ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	**Type of Action Requested:**	**Subject:**
June 2020	__ Formal Action/Request _X_ Information Only __ Other	Judicial Branch Legislative Update

FROM:

Jerry Landau, Government Affairs Director
Elise Kulik, Legislative Officer
Liana Garcia, Legislative Officer

DISCUSSION:

Mr. Landau will present an update on the status of this year's legislative package.

RECOMMENDED COUNCIL ACTION:

Information only.

Arizona Judicial Council
Government Affairs Group
Legislative Update
June 23, 2020

Judicial Council Bills:

HB2087: Lengthy Trial Fund; Digital Evidence

Permits the court to spend unused fund balances in the renamed Arizona Lengthy Trial and Digital Evidence Fund (ALTDEF) to construct a digital evidence storage and display system. Requires the court to compensate jurors for lengthy trial prior to spending money from the ALTDEF for digital evidence and display.

Last Action: Senate Second Read 3/02. Scheduled on Appropriations agenda the week session was suspended.

HB2232: Competency Examinations; Records; Appointments

Repeals current law requiring all available medical and criminal history records be provided to the court within three working days of the filing of a Rule 11 petition. Court rule mandates the records be provided to the examining mental health expert(s) within three days of the expert's appointment by the court.

Permits the court to appoint "one or more" experts to examine the defendant and report to the court as to the defendant's competency in misdemeanor cases. The current statute requires two experts. No other state has such a requirement.

Last Action: Senate Consent Calendar 3/09. Scheduled for third read & floor vote 5/26/20, the date of sine die adjournment.

HB2233: Court Rules; Electronic Signatures; Court Documents

The Supreme Court may permit documents that require a sworn written declaration, verification, certificate, statement, oath, or affidavit to be signed by electronic signature.

Last Action: Senate Rules PFC.

HB2235: Record of Proceedings; Certified Reporter

Requires a court reporter on all felony and sexually violent persons cases with five court days' notice, if a reporter is available. Permits a party to have a court reporter take down the proceeding, however, the court record is the official record.

Last Action: Failed House Third Read 03/04. However, a strike everything amendment in the Senate was being drafted.

HB2411: Conviction; Penalties; Surcharge Distribution

Surcharge revenue is distributed for crimes committed before 2019 as per the law in effect, essentially on Dec. 31, 2018 so the victim funds will obtain the monies.

Contains an emergency clause but would not have taken effect until July 1, 2020.

Last Action: Senate Second Read 03/03.

HB2412: Conviction; Set Aside; Traffic Violations

Removes traffic and vehicle violations, civil traffic offenses and any local ordinance relating to stopping, standing or operation of a vehicle from the list of offenses that cannot be set aside.

Last Action: Senate Consent Calendar 03/09. Scheduled for third read & floor vote 5/26/20, the date of sine die adjournment.

HB2413: Juvenile Court; Disposition

Builds on the provisions of last session's bill to improve case disposition for juveniles involved in the criminal justice system who are making progress toward their sentences or have successfully completed their sentencing requirements.

- Grants authority to the prosecutor to file a Notice of Intent to Retain Jurisdiction at any time prior to adjudication. Current law limits that authority to the time the petition is filed, or the case is transferred from the criminal court. Current law remains the same in that if the prosecutor files the notice, jurisdiction is automatically extended.
- The juvenile court is granted jurisdiction to modify a monetary obligation imposed by the court (victim restitution is excluded) after the person's eighteenth.
- Clarifies the process for restoration of the juvenile's second amendment rights, any judicial officer in the superior court can restore the rights, not just the judge who discharges the person. The Clerk of Court instead of the applicant must provide a copy of the application to the county attorney. The clerk cannot charge a fee for the application.

- A person whose referral to juvenile court resulted in either a completed diversion program or no charges being filed and who turned eighteen prior to August 27, 2019 may apply to have the juvenile records destroyed within ninety days of the petition being granted. Current law covers only persons who turn eighteen on or after August 27, 2019.
- Removes the requirement that a juvenile be placed on intensive probation for a second felony adjudication if the court determines based upon the severity of the offense and a risk assessment that intensive probation services are not required. Does not preclude intensive probation.
- Removes the statement that a juvenile who is on probation for an alcohol or drug offense who is found to have consumed alcohol, or a drug is in violation of probation (that is a court finding after a plea or hearing). Removes the requirement that the person be brought before the court, for a third violation.
- Removes the prohibition against placing a juvenile on probation for over a year if the parent objects.
- Rewrites the mandatory warning given to a juvenile offender upon adjudication as to subsequent consequences to comply with current law and make it easier for the juvenile to understand.
- Requires the Clerk of Court to notify the DPS if a juvenile record is destroyed.

Last Action: Senate Caucus 03/10.

HB2611: Records; Confidentiality; Hearing Officer

Permits a Hearing Officer (defined as a Civil Traffic Hearing Officer), former prosecutor, Municipal Court Commissioner and Appellate Court Commission member to petition the superior court to prohibit the general public from accessing records relating to the person as maintained by the department of transportation, the county treasurer, assessor, and recorder, including voter registration records.

Last Action: Senate Caucus 03/10.

Other Bills:

Chapter 4, SB1523. Mental Health Omnibus

Makes several changes to the insurance code and public health code with an aim toward increasing health insurance coverage for mental health and substance use disorders and decreasing the frequency of preventable suicides. Substantially requires health insurers to provide coverage in conformance with the federal Mental Health Parity and Addiction Equity Act. Prohibits health care insurers from denying claims for mental health or substance use disorder benefits for a minor solely on the grounds that the service was provided in a school or other educational setting or ordered by a court.

Establishes a Suicide Mortality Review Team in DHS to review data and adequacy of statutes and services and determine changes necessary to decrease preventable suicides. The Suicide Mortality Review Team is authorized to develop protocols for suicide investigations, including protocols for law enforcement agencies, prosecutors, medical examiners, health care facilities and social service agencies. The review team is authorized to obtain records and information from health care providers, health insurers, family members of the decedent, the state, or any subdivision of the state. Law enforcement agencies may withhold their records from the review team with the approval of the prosecuting attorney if production of those records would interfere with a pending criminal investigation or prosecution. The Director of DHS or the Director's designee may apply to the superior court as necessary to compel production of documents or evidence related to the person who died by suicide.

All information acquired by the Suicide Mortality Review Team is confidential and not subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, with the exception of information that is otherwise publicly available. Persons on the team may not be questioned in any civil or criminal proceeding. The review team is subject to confidentiality requirements and not subject to open meeting laws. A violation of review team confidentiality requirements is a class 2 misdemeanor.

Law takes effect 8/25/20 with the exception of some delayed reporting requirements applicable to Department of Health Services.

Chapter 81, SB1441. Protection Orders; Modification; Possession

Requires a person who is granted exclusive use of a primary residence pursuant to an order of protection or emergency order of protection to notify the court if that person moves out the residence within five days of the move. The notification must be in writing for an order of protection; the notification format is not specified for an emergency order of protection. Upon written request of a party, the court may hold additional hearings at any time if there is a change in circumstances related to the primary residence.

Effective date 8/25/20.

6/10/20