016.
- **R-15-0027, SCR Rule 123:** states that with regard to certain redactions for home address and contract information, résumés of applicants for “high-level administrative positions would be open to the public. The amendment also defines “high-level administrative positions.” This petition was adopted as modified.
- **R-15-0006, ARFLP Rule 74:** earlier this year the Supreme Court, by administrative order, created the Parenting Coordinator Rule Petition Review Committee, which was tasked with reviewing comments on the petition, filing an amended petition, revising Form 11, and recommending a statewide order regarding parenting coordinators. This petition was adopted as modified.
- **R-15-0019, ARFLP Rule 67.1:** proposes to implement the Uniform Collaborative Law Rule in Arizona. This proposal is voluntary. Section F of this amendment states that persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to resolve a collaborative matter related to the proceeding. The parties shall promptly file the agreement with the tribunal, and the filing operates as a stay of the proceeding. This petition was adopted as modified.
- **R-14-0032, Rules of Procedure regarding Enforcement of Tribal Court Judgments and Orders:** removes requirements that the Clerks of Superior Court certify that no objections have been filed after the time for objections has passed. The proposed amendments bring the rules in line with the practice in civil and family law default judgments that have been effect statewide for two years. This petition was adopted as modified.
- **R-14-0029, JPR Rules, Rule 2:** proposes that the commission no longer have a legislator as a member and that the chair may not be a judge member. This petition was adopted as modified.
- **R-15-0018, Supreme Courts Rules 31, 34, 38, 39, and 43:** filed by the Committee on the Review of Supreme Court Rules Governing Professional Conduct and the Practice of Law, this petition adds clarifying language while maintaining the text and intent of the rules. A proposal to require all mediators, even those employed by the court, to be members of the State Bar—a proposition that COSC opposed—was not adopted. The petition was adopted as modified, except that consideration of ER 1.6 (confidentiality of information “relating to the representation”) is continued.

III. OTHER BUSINESS

B. Good of the Order/Call to the Public

The 2016 meeting dates were announced. They are February 5, May 6, September 9, and November 4.

No one from the public was present during the Call to the Public.

C. Next Meeting:

Friday, November 6, 2015; 10 a.m.

Arizona State Courts Building, Conference Room 119 A/B

1501 West Washington Street

Phoenix, AZ 85007

Meeting adjourned at 1:41p.m.

**COMMITTEE ON SUPERIOR COURT
MINUTES**

Friday, November 6, 2015
Conference Room 119 A/B, Arizona State Courts Building
1501 West Washington Street, Phoenix, AZ 85007

Present: Judge David Mackey, Judge David Cunanan, Judge Thomas Fink, Judge Richard Gordon, Judge Charles W. Gurtler, Jr., Judge Celé Hancock, Judge Charles V. Harrington, William G. Klain, Scott Mabery, Judge John Nelson, Judge Cathleen Brown Nichols, Ronald Overholt, Eric Silverberg, Judge Samuel Vederman, Judge Randall Warner, Judge Joseph Welty

Absent/Excused: Judge Sally Duncan, William Gibbs, Toni Hellon, Judge Kenneth Lee, Judge Paul McMurdie, Judge Sam Meyers, Judge Michala Ruechel, Megan Spielman

Presenters/Guests: Kathy McCormick, ADR program manager, Superior Court in Yavapai County; David Rosenbaum, Esq., Osborn Maledon

Administrative Office of the Courts (AOC): Theresa Barrett, Stewart Bruner, Eric Ciminski, Amy Love, Denise Lundin, Susan Pickard, Kathy Waters, David Withey, Amy Wood

AOC Staff: Kay Radwanski, Sabrina Nash

I. REGULAR BUSINESS

Welcome and Opening Remarks. The November 6, 2015, meeting of Committee on Superior Court (COSC) was called to order at 10:03 a.m. by Judge David Mackey, chair.

A. Approval of Minutes from September 11, 2015

Motion: Eric Silverberg moved to approve the September 11, 2015, meeting minutes, as presented. **Seconded:** Judge Charles Gurtler **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update. Jerry Landau, AOC government affairs director, and Amy Love, AOC legislative liaison, presented an update on the following pending legislation:

- **Temporary order; preliminary injunction** – Judge Paul McMurdie authored this proposal, and it has the support of the AJC. Current law requires the Clerk of the Court to issue a preliminary injunction in actions to establish paternity, legal decision making and parenting time, insurance coverage for a child, or permit a party to remove a child from the jurisdiction of the court. This proposal will apply some of these injunctions to cases where the parties were never married in an effort to reduce emergency petitions and temporary order requests.
- **FCRB sunset** – extends the Foster Care Review Board for another ten years until July 1, 2016.
- **AJC 8-41-352** – affecting juvenile and adult probation, was reviewed by the AJC and it was withdrawn for consideration.

Mr. Landau noted that the primary issue in the legislature this year is expected to be the state budget.

B. Mediators and Mandatory Reporting. Kathy McCormick, ADR program manager, Superior Court in Yavapai County, addressed COSC regarding an issue that arose after a recent Court of Appeals Division 1 opinion in Grubaugh v. Blomo. In that case, the COA determined that Arizona’s mediation process holds confidentiality to a high standard. Ms. McCormick stated that since the opinion was issued, several court-appointed attorney mediators in Yavapai County have advised that they will not report child or vulnerable adult abuse, citing confidentiality concerns.

Ms. McCormick noted that Arizona statute does not make mediators mandatory reporters, but court-appointed mediators have operated under a policy for many years that they will report child or vulnerable adult abuse allegations that are brought out in mediation sessions. She offered three proposals for consideration:

- Include a statement in the *Agreement to Participate in Mediation* acknowledging the parties’ agreement that a court-appointed mediator must report allegations of child abuse, vulnerable adult abuse, serious threat of physical harm or death to self or others, actual violence or danger to self or others to DCS or police.
- Amend ARS §§ 13-3620 and 46-454 to include court-appointed mediators as mandatory reporters.
- Change ARS § 12-2238(B) to create an exception that would allow a court-appointed mediator, applying a reasonable belief standard, to report child or vulnerable adult abuse to a peace officer or DCS.

During discussion, the need for care in changing mandatory reporting to permissive reporting in statute was noted as mediation is used in multiple case types. After further discussion, the consensus was to change the language in the Agreement to Participate in Mediation but proceed cautiously in changing statute.

Motion: Judge Randall Warner presented a two-part motion that first asked Ms. McCormick to review a legislation solution that modifies ARS § 12-2238, and second, stated that COSC endorses as a temporary solution dealing with these matters by agreement of the parties involved. **Seconded:** Judge Gurtler **Vote:** Unanimous.

C. Access to Presentence Report. David Withey, AOC chief legal counsel, explained that there is a lack of clarity as to when a presentence report becomes a public document or at what point it can be disclosed to the defendant in the context of clemency proceedings. He stated that once the presentence report has been used and filed with Clerk of the Court, it is also sent to the Department of Corrections (DOC) pursuant to Rule 123, Rules of the Supreme Court, and Rule 26.6, Rules of Criminal Procedure. DOC has interpreted Rule 123 to mean that the presentence report is confidential, while the criminal rule makes the report a public document.

Mr. Withey noted that Rule 123 provides for the Pretrial Services work product to be confidential until it has been used in court. He said that the criminal rule needs to be read in conjunction with Rule 123. He explained that the Attorney General’s Office is reluctant to provide the presentence report at a clemency hearing until it has been confirmed that certain information (such as mental health reports) has been sealed. He will be taking this concern to the presiding judges at their December meeting.

COSC took no action on this issue.

- D. Task Force on the Arizona Rules of Civil Procedure: Vetting Draft.** William Klain and David Rosenbaum, task force co-chairs, presented a draft of proposed changes to the Arizona Rules of Civil Procedure.

Mr. Klain explained that the task force, established by Administrative Order 2014-116, was charged to review Arizona's Rules of Civil Procedure. The task force was to identify changes to conform the rules to modern usage, clarify and simplify language, avoid unintended variation from language in federal counterpart rules, to promote changes that promoted better access to the courts, and to resolve cases without undue complexity and cost. The task force divided into four workgroups, with each working on different sections of the Rules of Civil Procedure throughout the course of one year.

During the past year, the full task force met 12 times and the workgroups met 41 times. Mr. Rosenbaum explained that the task force adopted the federal Rules of Civil Procedure wherever possible; however, if an Arizona rule differed significantly from the federal rule, the Arizona rule was fine-tuned and kept in place. He then discussed some of the substantive changes and the reasoning behind them.

Mr. Klain noted that the vetted rules were sent out to various legal stakeholders for comment. The petition to amend the rules will be filed in January 2016 and will be open for comment throughout the spring. If approved, the recommended changes will take effect in January 2017.

Motion: Judge John Nelson moved to approve. **Seconded:** Judge Celé Hancock. **Abstained:** Mr. Klain. **Vote:** Unanimous, with one abstention.

- E. ACJA § 6-103: Victims' Rights Requirements.** Kathy Waters, director, AOC Adult Probation Services Division, explained that amendments to ACJA § 6-103 would conform the definition of "delinquent act" and the Applicability section in A.R.S. 8-201. The proposal would clarify the duties of probation personnel and the rights that are applied to victims who opt to be notified. This proposal would clarify the timing of when probation personnel are responsible to notify victims who have opted in versus the obligations of the courts to notify the victims. It also would add the requirement for probation departments to have a plan for communicating with limited-English speaking victims.

The Commission on Victims in the Courts (COVIC) and the Committee on Probation (COP) both have seen the proposal. The Committee on Juvenile Courts (CJC) will have an opportunity to comment on it at its upcoming November meeting.

Motion: Judge Nelson moved to approve. **Seconded:** Scott Mabery. **Vote:** Unanimous.

- F. ACJA § 5-209: Court-Approved Domestic Violence Offender Treatment Programs.** Kay Radwanski, on behalf of Judge Wendy Million, chair of the Domestic Violence Offender Treatment Workgroup, explained that SB1035, which was signed into law in 2015, authorizes courts to approve domestic violence offender treatment program beginning in January 2016. After the bill was signed, a workgroup was formed to develop rules for a code section to establish standards for the courts to use in approving programs not otherwise approved by the Arizona Department of Health Services (ADHS), a probation department, or the U.S. Department of Veterans Affairs. The workgroup included limited jurisdiction court judges, prosecutors, non-profit victim advocates, a superior court probation officer, a retired licensed behavioral health professional, and a representative from ADHS.

The workgroup discussed a number of issues, including:

- Differentiating among types of offenders (e.g., siblings, roommates, intimate partners) and allowing non-intimate partners to attend programs other than domestic violence offender treatment
- Clarifying which probation departments can approve programs
- Acknowledging the concerns of rural counties that may not have readily accessible DHS-approved programs in their areas
- Considering logistical challenges, primarily in rural areas, for first-time offenders in meeting the ADHS requirement of attending 26 weekly classes
- Considering the possibility of allowing persons in remote locations to participate in weekly programs by Skype or video conference
- Adding psycho-education for intimate partners that would permit delivery by advocates are not licensed behavioral health specialists.

On October 28, 2015, Judge Wendy Million presented the workgroup's draft to the Limited Jurisdiction Committee (LJC), where LJC members expressed the following concerns:

- A need for greater judicial discretion on sending defendants to domestic violence offender treatment programs
- Concerns about logistics and traveling distance to approved programs
- Cost to a defendant of attending a program, as ADHS does not regulate the cost and the law requires a defendant to bear the cost
- The number of required sessions
- Requirement that an alternative provider have a year of experience or training in domestic violence

G. Update: Interpreter Credentialing Program. Amy Wood, manager, Caseflow Management, and David Svoboda, language access specialist, provided an update on the interpreter credentialing program. Ms. Wood explained that she presented the proposed credentialing program to the Arizona Judicial Counsel (AJC) along with the concerns raised by COSC. The AJC voted to recommend the adoption of the program, adopt the Interpreter Code of Ethics, and adopt fees relating to the credentialing program

Ms. Wood updated the committee on changes to the program based on AJC recommendations:

- The tier two temporary credential was extended from one year to 18 months.
- There is a delayed effective date for showing preference for contract interpreters.
- A distinction was drawn between contract interpreters and staff interpreters (an employee of the court). A staff interpreter who interprets as part of his or her job is now required to become credentialed within a three-year period.
- In-state cost to complete the credentialing program will be \$555.00.
- The out-of-state cost is significantly higher to discourage interpreters from neighboring states to come to Arizona to get the credential and then leave.

III. OTHER BUSINESS

Good of the Order/Call to the Public. No one from the public was present.

Adjournment: The meeting adjourned at 12:25 p.m.

Next Meeting: Friday, February 5, 2016; 10 a.m.