

COMMITTEE ON SUPERIOR COURT

Friday, February 7, 2014 - 10:00 a.m.

Conference Room 119 A/B

State Courts Building, 1501 W. Washington, Phoenix, AZ 85007

[COMMITTEE ON SUPERIOR COURT HOME PAGE](#)

Conference Number: 602-452-3288 Access Code: 6653# / [Web Ex](#)

TIME	AGENDA	PRESENTER
10:00 a.m.	Welcome and Opening Remarks	<i>Judge David Mackey</i>
	Approval of Minutes from November 1, 2013 <input type="checkbox"/> <i>Formal Action/Request</i>	
10:05 a.m.	Legislative Update	<i>Amy Love, AOC</i>
10:35 a.m.	ACJA § 1-302: Education and Training <input type="checkbox"/> <i>Formal Action/Request</i>	<i>Jeffrey Schrade, AOC</i>
10:45 a.m.	ACJA § 7-206: Certified Reporter <input type="checkbox"/> <i>Formal Action/Request</i>	<i>Mark Wilson, AOC</i>
11:20 a.m.	Judicial College of Arizona – Update	<i>Paul Julien, AOC</i>
11:35 a.m.	2014 Rules Update	<i>Mark Meltzer, AOC</i>
Noon	Lunch	
12:30 p.m.	ACJA § 6-208: Use of Conducted Electrical Weapons ACJA § 6-204.01: Interstate Compact <input type="checkbox"/> <i>Formal Action/Request</i>	<i>Kathy Waters, AOC</i>
12:45 p.m.	Child Support Guidelines – Quadrennial Review	<i>Marcus Reinkensmeyer, AOC</i>
1:00 p.m.	Good of the Order/Call to the Public	<i>Judge Mackey</i>
	Next Meeting: Friday, May 2, 2014; 10 a.m. – 2 p.m. Arizona State Courts Building, Conference Room 119 A/B	

Remaining 2014 Meeting Dates: May 2, September 5, November 7

All times are approximate. The 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 Kay L. Radwanski, staff to the Committee on Superior Court, at (602) 452-3360 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.

COMMITTEE ON SUPERIOR COURT

DRAFT MINUTES

Friday, November 1, 2013

Conference Room 119A/B

1501 West Washington Street

Phoenix, AZ 85007

Present: Judge Janet Barton, Judge James Conlogue, Judge David Cunanan, Judge Sally Duncan, Judge Steven Fuller, Judge Charles Gurtler, Judge Celé Hancock, Toni Hellon, William Klain, Judge David Mackey, Judge Colleen McNally, Charles Moter, Judge John Nelson, Ronald Overholt, Judge Michala Ruechel, Judge Monica Stauffer, Susan Wilson

Telephonic: Judge Richard Gordon, Sue Hall, Joshua Halversen, Judge Charles Harrington, Judge Kenneth Lee

Absent/Excused: Judge Samuel Vederman, Judge Randall Warner

Presenters/Guests: Tom Alongi, Esq.; Cassandra Wallace, ASU School of Law

Administrative Office of the Courts (AOC): Jerry Landau, Karl Heckart, Patrick McGrath, Carol Mitchell, Tom O’Connell, Marcus Reinkensmeyer, Mark Meltzer, Mark Wilson, Theresa Barrett

AOC Staff: Kay Radwanski, Sabrina Nash, Julie Graber

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the November 1, 2013, meeting of the Committee on Superior Court (COSC) was called to order at 10:02 a.m. by Judge David Mackey, chair.

B. Approval of Minutes

The draft minutes from the September 6, 2013, COSC meeting were presented for approval.

Motion: To approve the September 6, 2013, meeting minutes, as presented. **Moved by** Charles Moter. **Seconded by** Judge Monica Stauffer. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Legislative Update

Jerry Landau, AOC, introduced Cassandra Wallace, extern from ASU School of Law. He then presented the following information on upcoming legislation.

- **2014-A National Instant Criminal Background Check System.** (NICS) is a national system that checks available records for information on persons who may be disqualified from possessing firearms. This legislation is an effort by the Arizona Criminal Justice Commission to comply with federal law that mandates that certain persons cannot purchase firearms from a registered dealer and also establishes a national database that dealers can access to check if a potential buyer is a prohibited purchaser. Criteria for entering individuals' names into the NICS database include:
 - Title 36 – Currently, the names of persons who are subject to court-ordered mental health evaluation or treatment under Title 36 are entered into NICS and can be removed from the system after a hearing per statute.
 - Indictment and information – Federal law requires the name of any person under indictment or information to be entered into NICS. That would require a change in court rule. Mr. Landau said language is being drafted and will be discussed.
 - Criminal Rule 11 - Discussion ensued regarding whether all Rule 11 (defendant competency) cases be put in the system or only those involving defendants who are found incompetent. Under the draft proposal, a person subject to Rule 11 would be included in the NICS database but would be removed once Rule 11 no longer applies.
 - Guardianship - Federal law calls for a person who is under guardianship for mental incapacity to be listed in the NICS system; however, Arizona guardianship orders do not distinguish between guardianships for mental incapacity and those for physical incapacity. The consensus was that for accurate compliance with federal law, differentiation must be made between the two types of guardianships.

Motion: To table action on the bill. **Moved by** Judge James Conlogue. **Seconded by** Judge Steven Fuller. **Vote:** Unanimous.

- **2014-E Criminal Restitution Orders.** The initial proposal by the Arizona Association of Superior Court Clerks was to repeal the requirement enacted last April requiring the court to enter a criminal restitution order if the defendant absconds from probation. There are dual tracks: (1) Probation oversees payment of restitution, and (2) a victim can seek restitution via a criminal restitution order on an absconder, leaving the case technically still open. The new compromise proposal states that if the person is sentenced and absconds and unless declined by the victim, the court shall issue a criminal restitution order in favor of the restitution to the victim only and not to the monetary obligations.

No motion was made regarding this proposal.

- **2014-I Indigent Defense.** ARS § 13-4015 Legal Service Administration is proposed by the County Supervisors Association to require each county to appoint an administrator to oversee expenses for indigent legal services. The bill would require attorneys who represent indigent defendants to submit requests for expert witnesses, expert witness costs, or scientific testing to the administrator. The administrator would decide whether the requested services are reasonably necessary and then determine reasonable

compensation for them. If the administrator denied the request, the attorney could appeal the matter to court. The county could then join and argue against the cost.

Discussion: Members' concerns included the ethical responsibility of lawyers versus the responsibility of the courts, the impact on Criminal Rule 8 regarding speedy trial rights, and separation of powers.

Motion: To oppose the bill in its entirety. **Moved by** Judge Sally Duncan. **Seconded by** Judge Celé Hancock. **Vote:** Unanimous.

B. AJACS Case Flow Management Reports Status

Karl Heckart, AOC, and Patrick McGrath, AOC, gave a brief overview of caseflow management reports and updated the committee on the conversion to AJACS 3.7 software.

- The ITD staff is working diligently with the courts to address any data corruption issues that may have occurred during the transfer process from AZTEC to AJACS. Some data clean-up issues can be addressed through training.
- An amended case status history table script was developed to correct a problem in one AJACS version that prevented updating of the case status history table. The case status history table is critical when counting days, counting excluded days, time to disposition, etc. The report pulls from the history table to count the number of days a case takes from filing to disposition or when it is reopened to re-adjudication.
- A script is in testing regarding case status mapping. Many case status codes in AZTEC are no longer valid in AJACS. Case status codes are being standardized, and a script was created to map previous statuses into the new standardized case status codes.
- Eight new case management reports are available. When AJACS Version 3.9 becomes available, five more reports will become available, for a total of thirteen.
- Version 3.9 roll-out is expected in early 2014 after completion of user-acceptance testing.

C. Language Access Update

Carol Mitchell, AOC, updated the committee on recent activity, critical priorities, and future plans regarding language access. Some the recent activities included:

- Work continues on creation of two-way video remote interpreting systems, where the court can see the interpreter and the interpreter can see what is happening in the courtroom. This also allows for American Sign Language interpretation in the courts. The AOC has created a remote video conferencing suite on the second floor of the State Courts Building that allows interpreters to be in Phoenix while providing interpretation services to a remote location. The process saves the courts and the interpreters time and money. The plan is to continue to increase the number of two-way remote video interpreting locations statewide. Currently, Maricopa, Cochise, Mohave, and Yuma counties have remote video interpreting capability.

- Courts should review their language access plans each year and ensure that court staff are aware of available language access resources.
- The AOC is currently in the process of having superior court forms that have been identified as vital translated into Spanish. Maricopa County Superior Court has done extensive work in translating forms into Spanish. The AOC is furthering that effort by working toward a set of generic forms and instructions that all courts can use. Justice court and municipal court forms will be translated at a later date. The translated forms are being posted to the Judicial Branch website (<http://www.azcourts.gov>) so all courts can access them. Courts should ensure that their websites have an active link that directs court customers to the translated forms.

D. ACJA §§ 6-106, 6-112, and 6-113

David Sanders, chair of the Staff Safety Advisory Committee, Committee on Probation, presented modification of three sections of the Arizona Code of Judicial Administration (ACJA).

- **ACJA § 6-106 Personnel Changes.** The proposed change is to add the definition of *human performance evaluation*. An applicant who has been given a conditional offer of employment in Probation must undergo a human performance evaluation to ensure the applicant will be able to pass the defensive tactics academy once hired. Concentra was asked to work with officers in the field to develop strength, range-of-motion, and agility guidelines that would be needed to pass the academy.

Motion: To approve the proposed revisions. **Moved by** Judge Richard Gordon.
Seconded by Judge Conlogue. **Vote:** Unanimous.

- **ACJA § 6-112 Use of Force.** Proposed modifications clarify wording and definitions.
 - The term *continuum of control* would be eliminated. Instead, force options would be employed based on a reasonable response to the situation the officer encounters.
 - Conducted Electrical Weapon (CEW) (a generic term for Taser) is being proposed as a force option for officers who are specifically designated to work on a warrants team, where the use of force is more apt to be proactive rather than defensive. CEWs will be used only by armed adult probation and surveillance officers.
 - It is recommended that a written incident report on the use of force be generated by the third business day after the incident instead of the next business day. Concerns were voiced about the possibility of outside influences in the intervening time between the incident and the writing of the report. Mr. Moter, who chairs the Committee on Probation (COP), said these concerns were addressed by COP. He said the focus is on an accurate report, not risk management. It was suggested to retain the language “as soon as possible” in the code, along with “no later than the close of the third business day.” The chief probation officer or the director of juvenile court services may request an exception or extension of the written incident report from the administrative director of the AOC.

Motion: To approve the proposal with the suggested revisions regarding the timeline on written incident report. **Moved by** Mr. Moter. **Seconded by** Josh Halversen. **Vote:** Three opposed, motion carried.

- **ACJA § 6-113 Firearm Standards.** The proposal includes revisions in definitions, technical changes, and language changes to provide consistency with other code sections.

Members discussed whether the phrase “other than time in service” should be added to ACJA § 6-113(G)(6)(s), relating to denial, revocation, or temporary suspension of a probation officer’s authorization to carry a firearm. Concern focused on whether a recently hired officer would be eligible to carry a firearm. New officers must complete certain prerequisites prior to attending the firearms academy, which itself is a prerequisite to being authorized to carry a firearm. As these prerequisites take at least five months to complete before attending the academy, a newly hired officer would not be immediately authorized to carry a firearm. Mr. Sanders indicated that this had been a controversial discussion at COP; however, the majority of COP members agreed on the proposal.

Regarding ACJA § 6-113(G)(6)(m) concerning use of marijuana, it was suggested that the language be changed from “illegally used marijuana” to “any marijuana use.” It was noted that state law allows use of medical marijuana but federal law does not. Therefore, federal funding could be at risk if the prohibition is not clearly stated.

Motion: To approve amendment of the code section, including the proposed amendments. **Moved by** Mr. Halversen. **Seconded by** Judge Michala Ruechel. **Vote:** Unanimous.

E. ACJA § 6-52X Evidence Based Pretrial Services

Tom O’Connell, AOC, presented a new code section that calls for expanding and improving the use of evidence-based practices to determine pretrial release conditions for low-risk offenders. The code section provides the scope, requirements, and procedures for Arizona courts to establish and operate pretrial services consistent with evidence-based practices. The goal is to have the new code, which applies to both superior and lower jurisdiction courts, approved before the legislative session begins.

A question was raised regarding a provision that requires pretrial services staff to inform the court of violations of pretrial release conditions. A suggestion was made to change to the wording to “nontechnical/significant” violations.

Mr. Moter noted that other concerns, such as cost, have been discussed. It is the intent to implement the code by local practice, pursuant to local policy and allocated resources. A delayed implementation date is planned.

Motion: To approve the proposal with the suggestion that collaboration continue with probation departments and pretrial services providers to work out the language for a final version. **Moved by Judge Conlogue. Seconded by Judge Stauffer. Vote:** Unanimous.

F. Prospective Rule Petitions - State Bar Family Practice and Procedures Committee

Tom Alongi, Esq., chair of the State Bar's Family Practice and Procedures Committee (FPPC), discussed two petitions being circulated by the FPPC. Comments regarding these petitions should be directed to Mr. Alongi before November 18 so he can meet deadlines for submitting proposals to the State Bar Rules Committee and its Board of Governors.

- **Rule 57, ARFLP.** The Rules of Civil Procedure and the Rules of Family Law Procedure differ regarding audio or audio-video depositions. Under current family law rule, an audio or audio-video deposition is not allowed without stipulation of the parties or by order of the court. The proposed change to Rule 57, ARFLP, removes the requirement for obtaining a stipulation or a court order to electronically record a deposition.

In discussion, Judge Janet Barton noted that in a civil case, video depositions are done to preserve testimony, particularly if a witness is seriously ill or resides in another state. In family court, however, the process is ripe for gamesmanship, with the possibility that parents will ask each other personal questions and then show the video to the parties' children. An inequality also can be created when one party has an attorney and the other is self-represented. She said requests to conduct videotaped depositions are rare, and such requests are not a burden for the court. Mr. Klain noted that a video deposition can be helpful in evaluating a witness's demeanor and for impeachment purposes. The consensus, however, was that the risks are different in family court and that judges do not find it burdensome to issue such orders. It also presents an opportunity to set boundaries for the parties.

- **Rules 83 and 84, ARFLP.** This petition would join motions for reconsideration of judicial rulings to new provisions governing requests for clarification and place them into new Rule 84. Existing Rule 84 would be repealed, and the right to request amended judgment would be integrated into Rule 83 as an alternative form of relief. This way, litigants would have two paths to choose from when debating whether to challenge a judgment: a simple motion for reconsideration or clarification (filed within 30 days) or a formal motion for a new trial or amended judgment (filed within 15 days).

Judge Barton noted that the motion for clarification needs a time limit because the judge who issued the order could have rotated onto another bench. In such a case, one judge would be asked to interpret and clarify another judge's decision.

G. Advisory Committee to Develop Policies for Retention and Destruction of Electronic Records

Marcus Reinkensmeyer, AOC, presented the report of the Electronic Records Retention & Destruction Advisory Committee. The committee has been meeting since April to address

questions concerning whether destruction of electronic case documents and data should be mandatory or permissive, the adequacy of current records retention time periods when applied to electronic records, consistency of policies regarding the length of time that case documents and data are available to the public online across court levels and from court to court within the same level, and whether originals or copies of documents or data that have reached their destruction period should be retained for research and analysis purposes, and, if so, whether those records should continue to be publicly available or released only pursuant to court order.

Mr. Reinkensmeyer explained that electronic records are being saved in perpetuity by local courts. While the federal courts have mandatory destruction policies for electronic records, state courts do not. There are concerns that people can be harmed by outdated information being available online. Also, electronic records retention has a staff impact, creates a huge database with accompanying security concerns, and has associated costs for enterprise-sized storage. The committee's recommendations are explained in detail in the report.

During discussion, COSC members had questions specifically about juvenile records. The concern is that in a capital case, every record associated with the defendant may be needed to establish mitigating factors. The result, however, would be that juvenile records would need to be retained indefinitely. The current schedule allows for destruction of the record on the juvenile's 30th birthday. The ERR&D Committee is proposing that the electronic record be destroyed 25 years from the date the case is filed.

Motion: To approve the concepts in the report of the Electronic Records Retention & Destruction Advisory Committee. **Moved by** Judge Barton. **Seconded by** Judge Charles Gurtler. **Vote:** One opposed, motion carried.

H. Rules Agenda Update

Mark Meltzer, AOC, reported on the Supreme Court's Rules Agenda. The Court disposed of 58 Rule 28 petitions during its August meeting. Three petitions were continued:

- **R-13-0004** [R15.8] currently provides for a sanction if the prosecutor does not disclose material evidence within 30 days of a plea deadline. A workgroup was established and is working toward consensus on an alternate proposal that will be considered November.
- **R-13-0033** [Rule 42, ER 3.8] would incorporate the ABA's amendment to Model Rule 3.8, which provides ethical guidance for prosecutors regarding the possible conviction of an innocent person. This 2011 rule petition has been exhaustively examined. The Supreme Court took the unusual step of requesting comments on the questions of what criteria should trigger a prosecutor's ethical duty to investigate claims of innocence, what would a reasonable investigation entail, what if the conviction were not in the prosecutor's jurisdiction, and what if the person who learns of the information is not the prosecutor but another attorney. The Supreme Court will consider the comments at its November rules meeting.

- **R-12-0042** [Civil Rule 7.1] Litigants often agree to extensions of time on briefing schedules without informing the court of this agreement. Agreement must be filed with the court five days before a scheduled hearing and before a response is due.

I. ACJA § 7-206: Certified Reporter

Mark Wilson, AOC, presented proposed amendments to ACJA § 7-206 regarding certified court reporters. He discussed concerns that were raised on the business operations of court reporting firms and freelance certified court reporters who accept assignments through reporting firms. The debate has centered mostly on the means and methods surrounding the production of transcripts and not whether the transcript is accurate, complete, timely produced and that there is equity in the transcript costs billed to each party. The changes proposed to this code remove the contracting related provisions and shift the focus to the accountability of certified reporters and the existing standards of ethics, impartiality, fairness, equity in billing and invoicing, and the professionalism of the individual responsible for the veracity of the transcript.

Numerous comments were submitted on the ACJA forum, many from court reporters complaining about other court reporters who do not maintain sufficient control over billing practices, do not properly controlling the process used to create transcripts, and who are unhappy with the relationships some court reporters are forming with national court reporting firms.

During public comment, John McDonald, the Arizona Court Reporters Association (ACRA), spoke against the proposed changes. He said that ACRA does not consider the proposed changes a fine tuning of the current rules but rather a wholesale change, with an entire section of rules being eliminated.. He stated that it is not just court reporters who object to the proposed changes but also others in the legal community, including members of the bar. He asked what problem is being solved, and he said the summary that was provided to COSC members is inadequate.

Marty Herder also spoke during the public comment. He pointed out that the Chief Justice has appointed a task force to look into this issue and report their findings to the AJC.

Motion: To table the AOC proposal until the after the task force has reported to the AJC.

Moved by William Klain. **Seconded by** Judge Hancock. **Vote:** Unanimous.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

None present.

B. Adjournment

The meeting adjourned at 2:10 p.m.

C. Next Committee Meeting Date

Friday, February 7, 2014; 10:00 a.m. to 2:00 p.m.
State Courts Building, Conference Room 119A/B
1501 West Washington Street, Phoenix, AZ 85007

COMMITTEE ON SUPERIOR COURT

Date Action Required: February 7, 2014	Type of Action Required: <input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: LEGISLATIVE UPDATE
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FROM: Jerry Landau, Director of Government Affairs

PRESENTER: Amy Love, Legislative Liaison

DISCUSSION: Ms. Love will provide an update on recently introduced legislation and its impact on the courts.

RECOMMENDED MOTION: Information only.

COMMITTEE ON SUPERIOR COURT

Date Action Required:	Type of Action Required:	Subject:
2/7/2014	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	ACJA § 1-302 - COJET CODE CHANGE

FROM: COJET Committee recommendation for code change

PRESENTER: Jeffrey Schrade, AOC Education Services Division Director

DISCUSSION: This proposal eliminates the eight-hour limit on non-facilitated learning programs and removes eLearning and other interactive programs from this category. The proposal also creates an affirmative annual requirement of at least six COJET hours of “live training” (programs taught by an instructor using real-time interaction).

Significant new or changed provisions:

- Adds “live training” and “non-facilitated learning” definitions and removes “eLearning” definition.
- Eliminates eight-hour COJET credit limit for non-facilitated learning programs and removes eLearning programs, tours and ride-along programs from this category.
- Requires at least six hours of live training each year.
- Semantic changes.

RECOMMENDED MOTION: Approve ACJA § 1-302 proposal as written and recommend AJC consideration.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet
Part 1: Judicial Branch Administration
Chapter 3: Judicial Officers and Employees
Section 1-302: Education and Training

1. Effect of the proposal:

This proposal eliminates the eight hour limit on non-facilitated learning programs and removes eLearning and other interactive programs from this category. The proposal also creates an affirmative annual requirement of at least six COJET hours of “live training” (programs taught by an instructor using real time interaction).

2. Significant new or changed provisions:

- Adds “live training” and “non-facilitated learning” definitions and removes “eLearning” definition.
- Eliminates eight hour COJET credit limit for non-facilitated learning programs and removes eLearning programs, tours and ride along programs from this category.
- Requires at least six hours of live training each year.
- Semantic changes.

3. Committees actions and comments:

None

4. Controversial issues:

None

5. Recommended action or motion:

Approve ACJA 1-302 proposal as written and recommend AJC consideration.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 1: Judicial Branch Administration
Chapter 3: Judicial Officers and Employees
Section 1-302: Education and Training

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

“Accredited Sponsor” means an individual or organization that has been granted status to accredit their programs by the Committee on Judicial Education and Training (COJET).

“Continuing education” means training or education that leads to improved job-related skills, knowledge or abilities, or specialized skills that enhance the ability to perform job functions.

“County training coordinator” means the local training coordinator designated in each county.

“Credit hour” means an increment of continuing education determined by COJET to constitute one credit toward COJET requirements. In most instances, 60 minutes of education equals one credit hour.

“Education Services” means the division of the Administrative Office of the Courts (AOC) responsible for planning and implementing education for the judiciary.

~~“eLearning” means all forms of electronically supported learning and teaching.~~

“Ethics training” means a training session related to appropriate personnel behavior in the workplace, codes of conduct, fair treatment in the courts, or avoiding the occurrence or perception of impropriety in carrying out responsibilities.

“Facilitator” means a specifically trained individual who leads local or small group activities that take place as part of a larger program.

“Faculty” means an individual who plans, prepares, and presents an education program. This definition includes individuals who serve as moderator or coordinator of a panel, and individuals who perform pre-planning for one-to-one training activities with measurable educational outcomes.

“Hearing officer, paid,” means an individual paid by the court to serve as a civil traffic or small claims hearing officer.

“Hearing officer, volunteer” means an individual who serves voluntarily as civil traffic or small claims hearing officer.

“Judicial education” means continuing professional education for judges, probation and court personnel.

“Judge” means any person who is authorized to perform judicial functions within the Arizona judiciary, including a justice or judge of a court of record, a justice of the peace, magistrate, water master, court commissioner, referee or pro tempore judge.

“Live training” means training or education provided by one or more faculty or facilitators to an individual or a group using real time interaction.

“Local training coordinator” means the person designated in each court or department to coordinate judicial education.

“Non-facilitated learning” means an individual study program conducted without the aid of an instructor, facilitator, or active co-participants.

“On-call” means employees who are available when summoned for service, do not have an established work schedule and whose schedule is on an as-needed basis.

“Orientation” means knowledge, skills and ethics necessary to begin the job.

“Probation personnel” means probation officers, surveillance officers, detention officers, youth supervisors, support staff, and any other staff assigned to probation departments and juvenile courts.

“Program Sponsor” means an individual, group or organization conducting continuing education for COJET credit hours.

B. Applicability. This section establishes education standards for all judges, probation and court personnel in Arizona.

C. Purpose. The education and training of judicial officers and court employees are necessary to maintain~~ing~~ judicial independence and carry~~ing~~ out the judicial branch’s obligation to administer justice impartially and competently. The following standards shall ensure that judges and judicial branch employees continually receive education and training necessary to achieve the highest standard of competence, ethical conduct, integrity, professionalism, and accountability.

D. [no changes]

E. Program Accreditation.

1. A program must meet the following requirements to be accredited:
 - a. The program is job-related or relates to the justice system;
 - b. The program constitutes an organized program of learning with significant intellectual or practical content;

- c. The program is meant to improve job-related professional competencies and skills;
 - d. The program is at least 30 minutes in length or ~~combines non-facilitated learning modules equaling~~ consists of related segments totaling at least 30 minutes of instruction;
 - e. Participants in live training programs are given the opportunity to evaluate program effectiveness;
 - f. Participants receive ~~written~~ materials such as handouts, manuals, study guides, flowcharts, or substantial written outlines, except when writing an article or reading and evaluating a book;
 - g. Breaks, non-substantive speeches, and business meetings shall not be accredited; and
 - h. The program sponsor shall keep attendance records for five years and shall forward attendance records, relevant program materials and program evaluations to the party accrediting the program upon request.
2. Accreditation shall be granted in three ways:
- a. Local programs. Training coordinators shall accredit a program offered locally for employees in their court or division when:
 - (1) Program sponsors ~~shall~~ submit a proposal with an agenda, duration and other supporting materials if requested by the local training coordinator;
 - (2) Upon conclusion of a program, the program sponsor ~~shall~~ provides the training coordinator with an agenda, attendee list and compiled participant feedback from evaluations. Handouts and other written materials may also be requested by the local training coordinator; and
 - (3) The local training coordinator ~~shall evaluate the program for~~ determines the program has substantive value ~~and may accredit the program for a specific number of credit hours.~~
 - b. Individual employee programs. Training coordinators shall accredit a program attended by an individual ~~who meets the following criteria~~ when:
 - (1) Prior to the program, and at the discretion of the training coordinator, the individual ~~may submit to the local training coordinator~~ an agenda, duration and other supporting materials;
 - (2) Upon conclusion of a program, the employee ~~shall~~ provides an agenda, outline and other supporting material. Handouts, evaluations or other written materials may also be requested by the local training coordinator; and
 - (3) The training coordinator ~~shall evaluate the program for~~ determines the program has substantive value ~~and may accredit the program for a specific number of credit hours.~~

- c. Regional or statewide programs. COJET, Education Services or accredited sponsors shall accredit a program offered to participants statewide or from a broad geographical or jurisdictional area. County training coordinators or their designee may accredit programs that are countywide or that involve participants from one or more counties. This procedure eliminates the need for each local training coordinator to accredit the same program for individual participants.
3. Programs not sponsored by a court. Individuals attending education programs not sponsored by a court may be granted credit hours, with approval from a supervisor and training coordinator, if the program is applicable to their position or fosters court-related career growth.
 4. Dual accreditation. Courses of at least two hours in duration may be accredited for two required areas, including ethics and core curricula.
 5. Non-facilitated learning. ~~An individual study program conducted without the aid of an instructor, facilitator, or active co-participants may be accredited with prior approval by a supervisor and training coordinator. An individual may receive up to eight credit hours in a calendar year for non-facilitated learning programs including~~ With prior approval of a supervisor and prior accreditation by a training coordinator, an individual may engage in non-facilitated learning consisting of one or more of the following:
 - a. Writing articles or other materials beyond the normal scope of the job position;
 - b. Watching video and listening to audio programs; and
 - c. Reading and evaluating a book, not to exceeding one-half credit hour for every 30 pages; ;
 - d. ~~eLearning programs; and~~
 - e. ~~Court-related visits, tours, observations of court proceedings and ride-along programs.~~
 6. through 9. [no changes]

F. and G. [no changes]

H. General Requirements for Compliance.

1. All full-time judges and court personnel governed by these standards shall complete at least sixteen credit hours of judicial education each year, including ethics training and at least six hours of live training.
2. through 6. [no changes]

I. through N. [no changes]

Adopted by Administrative Order 2006-120, effective January 1, 2007. Amended by Administrative Order 2008-06, effective January 23, 2008. Amended by Administrative Order 2011-38, effective March 30, 2011, with the exception of § 1-302(H)(4), which shall be effective January 1, 2012. Amended by Administrative Order 2012-60, effective July 31, 2012.

COMMITTEE ON SUPERIOR COURT

Date Action Required:	Type of Action Required:	Subject:
February 7, 2014	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	ACJA 7-206: CERTIFIED REPORTER

FROM: Certification and Licensing Division, Administrative Office of the Courts

PRESENTER: Mark Wilson, Certification and Licensing Division Director

DISCUSSION: As the Committee will remember, this topic was previously before the Committee during its November 2013 meeting. The Committee tabled the issue until this meeting so that a Task Force appointed by Chief Justice Berch could review the proposed changes and recommend to the Arizona Judicial Council a proposed course of action. Staff intends to present these issues to AJC at its March meeting.

For a number of years, contracting and third party contracting within the court reporting profession have been areas of debate. Concerns raised have focused on the business operations of court reporting firms and freelance certified reporters who accept deposition assignments through reporting firms. Complainants have asserted freelance reporters accepting certain reporting firm assignments are compromised by the reporting firm's relationships with law firms and insurance companies. Alleged misconduct has included partiality, transcript fee inequity, and perceived control issues regarding the prospective releases of confidential information during the production of the transcript and billing invoices.

The debate has been predominantly centered on means/methods surrounding the production of the transcript and not whether the resulting transcript is accurate, complete, and timely produced or that there was equity in the transcript costs billed to each party. The production, distribution and invoicing of transcripts appear to be handled consistently throughout the court reporting community, regardless of the nature of the case or the type of firm(s) involved.

The proposed amendments remove the contracting related provisions from the ACJA § 7-206 Code of Conduct, shifts focus to the efforts and accountability of certified reporters and the existing standards of ethics, impartiality, fairness, equity in billing/invoicing, and professionalism as the individual responsible for the veracity of the transcript and transcript related transactions and requires registration and applies the same code professional requirements to entities that provide reporting services. The proposed amendment seeks to recognize the existing production, distribution and billing practices which are customary throughout the profession and routinely involve firm related services and the use of other related services (i.e. scopists, proof readers, binders, delivery services, etc.) without outside influence.

The Board of Certified Reporters is continuing to formulate its position regarding the proposed amendments.

Chief Justice Berch appointed a Task Force chaired by Vice Chief Justice Bales to study the Supreme Court's regulation of certified reporters, staff's recommended code changes and to make recommendations to the Arizona Judicial Council concerning both. While at the time of drafting this cover sheet, the Task Force had not yet formed its recommendation, the current proposed code revisions are reflective of staff's present recommendation in light of the input staff has received from the Task Force, the regulated industry and other interested parties.

RECOMMENDED MOTION: The Committee on Superior Court recommends the Arizona Judicial Council support the proposed amendments of ACJA 7-206: Certified Reporter.

**Staff's Proposed Code Changes
January 26, 2014
Marked to Show Changes from Existing Code**

**ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-206: Certified Reporter**

A. Definitions. In addition to the definitions in ACJA § 7-201(A), the following definitions apply:

“Board” means “the board of certified reporters” as provided in A.R.S. § 32-4002(1).

“Certify” means “board authorization to engage in activities regulated by the board” as provided in A.R.S. § 32-4002(4).

“Certification” means “a standard certificate that is issued by the board to a person who meets the requirements of §§ 32-4021 and 32-4022 and does not include a temporary certificate” as provided in A.R.S. § 32-4002(2).

“Certified reporter” means “a person who is certified by the board and who records and transcribes a verbatim record in any sworn proceeding by means of written symbols or abbreviations in shorthand, machine writing or voice writing” as provided in A.R.S. § 32-4002(3).

“Chapter” means Title 32, Chapter 40, Board of Certified Reporters, Arizona Revised Statutes.

“Report” means “to stenographically or by voice writing record and transcribe sworn proceedings” as provided in A.R.S. § 32-4002(5).

“Temporary certificate” means a certificate that has been extended pursuant to Laws 1999, Ch. 335, § 3; Laws 2000, Ch. 41, § 13 and subsection G(4)(a).

“Registered reporting firm” means any individual or entity that is registered pursuant to this section and for compensation offers to provide or provides reporting services or related services but does not personally provide the service as a certified reporter.

“Voice writing” means “the making of a verbatim record of the spoken word by means of repeating words of the speaker into a device that is capable of digital translation into text” as provided in A.R.S. § 32-4002(6).

B. – F(2). [No Change]

(F)(3) Certification of Transcripts. Billings and Business Terms. As required by A.R.S. § 32-4003(B), “A certified reporter shall sign and certify each transcript that the certified reporter prepares before the transcript may be used in court, except for transcripts that the reporter prepares for proceedings that occurred before July 1, 2000.” Such certification shall provide that the certified reporter has complied with the ethical obligations set forth in (J)(1)(g)(1) and (2) and shall be in the form set forth in _____ . A certified reporter shall also certify each bill or invoice and said certification shall provide that all aspects of the bill and invoice and other business terms comply with (J)(1)(g)(3) through (6) and shall be in the form set forth in _____ . If a registered reporting firm provides any reporting services, the registered reporting firm must also provide the certifications set forth in this subsection (F)(3).

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F(4) – I [No Change]

J. Code of Conduct. The following code of conduct is adopted by the supreme court to apply to all certified reporters pursuant to Title 32, Chapter 40, Arizona Revised Statutes. The purpose of this code of conduct is to establish minimum standards for performance by certified reporters.

1. Ethics.

- a. A certified reporter shall avoid impropriety and the appearance of impropriety in all professional activities, shall respect and comply with the laws and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judicial system.
- b. A certified reporter shall exercise fairness and impartiality toward each participant in all aspects of reported proceedings and always offer to provide comparable service to all parties in a proceeding.
- c. A certified reporter shall have no personal or financial self-interest in the reporting of a proceeding and shall exercise caution to avoid any appearance of self-interest.
- d. A certified reporter shall be alert to situations that are conflicts of interest that may give the appearance of a conflict of interest or create an appearance of partiality.
- e. A certified reporter shall promptly make full disclosure to all parties or their representatives of any relationships which may give the appearance of a conflict of interest or partiality. Before transcribing a proceeding, a certified reporter shall disclose in writing to each party (i) the financial terms for any services that may be provided by the certified reporter or the registered reporting firm, (ii) any contractual relationship between the certified reporter or registered reporting firm and a party, attorney for a party or an individual or entity with a financial interest in the outcome of the litigation and (iii) the number of depositions or other reporting services performed by certified reporter or registered reporting firm for a party, attorney or attorney's law firm, or individual or entity with a financial interest in the outcome of litigation during the previous 12 months.
- f. A certified reporter shall refrain from knowingly making misleading, deceptive, untrue or fraudulent representations while in the practice of reporting. A certified reporter shall not engage in unethical or unprofessional conduct that is harmful or detrimental to the public in the practice of reporting. Proof of actual injury is not required.

g. xx. A certified reporter's or registered reporting firm's certification as required by (F)(3) means the reporter or registered reporting firm affirms the following:

- (1) The transcript is a full true and accurate record of the proceeding;
- (2) The preparation, production and distribution of the transcript and copies of the transcript comply with the Arizona Revised Statutes and the ACJA;
- (3) All billings and invoicing to all the parties related in any way to the reporting of the proceedings or cases and production of the transcript and any products or services ancillary thereto comply with the Arizona Revised Statutes and the ACJA;
- (4) All financial terms and other services have been offered on the same terms to all the parties to the litigation;
- (5) Each party was able to purchase the transcript and such ancillary services as requested by that party without regard to the ancillary services purchased by any other party.

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Deleted: A person holding a certificate under this section shall not enter into an employment, independent contractor, or agency relationship, which requires the certificate holder to: ¶
(1) Relinquish control in a manner that prevents the certificate holder's monitoring, oversight and review of the preparation, production and distribution of the transcript and copies of the transcript before it is certified and delivered to the custodial attorney; ¶
(2) Relinquish control in a manner that prevents the certificate holder's inspection and copying of records of charges, billings, and invoicing to all parties relating in any way to the reporting of the proceedings or cases and production of the transcript provided by the certificate holder and any products or services ancillary thereto; ¶
(3) Provide special financial terms or other services that are not offered at the same time and on the same terms to all other parties in the litigation; ¶
(4) Give any economic or other advantage to any party, or their attorney, representative, agent, or insurer; or ¶
(5) Expressly or impliedly requires the certificate holder reporting any proceeding or case to perform court reporting services in any other proceeding or case at a specific rate of compensation or compels, guarantees, regulates, or controls the use of particular court reporting services in other proceedings or cases. ¶

¶ This subsection shall not apply to contracts for certified reporting services for the courts, agencies, or instrumentalities of the United States or of the State of Arizona.

~~(6) No economic or other benefit was given by the certified reporter to any party or their attorney, representative, agent or insured that was not provided to other parties attorneys or insureds in the same case~~

h. A reporter shall not take a deposition if the certified reporter is:

- (1) A party to the action;
- (2) A relative, employee, or attorney of one of the parties;
- (3) Someone with a financial interest in the action or its outcome; or,
- (4) A relative, employee, or attorney of someone with a financial interest in the action or the outcome.

~~(5) in a contractual relationship, express or implied, with a person or entity that contracts for the provision of reporting services if said person or entity is not a party, attorney for a party to the action or registered reporting firm.~~

i. A judicial officer may declare a deposition void if a certified reporter with an association to a matter, as described in this subsection, takes a deposition.

j. The provisions of section 7-206 may not be waived by disclosure, agreement, stipulation, or otherwise.

~~k. A certified reporter or registered reporting firm shall not provide to any individual or entity a service or product that is not regulated pursuant to A.R.S. § 32- 4001 et. seq. or this section.~~

2. Professionalism.

a. A certified reporter shall ~~ensure~~ the confidentiality and ~~the security of information, verbal or written, entrusted to the certified reporter by the court or any of the parties in the proceeding, is preserved. If the certified reporter uses a third party for any aspect of the preparation, production, distribution or storage of a transcript, the certified reporter shall ensure that the third party maintains the confidentiality and security of the information. The certified reporter may release the transcript to the witness, a party and the witness' or party's attorneys.~~

b. A certified reporter shall be truthful and accurate when advertising or representing the certified reporter's qualifications, skills, abilities, or the services provided.

c. A certified reporter shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.

d. A certified reporter shall keep abreast of current literature, technological advances and developments and shall fulfill ongoing training requirements to maintain professionalism.

e. As part of the judicial department's commitment to the principle of access to justice for all and the integral role of certified reporters, certified reporters are encouraged to provide pro bono services, when requested through qualified legal assistance organizations providing free legal services to the indigent. Certified reporters providing pro bono services pursuant to this subsection shall disclose the pro bono services to all parties in the case.

3. Fees and Services.

a. Except as provided in subsection (J)(2)(e), a certified reporter shall charge all parties or their attorneys in the same action the same price for an initial copy of a transcript. Additional copies purchased by the same ordering party may be charged at a reduced rate provided disclosure is made to all parties involved in the case and the same reduced rate for additional copies is provided to all parties involved in the case. Each party shall be treated as an individual party to the action and is required to purchase an initial copy at the same rate provided to all parties requesting a copy in the same action before they may

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Deleted: For the purposes of this subparagraph, "employee" or "relative" shall not include an employee or relative of the attorney or one of the parties. ¶
(5) An "employee" includes a person who has a continuing contractual relationship, express or implied, with a person or entity interested in the outcome of the litigation, including anyone who may have ultimate responsibility for payment to provide reporting or other court services, and a person who is employed part-time or full-time under contract or otherwise by a person who has a contractual relationship with a party to provide reporting or other court services.

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obtain additional copies at a reduced rate. A certified reporter may provide services on a pro bono basis as provided in this section. b. A certified reporter shall ~~comply with the provisions of (J)(1)(e) and shall only receive compensation for those services for which all parties or their attorneys received a written itemized invoice of all rates and charges. The invoice shall be deemed provided if it is mailed or delivered to the most current address provided by a party or their attorney.~~ A certified reporter shall maintain an accurate account of services rendered and provide copies of invoices upon the request of the board or division staff.

- c. A certified reporter shall ~~not enter into an agreement concerning fees that is unlawful or inconsistent with this code section.~~
- d. A certified reporter must charge at least 60 percent more for the original transcript than the certified reporter charges for any copy. The charge for the original transcript includes any per diem paid for the certified reporters appearance.
- e. A certified reporter shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to:
 - (1) Establishing contingent fees as a basis of compensation;
 - (2) Directly or indirectly receiving of any gift, incentive, reward, or anything of value as a condition of the performance of professional services;
 - (3) Directly or indirectly offering to pay any commission or other consideration in order to secure professional assignments;
 - (4) Directly or indirectly giving, for the benefit of employment, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing, except for:
 - (a) Nominal items that do not exceed \$25.00 per transaction and \$100.00 in the aggregate per recipient each year; and
 - (b) Pro bono services; and

(5) Entering into any written or verbal financial relationship with counsel, parties of interest or their intermediaries that ~~would require a certified reporter to violate any provision of this code section.~~

(f) Nothing in this section shall prohibit a certified reporter from requiring a witness, party or the witness' or party's attorney to pay for a transcript prior to delivery of the transcript, if the certified reporter can demonstrate that the witness, party or the witness' or party's attorney has a history of failure to timely pay for a transcript once delivered.

(g) A certified reporter shall not report any proceedings regulated by this section if upon disclosure pursuant to (J)(1)(e), the party or parties that did not retain the registered reporting firm and/or certified reporter makes a written objection delivered to all other parties that the registered reporting firm or certified reporter cost of services materially exceeds that which is normal and customary or that the registered reporting firm and/or certified reporter is not impartial because of a contractual or repetitive services relationship disclosed pursuant to (J)(1)(e).

4. Skills and Practice.

- a. A certified reporter shall take full and accurate stenographic or voice written notes of any proceeding and shall not wilfully alter the notes.

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Deleted: , upon request at any time, disclose in writing an itemization of all rates and charges to all parties or their attorneys, or to division staff.

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Deleted: (a) Undermines the actual or perceived impartiality of the certified reporter; or ¶
(b) Does not provide or offer any private party of interest comparable reporting services in the same proceedings.¶

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- b. A certified reporter shall accurately transcribe verbatim any stenographic or voice written notes taken at any proceeding and shall not wilfully alter the transcript.
- c. A certified reporter shall provide a transcript to a client or court in a timely manner. The certified reporter shall meet promised delivery dates and make timely delivery of transcripts when no date is specified. A certified reporter shall meet transcript preparation deadlines in accordance with rules, statutes, court orders, or agreements with the parties. A certified reporter shall provide immediate notification of delays.
- d. A certified reporter shall not go “*off the record*” during a deposition or court proceeding unless agreed to by all parties or their attorneys or ordered by the court.
- e. A certified reporter shall accept only those assignments for which the reporter’s level of competence will result in the preparation of an accurate transcript. The certified reporter shall decline an assignment when the reporter’s abilities are inadequate.
- f. A certified reporter shall prepare the record in accordance with applicable laws, rules or court order.
- g. A certified reporter shall preserve the stenographic or voice written notes in accordance with Arizona laws, federal laws and the Arizona Rules of Court.

5. Official Reporters.

- a. An official reporter may engage in freelance reporting duties only if the following criteria are met:
 - (1) The presiding superior court judge or designee has given express authorization; the reporter’s official work is up to date and there are no transcripts the reporter is preparing in which a court has granted an extension of time; and
 - (2) The presiding superior court judge or designee has authorized the reporter to take annual leave during the time the freelance work is scheduled unless:
 - (a) The freelance work is scheduled during hours the court is not open for business; or
 - (b) The presiding superior court judge or designee has granted the reporter time off in compensation for overtime previously worked.
- b. A certified reporter shall never purport to speak or act for a judge regarding judicial matters.
- c. A certified reporter shall not express an opinion as to how a case should be decided or what verdict a jury will return.

6. Performance in Accordance with Law.

- a. A certified reporter shall perform all duties and discharge all obligations in accordance with applicable laws, rules or court orders.
- b. A certified reporter shall perform the duties of the profession using only the method of reporting the applicant used to obtain certification.

K. Fee Schedule

~~1-4~~ [No Change]

5. Registered reporting firm Registration Fees.

- a. Initial Registration \$100.00
- b. Renewal Registration \$ 50.00

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L. [No Change]

M. Transcript Format Standards. Transcripts filed by certified reporters in courts in the state of Arizona shall conform to the following standards:

1. Applicability. Each transcript prepared by a certified reporter shall consist of the following pages:
 - a. Title page;
 - b. Table of contents and index page;
 - c. Appearance page; and
 - d. Certificate page.
2. Title Page.
 - a. Court Proceedings. The title page shall contain:
 - (1) Case caption;
 - (2) The type of proceedings: grand jury, jury trial, type of motion, etc.;
 - (3) The date of proceedings;
 - (4) The city and state where the proceedings were held;
 - (5) The name of the judicial officer;
 - (6) The name of the certified reporter, title (“certified reporter” or “CR”) and certificate number;
 - (7) A clear indication that a transcript is a partial transcript or excerpt; and
 - (8) Other applicable information.
 - b. Depositions and Other Non-court Proceedings. The title page shall contain:
 - (1) Case caption;
 - (2) The type of proceedings: deposition, sworn statement, unsworn statement, etc.;
 - (3) The date of the proceedings;
 - (4) The city and state where the proceedings were held;
 - (5) The name of the certified reporter, title (“certified reporter” or “CR”) and certificate number; and
 - (6) Other applicable information: excerpts, volume number.
 - c. Index Page.
 - (1) Court Proceedings. The index page, if applicable shall:
 - (a) Begin on a separate page;
 - (b) Show each witness name typed on the index page as it appears in the transcript: middle initial, no middle initial, full name, Jr., etc.;
 - (c) Indicate for each witness the page numbers of direct, cross, and redirect examination, etc.;
 - (d) Show other important events and the page number they occur: jury selection, opening statements, closing arguments, verdict, etc.; and
 - (e) Identify when exhibits are marked or introduced, admitted or excluded.
 - (2) Depositions and Other Non-court Proceedings. The index page shall:
 - (a) Begin on a separate page;
 - (b) Show the witness name typed on the index page as it appears in the transcript: middle initial, no middle initial, full name, Jr., etc.;
 - (c) Indicate for each witness the page numbers of examination by each attorney or party;
 - (d) Show other important events and the page number they occur; and
 - (e) Identify when exhibits are marked or identified.

d. Appearance Page.

- (1) Court Proceedings. The appearance page shall:
 - (a) Begin on a separate page;
 - (b) Indicate the name of the attorneys and which party they represent. Attorney addresses may be included;
 - (c) Indicate parties appearing in propria persona; and
 - (d) Indicate the names of the grand jurors present.
- (2) Depositions and Other Non-Court Proceedings. The appearance page shall:
 - (a) Begin on a separate page;
 - (b) Identify the location where proceedings took place;
 - (c) Indicate the time the proceedings began;
 - (d) Indicate the name and address of the attorneys and which party they represent;
 - (e) Indicate parties appearing in propria persona; and
 - (f) Indicate all other individuals present in the room during the proceedings: videographers, interpreters, etc.

e. Certificate Page.

- (1) Court Proceedings. The certificate page shall:
 - (a) Begin on a separate page;
 - (b) Contain language indicating the transcript is a full, true and accurate record of the proceeding;
 - (c) Be signed and dated by the certified reporter; and
 - (d) Include the reporter's certificate number.
- (2) Depositions and Other Non-Court Proceedings. The certificate page shall:
 - (a) Begin on a separate page;
 - (b) Contain language indicating the transcript is a full, true and accurate record of the proceeding;
 - (c) Contain language indicating the reporter administered an oath or affirmation to each witness whose testimony appears in the transcript pursuant to A.R.S. § 41-324(B);
 - (d) Be signed and dated by the certified reporter;
 - (e) Include the reporter's certificate number; and
 - (f) Indicate whether the witness has requested signature, not requested signature or waived signature.

f. Transcript Formatting. All transcripts shall:

- (1) Contain 25 numbered lines of text on each page of the body of the transcript text with the exception of the last page. One blank line may be left before transitional events or headings, for example, a witness set-up paragraph or "examination," to ensure readability;
- (2) Contain page numbers at the upper right-hand corner. The page number does not count as a line;
- (3) Unless otherwise requested, begin at page one for each day of proceedings, even in multiple-day proceedings;
- (4) Contain total combined margins of text not to exceed 2 and 1/8 inches. The left-hand margin is measured from the left edge of the paper to the first character of text. The right-hand margin is measured from the right edge of the paper to the last character of text;
- (5) Use letter character size of no fewer than nine or ten characters to the inch;
- (6) Be double spaced in the body of the transcript;

- (7) Begin Question and Answer (“Q and A”) designations no more than five spaces from the left-hand margin;
 - (8) Begin text following Q and A designations at no more than ten spaces from the left-hand margin, with carryover Q and A lines beginning at the left-hand margin;
 - (9) Begin speaker identification for colloquy at no more than fifteen spaces from the left-hand margin, with carryover colloquy beginning at the left-hand margin;
 - (10) Begin quoted material no more than fifteen spaces from the left-hand margin, with carryover lines beginning no more than ten spaces from the left-hand margin;
 - (11) Begin parentheticals and exhibit markings no more than fifteen spaces from the left-hand margin, with carryover lines beginning at the left-hand margin; and
 - (12) Be bound in a professional manner.
- g. Rough Drafts. An uncertified rough draft transcript shall not include a title page, appearance page, certificate page, any mention of the swearing in of a witness, footer with firm name or reporter name or CR number, index page, page numbers, line numbers, borders around the text on each page, or time stamping.
- (1) An uncertified rough draft transcript shall include a header or footer on each page stating “UNCERTIFIED UNEDITED ROUGH DRAFT TRANSCRIPT.” The phrase “UNCERTIFIED UNEDITED ROUGH DRAFT TRANSCRIPT” shall be included in the body of the text occasionally.
 - (2) In lieu of a title page, each rough draft shall begin with a disclaimer stating the uncertified rough draft transcript cannot be quoted in any pleading or for any other purpose and may not be filed with any court. The disclaimer shall contain a brief identification of the contents, for example, John Smith deposition, 6/17/06. The certified reporter should keep a copy of the disclaimer

N. A registered reporting firm that employs or contracts with a certified reporter to provide to a third party services regulated pursuant to A.R.S. § 32-4001 et. seq. or this section must be registered with the division in accordance with the provisions of this section.

- 1. A registered reporting firm shall register with the division by providing to the division on a form approved by the division director the following information:
 - a. Name
 - b. Address
 - c. Telephone Number
 - d. Email Address
 - e. Contact Individual, including name, address, telephone number and email address.
- 2. Before the registration is effective:
 - a. The registered reporting firm shall certify, on a form acceptable to division director, that the registered reporting firm agrees to comply with the provisions of ACJA § 7-201 and this section in the same manner in which it would need to comply if it were a certified reporter.
 - b. The registered reporting firm shall agree to submit to the jurisdiction of the Supreme Court to the extent it has performed activities that if performed by a certified reporter would be regulated by this section.

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c. The registered reporting firm shall pay the fee set forth in Paragraph K.

3. A registered reporting firm registration expires on the January 31st following the fifth anniversary of its issuance and may be renewed by filing a renewal application on a form acceptable to the division director that provides the information and certifications set forth in subparagraphs 1 and 2 of this paragraph.

4. A registered reporting firm that contracts with or employees a certified reporter to perform reporting services for a third party shall ensure that in the performance of those duties the certified reporter adheres to the provisions of this Section.

5. A registered reporting firm that fails to comply with its obligations as set forth in this paragraph may have its registration revoked, suspended or the registered reporting firm may receive such other discipline as a certified reporter may receive upon a finding by the Board that the registered reporting firm violated the provisions of this paragraph.

O. A registered reporting firm that contracts to provide services regulated by A.R.S. § 32-4001 *et. seq.* or this section must ensure that the services are performed in the same manner as if the registered reporting firm was a certified reporter. Further, the registered reporting firm is responsible for ensuring that the certified reporter, its employees or agents perform the reporting services in a manner that complies with A.R.S. § 32-4001 *et. seq.* and this section.

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P. A certified reporter employed by or contracting with a registered reporting firm may assert as a defense to any disciplinary action that the alleged violation was caused by the registered reporting firm, if the certified reporter can demonstrate that the certified reporter made reasonable inquiry and could not have reasonably known of facts or actions that caused the violation. Nothing in this subsection (P) releases the registered reporting firm from any responsibility for compiling with and assuring the certified reporter complies with the provisions of ACJA § 7-201 and this section

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COMMITTEE ON SUPERIOR COURT

Date Action Required:	Type of Action Required:	Subject:
None	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	JUDICIAL COLLEGE OF ARIZONA

FROM: Judicial College of Arizona

PRESENTER: Paul Julien

DISCUSSION: Statewide broadcast of new rules of procedure regarding civil case management, GNJO 2014, and other Judicial College programs

RECOMMENDED MOTION: None

COMMITTEE ON SUPERIOR COURT

Date Action Required:	Type of Action Required:	Subject:
February 7, 2014	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	2014 RULES UPDATE

FROM: Court Services Division

PRESENTER: Mark Meltzer

DISCUSSION: This is a presentation on Rule 28 petitions that were filed in the 2014 rules cycle and which may be of interest to committee members.

RECOMMENDED MOTION: Information only.

2014 Rule Petitions
Petitions of Interest to COSC

This summary excludes a number of petitions on attorney admissions, attorney ethics and the practice of law, and petitions continued from the previous rules cycle.

The comment deadline for these rule petitions is May 20, 2014, unless otherwise noted.

Petition Number and Petitioner	Rule	Summary
CIVIL PROCEDURE		
R-13-0042 AZ Assn of Justice	Civil 26(b)(4)(C)	This rule petition is a response to Sanchez v. Gama, 1 CA-SA 13-0072 (Div. 1, Aug. 20, 2013). The proposed revision would clarify that a witness who provided medical care to a party is an expert, and as such, the witness would be entitled to a reasonable fee for his or her testimony.
R-13-0044 AZ Assn of Justice	Civil 67	The proposed amendments would delete Rule 67 sections (d), (e), and (f). These sections allow the court, upon defendant's motion, to require a plaintiff who does not own property in Arizona to post security for costs. These sections also provide a process for a plaintiff to prove an inability to post security.
R-13-0052 State Bar	Civil 53 (a) and (b)	This petition states that the current rule does not include guidance for appointment of a master over the objection of a party. The proposed rule amendments would fill that gap by allowing an opportunity for objection and a hearing on the objection.
R-13-0053 State Bar	Civil 55(b)(1)	The proposed amendment includes this proposed comment: "The amendment to Rule 55(b)(1) is intended to resolve the conflict between <i>BYS Inc. v. Smoudi</i> , 228 Ariz. 573, 269 P.3d 1197 (App. 2012) and <i>Searchtoppers.com, L.L.C. v. TrustCash, L.L.C.</i> , 231 Ariz. 236, 293 P.3d 512 (App. 2012), by clarifying the rule consistent with the interpretation in the latter case, which held that a defendant who has been defaulted for failure to appear in a case that claims a sum certain, but who makes a post-default appearance, is not entitled to notice and a hearing before judgment may be entered."
R-13-0061 AZ Foundation	Civil 23	The proposed rule amendment would require distribution to the Arizona Bar Foundation of at least 50% of "residual funds" in a class action, which would use the funds for providing legal services and access to justice for low-income residents of Arizona.

2014 Rule Petitions
COSC: February 4, 2014

R-14-0001 Judge G Anagnost	Civil 64.1	This petition requests amendments to Rule 64.1 that would (a) allow service of a civil arrest warrant 24-hours a day; and (b) bring rule warrants (Rules 3.1 and 26.12) within the provisions of Rule 64.1.
R-14-0003 AOC	Civil 5(c)(2) Civil 6(e)	The proposed amendments would authorize attorneys and unrepresented litigants to electronically serve pleadings and other documents on attorneys of record through electronic filing systems at the same time that they e-file documents with the court. A party serving a document under the proposed amendment to Rule 5(c)(2) would not be required to confirm that the receiving party has already consented in writing to receive documents electronically. As proposed in the amendment to Rule 6(e), a party served through an electronic service provider under the new 5(c)(2)(E) would also have the five extra days to respond currently provided by Rule 6(e) for a party who is served by mail or by direct e-mail.
R-14-0013 Judge N Davis	Civil 64.1 <u>Also:</u> ARFLP 94	To conform to other rules concerning warrants, this petition requests the following change to Rule 64.1: “The civil arrest warrant shall be ordered by the judge and issued by the <u>court clerk</u> .”
CRIMINAL PROCEDURE		
Petition Number and Petitioner	Rule	Summary
R-13-0004 State Bar	Criminal 15.8	This petition, originally filed in January 2013, would authorize the imposition of sanctions for a prosecutor's failure to disclose material information to a defendant prior to withdrawal of a plea. The Court continued the petition for further study at its August 2013 rules agenda. In November 2013, the Court adopted modified amendments to Rule 15.8 , on an emergency basis. However, in light of these modifications, the Court re-opened the matter for comment. Comments are due on May 20, 2014.
R-13-0031 Yavapai Pub Def	Criminal 12.10	Criminal Rule 14.1(d) allows the presiding judge of a county to issue an order that the superior court will not hold arraignments in felony cases. It appears that Yavapai is the only county to do so. The petition contends that in this circumstance, Criminal Rule 12.10(a) would apply, which would require defendant's appearance before a magistrate; but Rule 12.10(a) does not provide a time for this to occur. The petition asks for an amendment to Rule 12.10(a) that would require the defendant's appearance before a magistrate within ten days of the return of an indictment.

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R-13-0050 Staff Attorneys	Criminal 31.17(c)(1)	Rule 31.17(c)(1) directs the Court to issue an execution warrant upon its denial of a petition for review in a first PCR proceeding. The issuance of the warrant requires the Court to serve a multiplicity of notices. Customarily, however, a federal court within days will stay the execution, and the Court must then recall or cancel the notices. The proposed amendment would avoid the unnecessary issuance of a warrant of execution for those petitioners who initiate habeas corpus proceedings in the federal district court within fifteen days of the date the Court denies the petition for review.
R-14-0004 B Halpern	Criminal 31.24	Please see the discussion of this petition under the Supreme Court Rules, <u>infra</u> .
R-14-0005 Maricopa Cty Atty	Criminal 24.2	In November 2013, the Court issued order R-11-0033 and amendments to ER 3.8 and ER 3.10. Petitioner here submits that while ER 3.8(h) requires a prosecutor to take appropriate steps to set aside a conviction of an innocent defendant, the Rules of Criminal Procedure do not provide a specific mechanism for the prosecutor to comply. Petitioner notes that Rule 24.2 requires action to vacate a judgment of conviction within 60 days after the entry of judgment, whereas the Ethical Rules contemplate action years after a conviction. The proposed amendment to Rule 24.2 would permit the State to file a motion to vacate “at any time” after the entry of judgment and sentence.
R-14-0006 Maricopa Cty Atty	Criminal 12.5	Currently, when a witness under examination before a grand jury is in custody, the prosecutor files a motion with the court to permit a law enforcement officer or detention officer to accompany the in-custody witness during the grand jury session, and to allow the officer to maintain secure custody of the witness. This proposed modification to Rule 12.5 would allow the attendance of an officer in these circumstances without the need for additional motions and court orders. The proposed amendments provide that the admonitions would apply to the officer.
R-14-0007 Maricopa Cty Atty	Criminal 32.12	A.R.S. §13-4240 gives convicted felons an opportunity to petition the court for DNA testing of evidence. The intent of this proposed new rule is to establish a procedure for the court and parties to follow upon the making of a request, and to incorporate the Supreme Court’s holding in <i>State v. Gutierrez</i> , 229 Ariz. 573 278 P.3d 1276 (2012) regarding post-conviction hearings involving DNA testing.

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R-14-0008 Maricopa Cty Atty	Criminal 23.5	To protect jurors from contact after the case has concluded, the Maricopa County Attorney proposes the adoption of a new rule of criminal procedure that would prohibit any party from contacting jurors outside the courthouse after the conclusion of a case, absent a showing of good cause and with the permission of the court. (<u>Note</u> : The federal District of Arizona already has a similar rule, LR Civil 39.2.)
R-14-0010 AZ Atty Gen	Criminal 31.2, 31.4, 31.13, 32.4, & 32.9	This petition requests that a post-conviction proceeding in a capital case precede the direct appeal. The petition in part is in response to <i>Martinez v. Ryan</i> , 132 S. Ct. 1309 (2012). This petition has a modified comment schedule and deadlines as follows: Initial comments: April 15, 2014; Amended petition: May 20, 2014; Additional comments: June 13, 2014; Petitioner's reply: July 7, 2014
R-14-0012 Judge J Welty	Criminal 32.4	This petition addresses <i>Stout v Mohave County</i> , 233 Ariz. 275, 311 P.3d 1088 (October 2013), which held that a defendant filing an "of-right" petition for post-conviction relief was entitled to "transcripts" pursuant to Criminal Rule 32.4(d), and that "transcripts did not include "electronic recordings." This proposed amendment would allow the court to provide electronic recordings, rather than written transcripts, in post-conviction relief proceedings.
R-14-0014 Judge J Welty	Criminal 2.3	This petition notes that Rule 2.3(a), which was drafted in 1975 (long before electronic filing came into existence), requires "an oath before a magistrate," and requires a law enforcement officer to appear before a magistrate to take the oath. The proposed amendment would add the following language to the rule: "In any complaint, an electronic oath or an affidavit containing an electronic signature of a law enforcement officer or law enforcement agency representative shall satisfy the constitutional requirement that the complaint be made under oath, provided that such electronic oath or signature is made under penalty of perjury."
RULES OF EVIDENCE		
Petition Number and Petitioner	Rule	Summary
R-14-0002 Advisory Cte, AZ R Evidence	Evidence 801(d)(1)(B) 803 (6)-(8)	These proposed amendments concern the trustworthiness clauses of Rule 803(6)-(8) — the hearsay exceptions for business records, absence of business records, and public records. Those exceptions in original form set forth admissibility requirements and then provide that a record meeting those requirements is admissible despite the fact it is hearsay "unless the source of information or the method or

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		<p>circumstances of preparation indicate lack of trustworthiness.” However, the exceptions do not specifically state which party has the burden of showing trustworthiness or untrustworthiness. The proposed amendments clarify that the <i>opponent</i> has the burden of showing that the proffered record is untrustworthy.</p> <p><u>Note:</u> The sources of these amendments are proposed amendments to corresponding Federal Rules of Evidence. Petitioner recognizes that the proposed amendments to Federal Rules of Evidence 803(6)-(8) are pending adoption by SCOTUS, and Petitioner’s recommendation is conditional on final adoption of the proposed federal amendments.</p>
RULES OF THE SUPREME COURT		
Petition Number and Petitioner	Rule	Summary
R-14-0004 B Halpern	SCR 111 <u>Also:</u> ARCAP 28 & Criminal 31.24	This petition proposes amendments that would allow citation to unpublished decisions for their persuasive value, with appropriate notice to the court and parties. The proposed amendments to the rules would provide that unpublished decisions are non-precedential and non-binding.
RULES OF FAMILY LAW PROCEDURE		
Petition Number and Petitioner	Rule	Summary
R-13-0054 State Bar	Family 12	<p>The petition states:</p> <p>“The proposed rule change [sub-section A] first clarifies that any request for an <i>in camera</i> child interview must be submitted by written motion. Second, the court may seal the interview from public access if doing so will serve the child’s best interests. Third, the parties may stipulate to shield the results of the interview from their own review, but a record must be made of the interview nonetheless. Fourth, the court must make this record available to the parties at least 14 days before the hearing in which the child’s comments will be considered, unless it adopts a different deadline for good cause.</p> <p>“New subsection (B) cautions an interviewing judge in several respects. The court must ‘take special care to protect the child from embarrassment,’ avoid repetitive or age-inappropriate questions, and honestly disclose the limits on confidentiality. The court must also allow the child to express a point of view, but not require one, and reassure the child</p>

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		<p>that any opinion he or she does offer will not actually decide the case.”</p> <p>A proposed comment would in part provide: “Generally, the court should not conduct an <i>in camera</i> interview of a child under this rule unless it finds that the child is of sufficient age and intellectual capacity to reason and form an intelligent preference as to legal decision-making and parenting time. The court is strongly encouraged to utilize other resources, where available and appropriate, to ascertain that preference. In particular, a court should proceed with caution when interviewing a child in any case in which a party has alleged ‘domestic violence’....”</p>
<p>R-13-0055 State Bar</p>	<p>Family 35(D), 82(B), 83, & 84</p>	<p>The petition states:</p> <p>“All of these rules as written are overlapping in their scope, a fact that has led to confusion and a certain degree of redundancy in their application. The resulting procedural confusion can have profound implications, particularly for the <i>pro se</i> litigant, since failure to invoke the proper procedural rule can lead to an inadvertent waiver of the right to appeal.”</p> <p>The petition proposes:</p> <ol style="list-style-type: none"> 1. Essentially to delete Rule 35(D), and to simply refer parties who are interested in filing a motion for reconsideration (or clarification) to revised Rule 84. 2. A complete rewrite of Rule 84 to exclusively address motions for reconsideration and/or clarification and to make clear that motions under revised Rule 84 do not extend the time for filing an appeal from the court ruling at issue. The proposal would also consolidate the language of current Rule 84 regarding alterations or amendments to court rulings with revised Rule 83. 3. To consolidate current Rules 83 (motions for new trial) and 84 (motions to alter or amend) into one rule governing both types of motions. Motions filed under revised Rule 83 would extend the time for filing an appeal, which the Bar believes is consistent with the current practice for Rules 83 and 84 in their present form. 4. To revise Rule 82(B) (amendments to findings of fact) so that it complies with the revisions made to Rules 83 and 84.

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R-13-0056 State Bar	Family 47	The proposed changes would conform this rule to statutory amendments, including the requirement for an evidentiary hearing within 60 days after the filing of a pre-decree motion for temporary orders in a legal decision-making or parenting time action.
R-13-0057 State Bar	Family 67	The petition would correct erroneous references to subsections of the rule.
R-13-0058 State Bar	Family 74	The proposed amendment would add "choice of schools" to the list of issues on which a parenting coordinator may make recommendations to the court.
R-13-0059 State Bar	Family 97	The petition requests amendments to interrogatories in Form 7 dealing with employment, legal decision-making, and spousal affidavits and inventories.
OTHER RULE PETITIONS THAT MAY BE OF INTEREST		
Petition Number and Petitioner	Rule	Summary
R-13-0030 C Jensen	SCR 42, ER 1.15	The problem perceived by this petition "is that many lawyers simply do not consider the resolution of third party claims against the client's recovery to be much more than a discretionary burden, rather than an important and necessary duty as well as an opportunity to obtain more of a net recovery for the injured or otherwise damaged client." The petition proposes an amendment to ER 1.15, or a comment to this ethical rule, to clarify the duty.
R-13-0047 State Bar	RPEA 9.1	The proposed rule would permit a change of judge as a matter of right or for cause in an eviction action in a Justice Court.
R-13-0049 Commission on Judicial Conduct	Commission Rules 9, 17, & 18	The petition notes that the only "informal" sanction currently available to the Commission is a public reprimand. The petition therefore proposes a new and confidential "admonition" sanction limited to those cases where the conduct at issue is an unintentional or technical violation of the Code; the judge has not previously received a disciplinary sanction for similar misconduct; and the judge has not received a disciplinary sanction for any reason within the previous two years.
R-14-0009 Presiding Disciplinary Judge	SCR 60 or, alternatively, SCR 64 & 65	The petition notes, "Arizona is one of a majority of states that permits the reinstatement of lawyers who have been disbarred.... Notwithstanding, there are multiple states that preclude reinstatement after disbarment."

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		<p>The petition then states:</p> <p>“The proposed amendments to rules regarding disbarment are offered as alternate proposals to initiate a fuller discussion regarding the sanction of disbarment arising out of Rule 58, discipline matters. The amendment offers discussion points for alternative changes to the reinstatement process for disbarred lawyers. In a discipline system intended to be more transparent to the public, clear terminology gives greater clarity to the nature of a disbarment order. One alternative offers permanent disbarment without the opportunity for reinstatement. The other offers permanent disbarment as an additional sanction. There is no suggestion nor does the applicant suggest that in the event of approval of either of these alternatives or a modified alternative that the changes be applied retroactively to those members presently disbarred. If disbarment is permanent or modified it should only apply prospectively, not retroactively.”</p>
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COMMITTEE ON SUPERIOR COURT

Date Action Required:	Type of Action Required:	Subject:
February 7, 2014	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	ACJA § 6-208 USE OF CONDUCTED ELECTRICAL WEAPONS

FROM: Kathy Waters, Adult Probation Services Division

PRESENTER: Kathy Waters, Director

DISCUSSION: New code section proposal would allow departments to authorize armed officers assigned to a fugitive apprehension unit, warrants team, or on special assignment to effect an arrest to carry a conducted electrical weapon. The Staff Safety Advisory Committee, a subcommittee of the Committee on Probation, is currently working on a Model Policy as an appendix to this code section.

RECOMMENDED MOTION: Approve as written

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-208: Use of Conducted Electrical Weapons

A. Definitions. In this section, unless otherwise specified, the following definitions apply:

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

“Certified Conducted Electrical Weapon instructor” means an individual trained and certified in accordance with manufacturer standards and approved by the Administrative Office of the Courts.

“Conducted Electrical Weapon” means a device using propelled wires that transmit electrical pulses to override the central nervous system and control the skeletal muscles, causing immediate incapacitation.

“Officer” means both adult probation and surveillance officers.

“On duty” means the time period during which the officer performs probation duties or functioning at the direction of the probation department.

B. Applicability. An officer of a probation department with the authority of a peace officer pursuant to A.R.S. §§ 12-253, 13-916, and Arizona Code of Judicial Administration (ACJA) § 6-105.01, may carry and use a Conducted Electrical Weapon (CEW) while on duty and while performing warrants duties or planned arrests and if authorized by the chief probation officer and under the conditions specified in this code section.

C. Purpose. This code section establishes the protocol for the use of CEWs and governs the administration and authority of an officer to use a CEW for purposes of arrest and officer safety while on duty.

D. General Policy.

1. The chief probation officer may designate an officer to carry a CEW if the officer meets the following criteria:
 - a. Be authorized to carry a firearm, pursuant to ACJA § 6-113;
 - b. Carry the department issued firearm while carrying the CEW;
 - c. Has completed CEW training based on the CEW manufacturer specifications and delivered by a certified CEW instructor; and

- d. Be assigned to a specialized warrant unit or be on special assignment to perform warrant duties or conduct planned arrests.
2. The chief probation officer shall determine when an officer authorized to carry a CEW is restricted from carrying the CEW in the performance of certain duties.
3. The chief probation officer may require certain job assignments are staffed by an authorized CEW officer.
4. The chief probation officer shall not order an officer to carry a CEW.
5. Officers shall not carry a non-department issued CEW on their person, at their job location or in their vehicle, while on official business except with prior approval and authorization of the chief probation officer.
6. Authorized officers shall carry their CEW in a department-issued holster, which will be carried on their duty belt on the opposite side of the officer's department issued firearm or on a tactical vest.

E. Request for Authorization to Carry CEW.

1. An officer seeking authorization to carry a CEW or attend CEW training shall submit a written request to the chief probation officer.
2. The chief probation officer shall confirm and document, prior to granting authorization, that the requesting officer is:
 - a. Authorized to carry a firearm pursuant to ACJA § 6-113;
 - b. In compliance with the required CEW training; and
 - c. Assigned to a specialized warrant or arrest unit or on special assignment to perform warrant duties or conduct planned arrests.

F. Required CEW Training and Instructor Certification.

1. CEW training shall be delivered by a certified CEW instructor using only the Administrative Office of the Courts (AOC) approved CEW manufacturer's curriculum.
2. An officer may become a certified CEW instructor by:
 - a. Completing CEW manufacturer's instructor training course.
 - b. Submitting a written endorsement from their chief probation officer to become certified as an instructor.

- c. Receiving written confirmation from the AOC that the officer meets all certified CEW instructor criteria.
- d. Maintaining CEW manufacturer's criteria for instructor recertification.

G. Procedures for Authorization, Denial, Temporary Suspension or Revocation.

1. The chief probation officer shall deny, revoke or temporarily suspend authorization to carry a CEW if an officer meets any of the conditions specified in ACJA § 6-113(G).
2. The chief probation officer shall approve or disapprove the request to carry a CEW in writing within 30 days after the officer satisfactorily completes all requirements stated in subsection (E)(2).
3. The chief probation officer shall provide written reasons for denial, temporary suspension, or revocation to the officer and a copy of the approval, denial, temporary suspension, or revocation shall be kept on file.
4. The chief probation officer or designee shall place the original request and the approval or reasons for denial, temporary suspension, or revocation in the officer's personnel file and provide copies to the officer, and to the officer's supervisor.
5. All screening and testing records shall be maintained in the officer's personnel file and remain confidential as required by law.
6. The presiding judge shall hear all appeals to the denial, temporary suspension, or revocation and the judicial decision is final and not appealable.
7. An officer may submit a written request to the chief probation officer for reinstatement after one year. The officer shall clearly state the reasons for reinstatement of the authorization. The presiding judge or judicial designee shall hear all appeals to the denial of reinstatement.

H. Authorization.

1. An officer granted authorization to carry a CEW shall acknowledge and sign an authorization document indicating the officer understands the terms and conditions of this code and any department policy regarding CEW use. This includes all laws relating to the use of force.
2. An authorized CEW officer failing to comply with regulations and limitations is subject to disciplinary action and loss of CEW authorization.
3. An authorized CEW officer shall successfully complete regular re-qualification and participate in all required practice sessions.

I. Restrictions for Carrying CEWs. An authorized CEW officer is prohibited from carrying a department issued CEW under the following conditions:

1. While in a condition resulting from the use of alcohol or medication where the officer's motor skills, reflexes, or judgment could be adversely affected or while displaying evidence of mental or emotional instability;
2. While injured or in a physical condition causing inability to use a CEW properly, for example, broken hand or an eye injury causing uncorrected impaired vision. This is not intended to limit an authorized officer's ability to defend oneself during the incident or others when injuries are incurred in a life-threatening situation;
3. While on disciplinary or investigative suspension;
4. While on leave, short term or extended, with or without pay, or other periods of unpaid absence from the department;
5. When the chief probation officer, or designee directs, the officer not to carry a CEW;
6. When the chief probation officer revokes the authorization to carry; and
7. When engaged in official travel out of state unless written permission is obtained from the chief probation officer.

J. Authority to Unholster, Draw and Display CEW. An authorized CEW officer shall only draw their CEW from its holster, or display it in public, under the following conditions:

1. In compliance with department policy regarding CEW concealment or exposure;
2. The circumstances surrounding the incident create a reasonable belief that it may become necessary to use the CEW in the performance of warrant and arrest duties;
3. When a law enforcement officer requests assistance from an officer;
4. For spark testing, maintenance, inspection and training purposes; and
5. When using the CEW in an approved training course, practice session or qualification with a certified CEW instructor.

K. Responses to Discharges and CEW Involved Incidents. Departments shall respond to discharges and CEW involved incidents according to the following criteria:

1. Unintentional discharge without injury. The chief probation officer shall ensure the following:
 - a. The chief probation officer, or designee, shall notify the AOC within 72 hours when an unintentional discharge without injury has occurred.

- b. The chief probation officer shall have the authority to administer any discipline or remedial measures according to the local personnel procedures.
2. Unintentional discharge with injury or intentional discharge. Departments shall conduct an internal administrative investigation of any intentional discharge of a CEW or unintentional discharge of a CEW with injury.
 - a. The improper use of a CEW may result in sanctions, criminal, or civil action.
 - b. The chief probation officer shall ensure that when the officer's CEW is held as part of an investigation, a replacement CEW is issued as soon as is reasonable unless authorization to carry a CEW has been revoked or temporarily suspended.
3. Each department shall have and train officers on policies and procedures for the internal administrative investigation and responses of all CEW discharges or CEW involved incidents.

L. Notification. Notification shall follow the guidelines set forth in ACJA § 6-112(F), Use of Force.

M. Authorized CEW and Holster.

1. An authorized CEW officer may only carry and use a CEW approved by the AOC.
2. The chief probation officer shall ensure a database of each CEW serial number is maintained with the probation department.
3. The department shall maintain records of all CEWs carried by officers on duty.
4. Only technicians authorized by the AOC approved manufacturer shall make adjustments to a CEW.
5. All safety devices manufactured into the CEW shall be intact and functioning at all times.
6. The chief probation officer shall approve CEW holsters based on guidelines issued by the AOC.
7. An authorized CEW officer shall complete CEW training using an approved CEW holster.

N. CEW Safety and Storage.

1. An authorized CEW officer shall observe and practice CEW safety according to department regulations.
2. An authorized CEW officer shall ensure that the CEW is stored in a designated safe and locked place that is not accessible to unauthorized persons when not carrying the CEW.

- a. An officer shall not keep a CEW in the office overnight unless secured in a department approved storage unit.
 - b. An officer shall not store a CEW overnight in any vehicle.
 - c. An officer shall ensure that a CEW is kept in a secure and safe place where the CEW is not accessible to other individuals.
 - d. An on-duty officer who decides not to carry a CEW into a residence or public building, shall temporarily store the CEW in a locked automobile trunk or glove compartment.
 - (1) An officer shall ensure that the automobile is locked if the CEW is stored in a glove compartment or if the trunk is accessible through the passenger area.
 - (2) An officer shall exercise care that the placement of the CEW in the glove compartment or trunk is not observed by the public.
 - (3) The chief probation officer may approve alternative arrangements, such as secure lock boxes under the seat.
 - e. An officer shall follow facility procedures for CEW safekeeping and temporary storage at all correctional and court facilities.
- 3. An officer shall notify their supervisor of any unauthorized use, handling or discharge of a department issued CEW no later than the close of the next business day.
 - 4. An officer failing to comply with the safety and storage regulations may be subject to disciplinary action, which may include the loss of authorization to carry a CEW.

O. Stolen or Lost CEW.

- 1. An authorized CEW officer shall immediately file a report with local law enforcement upon discovery that a CEW is missing.
- 2. An authorized CEW officer shall immediately report a stolen or lost CEW to a supervisor, who will in turn notify the chief probation officer.
- 3. An authorized CEW officer shall provide a written report to the supervisor no later than the close of that business day. The supervisor shall review the report and forward it to the chief probation officer. Upon review the chief probation officer shall forward the report to an AOC probation safety specialist.
- 4. The chief probation officer shall discipline an officer who is found negligent in the loss of their department issued CEW. The discipline shall minimally consist of a letter of

reprimand and may include the loss of authorization to carry a CEW.

5. An officer shall reimburse the county or state in the event that a probation department CEW and related equipment is lost or damaged through negligence.

P. CEW Care and Maintenance.

1. An authorized CEW officer shall be responsible for spark testing in accordance with CEW manufacturer's specifications and inspection of their issued CEW.
2. The department shall retain ownership of all CEWs purchased and provided to an officer.
3. An authorized CEW officer shall return the CEW to the department upon request.
4. An authorized CEW officer shall present the CEW to a certified CEW instructor for inspection upon the instructor's request.

Comments and Responses to ACJA Section 6-208: Conducted Electrical Weapons

PARAGRAPH	COMMENT	RESPONSE
<p>General Comment</p>	<p>Conducted Electrical Weapons (CEW) are nonlethal in nature and are utilized by law enforcement and security as a less hazardous alternative to firearms. The proposed policy 6-208 treats the CEW as an escalation of force from the lethal force of a firearm. Specifically section D. 1(a) requires that an officer be authorized to carry a firearm, pursuant to ACJA § 6-113. In addition the proposed policy section D.1(c) requires that a probation officer be assigned to a specialized warrant unit or specialized assignment which is not required for officers to carry lethal force firearms under ACJA § 6-113. Bozeman, Hauda, Heck, Graham, Martin, and Winslow (2009) found that in 99% of all cases involving discharge of Taser brand CEWs there was no serious physical injury (Bozeman, Hauda, Heck, Graham, Martin, & Winslow, 2009). This suggests that the CEW is more in line with Oleoresin capsicum in the continuum of force and should be classified as equal to or less than impact weapons when used in non-vital areas as described in ACJA § 6-112 sections E 3 and 4. Amending this proposal to allow probation officers an additional non-lethal option will enhance the safety of offenders, community members, and staff.</p> <p>References: ACJA § 6-112, ACJA § 6-113 Bozeman, W. P., Hudea, W. E., 2nd, Heck, J. J., Graham, D. D., Jr, Martin, B. P., & Winslow, J. E. (2009). Safety and injury profile of conducted electrical weapons used by law enforcement officers against criminal suspects. [Abstract]. <i>Annals of Emergency Medicine</i>, 53(4), 480-489.</p>	<p>No response necessary.</p>

<p>General Comment</p>	<p>In reviewing the proposed draft for ACJA § 6-208 (Use of Conducted Electrical Weapons), it appears the draft was modeled after ACJA § 6-113 (Firearms Standards). A firearm and CEW are two very different safety tools used for different reasons. It is certainly appropriate to have a code specifically designated for firearm standards given the serious moral and legal accountability that comes with the responsibility of carrying a firearm. A CEW is considered a non-lethal tool falling more in alignment with the use of OC spray and/or a baton. The natural place to include a CEW would be under ACJA § 6-112, Use of Force. It would then be recommended under ACJA § 6-112, each Department establish a policy to include rules and procedures concerning the use of a CEW.</p>	<p>Change not incorporated.</p>
<p>Section D. 6. General Policy</p>	<p>The current statement “Officers shall not carry the department issued CEW adjacent to the department issued firearm” should be a bit more specific. It is recommended the wording under D.6 be amended to read: Authorized officers shall carry their CEW in a department-issued holster, which will be carried on their duty belt on the opposite side of the officer’s department issued firearm (cross draw position is optional) or on a tactical vest.</p>	<p>Change incorporated.</p>
<p>Section E. 1-2 (a-e). Request for Authorization to Carry CEW</p>	<p>It is recommended this section be deleted. Section D (General Policy) outlines the criteria in which the CPO shall use when designating an officer to carry a CEW. Since a CEW is a non-lethal weapon unlike a firearm, it is not necessary to require a complicated authorization process to carry. Unlike a CEW, a baton is consider a potential deadly weapon as defined by code (6-112, Use of Force) and does not require this type of authorization process.</p>	<p>Change not incorporated.</p>

Section I. 5. Restrictions for Carrying CEWs	This section prohibits an authorized CEW officer from carrying a department issued CEW when the Chief Probation Officer or other superior directs the officer not to carry a CEW. The current wording suggests a PO, supervisor or someone in between could potentially order a CEW authorized officer not to carry. It is recommended the reference to “other superior” be changed to “designee” to eliminate any confusion regarding who has the authority to carry out such an order.	Change incorporated.
Section J. 3. Authority to Unholster, Draw and Display CEW	J.3 states “When a law enforcement officer requests assistance from an officer in a life threatening situation”. It is recommended this sentenced be amended to read as follows: When a law enforcement officer requests assistance from an officer in a situation that may require the use of a CEW. In an effort to keep a situation from escalating, law enforcement officers may request assistance from a CEW trained probation officer that would require the officer to Unholster, draw and or display their CEW. Section J.3 should not be limited to “life threatening situations”.	Change incorporated.
Section K. 2. Responses to Discharges and CEW Involved Incidents	Section K.2 addresses “Unintentional discharge with injury or intentional discharge”. It is recommended intentional discharged be removed from this section as it seems unnecessary to conduct an internal administrative investigation on intentional discharges unless negligence is suspected. Notification as defined by ACJA §6-112 (F), Use of Force, is already required and would appear to be sufficient. It is recommended that K.2 be amended to read: 2. Unintentional discharge with injury. Departments shall conduct an internal administrative investigation of any unintentional discharge of a CEW with injury.	Change not incorporated.
Section K. 3. Responses to Discharges and CEW Involved Incidents	This section states “Each department shall have and train officers on policies and procedures for the internal administrative investigation and responses of all CEW discharges or CEW involved incidents. It is recommended the sentenced to be amended to read: Each department shall have and train officers	Change not incorporated.

	<p>on policies and procedures regarding CEW incidents and responses for all CEW discharges.</p>	
	<p>It is recommended two new sections be added after section J. The first sections defines procedures for when to use CEWs and the second section defines limitations regarding when NOT to use CEWs</p> <p>(Suggested) Procedure for using CEW:</p> <p>The officer shall:</p> <ol style="list-style-type: none"> 1. When practical, give a warning to the subject and other officers prior to firing the CEW at the subject. 2. When practical, target the center of mass of the subject's back as clothes tend to fit tighter on this part of the body. For front shots, target the lower center of mass. 3. When encountering subjects wearing heavy or loose clothing on the upper body, consider the subjects legs as a target. 4. Make every attempt to avoid hitting the subject in sensitive tissue areas such as the head, face, neck, ear, groin, or female breast area. However, probes penetrating these areas must be removed by medical personnel. 5. Call for medical treatment for anyone who requests it. 6. Follow probe removal as outlined in department policy. 7. Whenever possible, if the scene is not safe, leave the expended cartridge with the subject and retreat to a location close to the scene of deployment while awaiting law enforcement personnel. The CEW shall remain with the officer at all times. 8. Avoid drive stun use except in situations where the prove deployment is not possible or was ineffective / no completely effective and the subject's actions are becoming aggressive and may cause physical harm. Multiple drive stuns are discouraged and must be justified and articulated in the officer's incident report. If initial application is ineffective, the officer shall reassess the situation and consider other available options. 	<p>Changes not incorporated. These recommendations are more appropriate for training curriculum and local policies and procedures.</p>

	<p>(Suggested) Limitations:</p> <ol style="list-style-type: none"> 1. CEWs shall not be used: <ol style="list-style-type: none"> a. When the officer knows a subject has come into contact with flammable liquids or is in a flammable atmosphere (e.g. methamphetamine labs, gasoline, or exposure to alcohol-based OC spray). b. When the subject is in a position where a fall may cause substantial injury or death (e.g. on walls, ledges, out of a tree, or into a canal or body of water). c. In a coercive, punitive or retaliatory manner against any person. d. When a prisoner is handcuffed / restrained absent active aggression by that person that cannot be overcome by other, less intrusive means. e. When the subject is operating a motor vehicle. f. To escort or jab individuals. g. To awaken unconscious or intoxicated individuals h. When the subject is visibly pregnant, unless deadly force is the only other option. 2. CEWs shall not be used in the following circumstances unless there are compelling reasons to do so which can be clearly articulated: <ol style="list-style-type: none"> a. When the subject is holding a firearm with his/her finger on the trigger. b. In a situation where deadly force is clearly justifiable unless another person is present and capable of providing deadly force to protect the officer(s) and or civilians as necessary. 	

COMMITTEE ON SUPERIOR COURT

Date Action Required:	Type of Action Required:	Subject:
February 7, 2014	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	ACJA § 6-204.01 INTERSTATE COMPACT PROBATION EVIDENCE- BASED PRACTICES

FROM: Kathy Waters, Adult Probation Services Division

PRESENTER: Kathy Waters, Director

DISCUSSION: Revisions to ACJA 6-204.01 are technical only. Definitions have been revised to conform to ACJA 6-301 and 6-302 definitions, as well as changes to correct statute citations. The remaining revisions are to conform to the Arizona State Council Policy 1.1, which has also been added to this code section as Appendix A.

RECOMMENDED MOTION: Approve as written

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 2: Adult Services
Section 6-204.01: Interstate Compact Probation Evidence-Based Practices

Courts shall be governed by section 6-204, except and until approved by the Administrative Director to be governed by section 6-204.01.

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

“Absconder” means a probationer who has moved from the primary place of residence without permission of the probation officer and whose whereabouts are unknown.

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

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

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

“AOC” means the Arizona Supreme Court, Administrative Office of the Courts.

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

“Average caseload” means the total active cases divided by total number of supervising probation officers.

“Case Plan” means the documented behavior change plan and supervision strategy developed by the supervising probation officer, in collaboration with the juvenile and family or adult probationer, which clearly identifies the risk factors and needs of the probationer and how they will be addressed.

“Case record” means any record pertaining to a particular probationer maintained by the probation department in electronic or paper medium.

“Collateral” means any individual or agency that has a relationship to a particular probationer that serves as a source of information or point of contact, including but not limited to friends, family members, law enforcement, victims, community members, neighbors, treatment providers or other associates.

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

“Court” means the superior court.

“Criminogenic need” means any issues of concern which are directly linked to criminal or delinquent behavior that when addressed and changed affect a probationer’s risk for recidivism, which include, but are not limited to criminal personality, antisocial attitudes, values, beliefs, low self control, criminal peers, substance abuse, dysfunctional family, unemployment, and lack of education.

“Direct case” means probationers actively supervised.

“Employment verification” means face-to-face communication, telephone contact, or obtaining pay stubs.

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

“Hand counts” means the manual tabulation of all interstate compact probation case files in the probation department, conducted independently from any automated system.

“Plan of supervision” means the terms under which an offender will be supervised, including proposed residence, proposed employment or viable means of support and the terms and conditions of supervision.

“Pro-social activity” means any action or event that promotes sobriety and/or provides an opportunity for building a social support system that encourages a crime free lifestyle and improved community bonds.

“Receiving state” means a state party to the compact who is requested to assume supervision of the probationer.

“Resident family” means a parent, grandparent, aunt, uncle, adult child, adult sibling, spouse, legal guardian, or step-parent who meets the following criteria: (1) has resided in the receiving state for 180 days or longer as of the date of the transfer request; and 2) indicates willingness and ability to assist the offender as specified in the plan of supervision, as provided in the Interstate Compact on Adult Offender Supervision, Rule 1.101.

“Residential treatment” means any type of licensed treatment or counseling where the probationer resides at the facility. “Short term residential treatment” is 30 days or less. “Long term residential treatment” is 31 days or more. Halfway houses are not considered residential treatment.

“Sending state” means the state in which the conviction was had.

“Significant violation” means an offender’s failure to comply with the terms or conditions of supervision that, if occurring in the receiving state, would result in a request for revocation of supervision as provided in the Interstate Compact on Adult Offender Supervision, Rule 1.101.

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

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

“Standardized reassessment” means the state-approved tool designed to measure changes in an offender’s needs related to criminogenic behavior and propensity to re-offend.

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

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

B. through E. [No change]

F. Program Plan and Financial Management.

1. through 6. [No change]

7. A.R.S. § ~~31-466~~ 31-467.06 provides:

~~A. A person being supervised in this state pursuant to this article shall pay, as a condition of probation or parole, a monthly supervision fee of not less than fifty dollars unless, after determining the inability of the person to pay the fee, the supervising agency requires payment of a lesser amount. The supervising parole or probation officer shall monitor the collection of the fee.~~

~~B. Seventy per cent of the monies collected pursuant to subsection A of this section shall be deposited, pursuant to §§ 35-146 and 35-147, in the victim compensation and assistance fund established by § 41-2407 and thirty per cent shall be deposited in the adult probation services fund established by § 12-267.~~

A. A person being supervised in this state pursuant to this article shall pay,

as a condition of probation, community supervision or parole, a monthly supervision fee of not less than sixty-five dollars if the person is on probation, parole or community supervision or not less than seventy-five dollars if the person is on intensive probation, unless, after determining the inability of the person to pay the fee, the supervising agency requires payment of a lesser amount. The supervising parole, community supervision or probation officer shall monitor the collection of the fee.

B. Seventy per cent of the monies collected pursuant to subsection A of this section shall be deposited, pursuant to sections 35-146 and 35-147, in the victim compensation and assistance fund established by section 41-2407 and thirty per cent shall be deposited in the adult probation services fund established by section 12-267 or, if the person is supervised by the state department of corrections, in the community corrections enhancement fund established by section 31-418.

8. through 17. [No change]

G. [No change]

H. Interstate Compact Probation Caseload Limit. A.R.S. § 12-251(A) provides: “~~...~~ Those deputy adult probation officers engaged in case supervision shall supervise no more than an average of sixty-five adults who reside in the county on probation to the court.” Only those probationers on the probation officer’s direct caseload are included in determining the average caseload of sixty-five adults. Probation officers funded by state interstate compact monies and engaged in case supervision shall supervise no more than an average of 65 interstate compact probationers who reside in the county. Pursuant to A.R.S. § 12-269(B):

A county with a population of two million or more persons shall maintain probation standards that are otherwise prescribed by law, except that the probation ratios and team compositions that are listed in sections 8-203, 8-253, 12-251 and 13-916 do not apply. The county shall maintain appropriate ratios of officers to probationers consistent with evidence based practices in differentiated case management

I. [No change]

J. Program Operations.

1. through 5. [No change]

6. In accordance with A.R.S. § ~~31-467.06 (B)~~ 31-467.06(B) ~~70~~ “Seventy per cent percent of the monies collected pursuant to subsection A of this section shall be deposited, pursuant to §§ sections 35-146 and 35-147, in the victim compensation and assistance fund established by ~~A.R.S. § section~~ section 41-2407 and ~~30~~ thirty per cent percent shall be deposited in the adult probation services fund established by ~~A.R.S. § section~~ section 12-267:”

K. [No change]

L. Supervision Process, Length and Termination.

1. A probationer seeking interstate compact probation supervision in Arizona shall accept the sending state's terms and conditions of probation as a condition of acceptance for supervision in Arizona. The interstate compact probationer shall also accept the terms and conditions established by the Arizona adult probation department and court.
2. The Arizona probation department shall supervise an interstate compact probationer in accordance with all terms and conditions of probation and Arizona laws, rules, policies and procedures including the operational procedures developed by the supervising Arizona probation department.
3. In accordance with Arizona State Council Policy 1.1 attached and incorporated as Appendix A:
 - a. The probation department shall supervise a parole case if the sending state submits a transfer request for an offender who has a parole and probation case and the probation case will terminate last.
 - b. The probation department shall supervise a parole case if the sending state submits a transfer request for a parole matter for an offender who is also under probation supervision for a probation term imposed by a court in the State of Arizona.
 - c. The probation department shall continue to supervise the probationer when the sending state submits a transfer request that requires lifetime supervision and the request is initially transmitted to AOC.
- ~~43.~~ An Arizona court or probation department shall not modify, extend or terminate early the length of probation supervision for an interstate compact probationer transferred to Arizona except as authorized by the appropriate jurisdiction of the sending state.

M. and N. [No change]

O. Retaking and Extradition.

1. If the sending state has indicated that retaking or incarceration is likely, the Arizona court may order that a probationer be held in custody after the hearing or waiver as may be necessary to arrange for the retaking or incarceration.
2. No action by Arizona probation staff or a court is required to authorize a sending state to retake an interstate compact probationer when the probationer waived extradition rights before transfer.
3. The sending state's authority is limited in A.R.S. § 31-467.05(A) as follows:

---The decision of the sending state to retake a person on probation or parole shall be conclusive on, and is not reviewable within, the receiving state, unless at the time a state seeks to retake a probationer or parolee there is pending against the probationer or parolee within the receiving state any criminal charge or the probationer or parolee is suspected of having committed within the state a criminal offense, in which case the probationer or parolee shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

P. Minimum Supervision Requirements.

1. **[No change]**
2. The probation department shall establish supervision strategies that are directed toward achieving desired outcomes that include, but are not limited to, the reduction of offender recidivism and criminogenic factors. The probation department shall ensure the majority of supervision resources are dedicated to medium and high risk probationers in order to successfully complete their term of probation and promote positive behavioral changes. Supervision strategies shall include the following considerations:
 - a. Tailored to the risks, needs and strengths presented by the individual probationer as determined by the standardized assessment.
 - b. Supervision monitoring and intervention strategies are to involve no greater deprivations of liberty or property than are reasonably necessary to address sentencing purposes. Supervision programs and strategies utilized shall be the least intrusive means necessary to promote supervision goals.
 - c. Initial and subsequent supervision planning shall develop specific goal - directed objectives to be accomplished by the probationer during the term of supervision and include strategies the officer will use to monitor compliance and promote the accomplishment of those objectives. Supervision contacts shall be integral to implementing the overall supervision strategies, have a purpose that is directly related to case objectives and the probationer's level and type of risk.
 - d. High risk cases shall require the concurrent implementation of multiple intervention strategies that apply the skills from a variety of disciplines to address the level and type of risk presented by the individual probationer, build on a probationer's strengths, and provide probationers with incentives to change.
 - e. Document changes in the probationer's circumstances throughout the period of probation and actively engage in assessing the impact of any changes on the level and type of supervision. Officers shall independently assess a probationer's circumstances through field and collateral contacts at a level proportional to the issues

in the individual case.

- f. Responses to noncompliance shall be timely, realistic, and escalating and shall include elements designed to both control and correct noncompliance.
- g. The intensity and frequency of supervision activities shall be reduced over time for stable, compliant probationers meeting supervision objectives.

3. through 8. [No change]

Q. Specialized Caseloads.

1A. Any court establishing or maintaining specialized caseloads shall have a written description of the specialized caseload, including objectives and goals.

2B. Any court establishing or maintaining specialized caseloads shall have written screening and assessment criteria for placement on the caseload, as well as criteria for exiting or graduating from the caseload.

3C. Any court establishing or maintaining specialized caseloads shall have written minimum supervision requirements specific to the needs and goals of the caseload.

4D. Probation officers assigned to supervise specialized caseloads shall participate in continuing education/training on the specific needs of the specialized population.

Appendix A

Arizona State Council Policy 1.1: Interstate Supervision of Incoming Offenders by the Administrative Office of the Courts (AOC) and the Arizona Department of Corrections (ADC):

AOC, on behalf of the Judicial Branch, will provide the investigation and sole supervision of an offender, if accepted, under any of the following circumstances:

1. The sending state or states submit a transfer request for an offender who has a parole and probation case and the probation case will terminate last.
2. The sending state submits a transfer request for a parole matter for an offender who is also under probation supervision for a probation term imposed by a court in the State of Arizona.
3. The sending state submits a transfer request that requires lifetime supervision and the request is initially transmitted to AOC.

ADC will provide the investigation and sole supervision of an offender, if accepted, under any of the following circumstances:

1. The sending state or states submit a transfer request for an offender who has a parole and probation case and the parole case will terminate last.
2. The sending state submits a transfer request for a probation matter for an offender who is also under parole supervision for a sentence imposed by a court in the State of Arizona.
3. The sending state submits a transfer request that requires lifetime supervision and the request is initially transmitted to ADC.

Adopted by the Arizona State Council, August 20, 2013

COMMITTEE ON SUPERIOR COURT

Date Action Required:	Type of Action Required:	Subject:
February 7, 2014	<input type="checkbox"/> Formal Action/Request <input checked="" type="checkbox"/> Information Only <input type="checkbox"/> Other	INFORMATION REGARDING THE ARIZONA QUADRENNIAL CHILD SUPPORT GUIDELINE REVIEW

FROM: Court Programs Unit

PRESENTER: Director Marcus Reinkensmeyer, Court Services Division

DISCUSSION: Arizona's last child support guidelines review in 2009-2010 resulted in the current 2011 Child Support Guidelines. Arizona is preparing for the next quadrennial review, which will be conducted by a qualified consultant to update the schedules using economic data on the costs of raising children, as well as a four-county case file review. The anticipated implementation date range is January - June 2015.

Director Reinkensmeyer will explain the process and timeline for this review and how COSC members may be called upon to assist with this important statutorily-mandated project.

RECOMMENDED MOTION: No motion is requested at this time.