ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:	Type of Action Requested:	Subject:
March 19, 2020	_X_ Formal Action/Request __ Information Only __ Other	Approval of Minutes

FROM:

Lorraine Smith, Staff to the Arizona Judicial Council

DISCUSSION:

The minutes from the December 12, 2019, meeting of the Arizona Judicial Council are attached for your review.

RECOMMENDED COUNCIL ACTION:

Approve the minutes as written.

ARIZONA JUDICIAL COUNCIL

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

December 12, 2019

Draft Meeting Minutes

Council Members Present:

Chief Justice Robert Brutinel
Don Bivens
Judge Kyle Bryson
David Byers
Judge Louis F. Dominguez
Brian Furuya
Judge Charles Gurtler
Clerk of Court Juan Pablo Guzman
Mike Hellon
Judge Dorothy Little
Judge David Mackey
Steve Pierce
Judge Antonio Riojas, Jr.
Judge Keith E. Russell
Kathleen Schaben
Judge Monica Stauffer
Judge Peter Swann
Lisa Urias
Judge Garye Vásquez
George Weisz
Judge Joseph Welty

Council Members Absent *(excused)*:

Athia Hardt
Lea Márquez Peterson
Steve Peru

Administrative Office of the Courts (AOC) Staff Present:

Jennifer Albright
Theresa Barrett
Mike Baumstark
Bert Cisneros
Liana Garcia
Susan Hunt
Joe Kelroy
Jerry Landau
Caroline Lautt-Owens
Amy Love
Alicia Moffatt
Kay Radwanski
Janet Regner
Marcus Reinkensmeyer
Stacy Reinstein
Kathy Waters
David Withey

Presenters and Guests Present:

Judge Jeffrey Bergin
Daryn Chokey
David Cocoros
Trish Cocoros
Christa Isom
Kristan Landry
Martin Lynch
Scott Naegele
Mark Phillips, ABC15
Denise Thompson
Vice Chief Justice Ann A. Scott Timmer
U-Turn Foundation Representative
Judge Larry Winthrop

Welcome/Meeting Called to Order

Chief Justice Robert Brutinel, Chair called the meeting to order at 10:00 a.m. at the State Courts Building, Suite 119, Phoenix, AZ.

Approval of Minutes

The Chair called for any corrections to the minutes from the Council's October 24, 2019, meeting.

> **MOTION: To approve the minutes from the October 24, 2019, meeting of the Arizona Judicial Council, as presented.** The motion was seconded and passed. AJC 2019-32.

Arizona Commission on Access to Justice Update and Annual Report

Judge Lawrence Winthrop, Chair presented the Commission's annual report and recommendations on innovative ways of promoting access to justice for individuals who cannot afford legal counsel or who choose to represent themselves in civil cases. He spoke on the AZCourtHelp.org website and anticipated and continuing projects for 2020.

Implementation of the Mental Health Task Force Recommendations

Mr. Marcus Reinkensmeyer, Director of the Court Services Division of the AOC updated the Council members on the AOC's work on mental health and the justice system and requested support for legislative proposal 2020-17: Appointment of Experts; Misdemeanors to amend language in A.R.S. §13-4505 to permit one doctor (or more) for misdemeanor Rule 11 cases within the discretion of the court as part of the Court's legislative package.

> **MOTION: To support legislative proposal 2020-17: Appointment of Experts; Misdemeanors, as presented.** The motion was seconded and passed. AJC 2019-33.

Mr. Mike Hellon suggested that the Task Force look at standards that the doctors are applying to make competency determinations and clarify them.

The Chair entertained a motion to go into Executive Session.

MOTION: To enter Executive Session pursuant to ACJA § 1-202(C)(5)(g) regarding Clerk Office Issues. The motion was seconded and passed. AJC 2019-34.

Judicial Branch Legislative Update

Mr. Jerry Landau, Government Affairs Director, and Ms. Liana Garcia and Amy Love, Legislative Liaisons, for the AOC presented the following 2020 Judicial Branch legislative proposals for the Council's review and support:

2020-16: Commission on Judicial Conduct; Clerk of the Superior Court

MOTION: To withdraw legislative proposal 2020-16: Commission on Judicial Conduct; Clerk of the Superior Court, and instead direct the AOC to work with the Clerks of Court to adopt a code of conduct for the Clerks, establish a Clerk Ethics Board, and create a training program for Clerks, Deputy Clerks and Supervisors. The motion was seconded and passed. AJC 2019-35.

MOTION: To support the Clerk of the Superior Court salary proposal, as presented. The motion was seconded and passed. AJC 2019-36.

Ms. Liana Garcia spoke on the general stream adjudication proposal which was provided in draft form. She noted that the proposal would allocate money from the state general fund to fund positions in the court to speed up the general stream adjudication process.

Discussion: Judge Joseph Welty spoke on concerns in Maricopa County in terms of timing and what needs to be done first to perfect these matters so they can be properly adjudicated.

MOTION: To support the proposed general stream adjudication proposal in concept and have staff work out the details. The motion was seconded and passed. AJC 2019-37.

2020-18: Surcharge; Distribution

MOTION: To support Legislative Proposal 2020-18: Surcharge; Distribution, as presented. The motion was seconded and passed. AJC 2019-38.

Ms. Amy Love provided an update on the budget and said her farewell, as she is leaving to be the new Community Liaison for the Superior Court in Maricopa County.

Adding New Crimes to Arizona Violent Offense List for PSA Scoring

Ms. Kathy Waters, Director of the Adult Probation Services Division for the AOC reported that Pima County has requested the addition of 2 new crimes to the Arizona Violent Offense list for scoring of the Public Safety Assessment (PSA) for pretrial release conditions.

> **MOTION: To approve adding 2 new crimes to Arizona Violent Offense List for PSA Scoring, as presented.** The motion was seconded and passed. AJC 2019-39.

OST/FROST Risk Assessments Cut-Off Scores

Ms. Kathy Waters reported on a recent validation of the Offender Screening Tool (OST) and Field Reassessment Offender Screening Tool (FROST) risk assessments that recommended adjustment of the cutoff scores for ranges of supervision of adult probationers.

Judge Joseph Welty stated his agreement with these adjustments. It was suggested that staff return in a year to show if the numbers/outcomes were correct. Mr. Byers added that Dr. Edward Latessa could present.

> **MOTION: To approve the OST/FROST Risk Assessments Cut-Off Scores, as presented.** The motion was seconded and passed. AJC 2019-40.

Update on IV-E Funding

Ms. Caroline Lautt-Owens, Director of the Dependent Children Services Division of the AOC provided information on recent federal policy changes regarding Title IV-E reimbursement for child and parent representation in child welfare cases.

Arizona Youth Assessment System (AZYAS)

Mr. Joe Kelroy, Director of the Juvenile Justice Services Division of the AOC reported on recommendations from the University of Cincinnati Corrections Institute (UCCI) to adjust the cut-off scores for the risk categories in AZYAS.

> **MOTION: To approve the Arizona Youth Assessment System (AZYAS) changes, as presented.** The motion was seconded and passed. AJC 2019-41.

Arizona Code of Judicial Administration (ACJA)

Mr. Joe Kelroy presented an amendment to ACJA § 6-105.01: Powers and Duties of Officers Evidence Based Practices.

The following public comment was received:

Ms. Trish Cocoros, Co-Executive Director of the Youth Development Institute (treatment provider) spoke against the amendment and expressed her concern noting that YDI uses polygraphs as a clinical tool.

Mr. David Cocoros spoke on ethical issues if a polygraph is denied.

Mr. Scott Naegele spoke on his experience working with children and families. He noted that the proposed change needs to be vetted more before a decision is made, and he would like to have an opportunity to be part of the discussion.

Discussion ensued regarding the approval process for polygraphs, as well as its perceived value.

> **MOTION: To approve ACJA § 6-105.01: Powers and Duties of Officers Evidence Based Practices, as presented.** The motion was seconded and passed. AJC 2019-42.

Ms. Kathy Waters presented proposed amendments to ACJA § 6-201.01: Standard Probation Evidence Based Practice and ACJA § 6-202.01: Adult Intensive Probation Evidence-Based Practices (amendment).

> **MOTION: To approve ACJA §§ 6-201.01: Standard Probation Evidence Based Practice (amendment) and 6-202.01: Adult Intensive Probation Evidence-Based Practices (amendment), as presented.** The motion was seconded and passed. AJC 2019-43.

Mr. Marcus Reinkensmeyer spoke on the following court security code sections:

5-301: Court Security Standards (new)
5-302: Court Security Officer Powers and Duties (new)
5-303: Personnel Practices (new)
5-304: Certification and Training (new)
5-305: Use of Force (new)
5-306: Firearms (new)
5-307: Use of Conducted Electrical Weapons (new)

> **MOTION: To approve ACJA §§ 5-301: Court Security Standards (new); 5-302: Court Security Officer Powers and Duties (new); ACJA § 5-303: Personnel Practices (new); 5-304: Certification and Training (new); 5-305: Use of Force (new); 5-306: Firearms (new); and 5-307: Use of Conducted Electrical Weapons (new), with the understanding that adjustments will be made before the Chief Justice approves the code, as well as possible refinement and clarification for requirements for armed and non-armed contract security staff to be presented at the March 2020 Council meeting.** The motion was seconded and passed. AJC 2019-44.

Second Report on the FASTAR Pilot Program

The Chair, Vice Chief Justice Timmer, and Judge Garye Vasquez recused themselves from this agenda item.

Judge Jeffrey Bergin reported on the FASTAR program and provided a high-level view of how it works and how it is doing.

Discussion took place regarding the filing of a rule petition to make the program statewide. Judge Joseph Welty stated that he would like to be involved in the discussion prior to the filing of the rule petition in terms of "scaling."

> **MOTION: To approve the report, as presented.** The motion was seconded and passed. AJC 2019-45.

Plans for AZPOINT

Mr. Marcus Reinkensmeyer spoke on plans for AZPOINT, the Arizona Protective Order Initiation and Notification Tool that has been designed to help people fill out a petition for an Order of Protection that will become effective January 1, 2020.

Data System Demo

Mr. Bert Cisneros, Senior Statistical Analyst for the Court Services Division of the AOC presented a demo of Arizona courts data online. He noted that the information would be available statewide in 2020.

Call to the Public

Ms. Christa Isom spoke as a parent whose 2 children were taken away in Pima County and her concern with judicial accountability and violation of civil rights.

Ms. Lori Ford, AZDCS Oversight Group spoke regarding unlawful adoptions and judicial accountability.

Ms. Melinda Sherwood spoke on Maricopa County Assessor Paul Peterson and termination of parental rights.

Ms. Kristen Landry spoke regarding her ADA requests that have been refused, as well as concern with the way the judiciary treats her.

Mr. David Jose spoke on courts of record and Title 42.

Mr. Martin Lynch spoke regarding due process and fundamental liberty interests and where they are in the process.

Kristina spoke on ADA accommodations.

Ms. Wendy Fisher spoke on gun safety and incorrect decisions being made in family court.

MOTION: To adjourn at 2:57 p.m. The motion was seconded and passed. AJC 2019-46.