

ARIZONA JUDICIAL COUNCIL
Arizona State Courts Building
1501 W. Washington, Suite 426/Conference Call
Phoenix, AZ 85007

Minutes of the
March 27, 2008, Meeting

Council Members Attending In Person

Chief Justice Ruth V. McGregor
David Byers
Judge John Gemmill
Daniel J. McAuliffe, Esq,

Council Members Participating Telephonically

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| Jim Bruner | Judge Douglas Holt |
| Judge Robert Brutinel | Yvonne R. Hunter |
| Jose A. Cardenas, Esq. | Emily Johnston |
| Judge Norm Davis for Judge Barbara Mundell | Judge Jan Kearney |
| Judge B. Robert Dorfman | William J. Mangold, M.D., J.D. |
| Susan Edwards | Jones Osborn |
| Karen D. Ferrara | Judge John Pelander |
| Patricia Noland for Beverly Frame | Judge James Soto |
| Athia Hardt | Judge R. Michael Traynor |
| Chris Herstam | |

Council Members Absent:

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| Judge David Widmaier | Judge Barbara Mundell |
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Administrative Office of the Courts (AOC) Staff Present:

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| Mike Baumstark | Janet Scheiderer |
| Jennifer Greene | Lorraine Smith |
| Kevin Kluge | John Sousa |
| Jerry Landau | David Withey |
| Katy Proctor | |

Guests Present:

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| Vice Chief Justice Rebecca White Berch | Ann Marie Mena |
| Kathy Ber | |
| Judge Colleen McNally | |

Chief Justice Ruth V. McGregor, Chair, called the meeting to order at 9:30 a.m., at the State Courts Building, Room 426, Phoenix, AZ 85007. The Chair welcomed those in attendance.

Ms. Lorraine Smith, staff, then called roll for those members participating via conference call.

Approval of Minutes

The Chair called for any corrections or additions to the minutes from the December 5, 2007, meeting of the Arizona Judicial Council; there were none. The minutes were approved as written.

MOTION: To approve the minutes from the December 5, 2007, meeting of the Arizona Judicial Council, as written. Motion was seconded and passed. AJC 2008-01.

Judicial Branch Legislative Package

Mr. Jerry Landau, Director of Government Affairs and Ms. Katy Proctor, Legislative Officer for the AOC, presented an update on the status of the approved legislative package for 2008 to include the following proposals: HB2109: Interstate Compact, HB2118: Retirement/CORP, HB2207: Sentencing; Reorganization, SB1050: Court Reporter Certification, and Budget: Time Payment Fee.

Mr. Landau and Ms. Proctor provided information on other bills impacting the courts to include: HCR2063/SCR1021: Accountability; Clean Elections for Judges and SCR1011/SB1186: Judicial Performance Reviews; Court Commissioners.

Discussion ensued regarding bills requiring action (opposed, support or no action) to include:

- **HB2205: Child Support Enforcement**

Discussion: It was noted the Presiding Judges voted to oppose this bill in its current form. Concern was raised that the Department of Economic Security (DES) did not work with the courts up front or vet the language through the Child Support Committee. Judge Davis noted this bill has broad-based opposition. Judge McNally, Presiding Family Court Judge in Maricopa County, stated concern with due process, judicial oversight, conflicting orders, no time savings, confusion with parallel services, and financial impact. Judge McNally noted the bill would not serve the current system or people well.

Ms. Ann Marie Mena, Deputy Director for Child Support Enforcement, attempted to address some of Judge McNally's concerns, noting she sees no financial difference. Ms. Mena explained the legislation is designed to facilitate amiable individuals, focusing

on when both parties are in agreement. Ms. Mena stated it is not a large number of people (150-200) that they are focusing on.

In addition, Ms. Mena noted this legislation would increase the federal establishment number of 2% and will result in better performance which impacts how much Arizona receives in funding (millions). Ms. Mena explained this means not having to ask for state funding. Ms. Mena added that penalties are more severe if DES fails, and this will in turn affect TANF (temporary assistance for needy families) dollars/block grant.

Mr. Mike Baumstark, Deputy Director of the AOC, suggested that the default provision be taken out and that DES works only with those people who are amenable.

Other concerns raised included the need for judicial oversight, the appropriate role of the attorney and DES, child support calculations, the need for a balanced playing field, the need for paternity establishment to go through the courts, and concern that individuals may not understand or receive the assistance they need.

A motion was made to oppose the bill.

MOTION: To oppose HB2205: Child Support Enforcement. Motion was seconded and passed. AJC 2008-02.

The Chair authorized Legislative staff to continue to work with the sponsors to address the issues presented today in an attempt to get to the point where the Council can support the legislation.

- HB2751: Driver Licenses

Discussion: This will have an impact on the courts, and it will take time to see if individuals fit this exemption.

- SB1335: Aggravated Domestic Violence; Violation

Discussion: This could potentially shift 4,600 cases from the limited jurisdiction courts to the superior court, as well as increase the number of probation officers needed. It was noted the Presiding Judges asked Legislative staff to do what they could to try to reduce the financial impact.

- SB1476: Probation; Facilities; Safe Communities Act

Discussion: Earned-time credit is creating problems. This legislation would result in judges being restricted from early terminations. There are limitations with this bill. At this time, judges can early terminate anyone. Ms. Patricia Noland stated it would result in a difficult nightmare statewide; very confusing with no computer system to calculate the time. Judge Brutinel commented on problems with calculations and litigation. It was noted the sponsor of the bill is tremendously helpful to the courts.

Vice Chief Justice Rebecca White Berch, who took over as Chair when Chief Justice McGregor left for another commitment, advised Legislative staff, with the support of the Council, to continue to work with the sponsors of this bill in an attempt to make it more workable for the courts.

- SCM1004: Federal Tax Intercept Proposal
Discussion: None

A motion was made to support this bill.

MOTION: To support SCM1004: Federal Tax Intercept Proposal.

Motion was seconded and passed. AJC 2008-03.

Budget Plan

Mr. Kevin Kluge, Chief Financial Officer for the AOC, briefed the Council on the status of the budget for FY 2008 and FY 2009. Mr. Kluge noted there is a \$1.2 billion deficit for 2008 and a \$1.9 billion deficit for 2009. Additional information was provided regarding permanent cuts, fund sweeps, and hiring freezes.

Mr. Kluge reported on the proposal to raise statewide case filing fees (not adjusted since 1993) to raise funds for increases in judicial salaries and the Elected Officials Retirement Plan, which were not included in the budget, as well as generating an additional \$1.5M in Judicial Collection Enhancement Funds to backfill fund sweeps.

Mr. Dave Byers noted the budget is still in a state of flux. The Legislature may be close to completing the '08 budget and is starting to work on the '09 budget.

Arizona Code of Judicial Administration

Mr. John Sousa, Court Financial Specialist for the Court Services Division of the AOC, briefed the Council on Section 5-103: Enhanced Collections. Mr. Sousa noted there were no controversial issues (consent agenda item), and the proposal was unanimously approved at the Committee on Superior Court and Limited Jurisdiction Courts Committee meetings in November.

A motion was made to adopt the code section as presented.

MOTION: To adopt § 5-103: Enhanced Collections as presented.

Motion was seconded and passed. AJC 2008-04.

Call to the Public/Adjourn

The Chair made a call to the public; there was no response.

The meeting adjourned at 10:50 a.m.