

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested: December 14, 2005	Type of Action Requested: <input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Subject: 2006 Legislative Proposals
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FROM:

Jerry Landau, Director of Government Affairs
Leila Gholam, Legislative Officer

DISCUSSION:

An additional 2006 legislative proposal offered by Honorable Robert Brutinel, Presiding Judge of Yavapai County Superior Court, regarding joinder of behavioral health or other providers in dependency cases.

An update on previously approved legislative proposals.

RECOMMENDED COUNCIL ACTION:

Vote to include, not include or take other action on the proposal regarding joinder of behavioral health providers in dependency cases.

2006 Arizona Judicial Council Legislative Proposals

Arizona Lengthy Jury Trial Fund

Amends A.R.S. §21-222. The Arizona Lengthy Jury Trial Fund program was implemented in 2004. Jurors who serve on a trial lasting longer than ten days, and who do not receive their normal wages from their employer, are eligible to receive reimbursement of lost income up to \$300 per day. Funds to reimburse a juror are generated from a \$15 fee charged on civil filings.

Based on data from the first eighteen months of experience, it would be possible to reduce the number of days required to be eligible for reimbursement from the current ten to five without changing the fee.

JCEF Funding

Court-wide automation is paid for from various fees paid by court users. For the past three years, the Legislature has diverted over \$7.4m from the fund to cover court general operations, putting the fund into a projected negative balance. Diversion of future funds will imperil future automation projects.

Fingerprinting Court Contractors and Volunteers

Amends A.R.S §12-202 to provide clear authority to fingerprint and conduct criminal background checks of current and judicial branch prospective contractors and volunteers. This is a court security issue as contractors and volunteers have contact with parties and other court clients and have access to judicial department confidential records, secured areas and court staff.

Service of Process; Orders of Protection

Amends A.R.S.§13-3602 to require an order of protection, issued by any court, to be served by any law enforcement agency with jurisdiction where the defendant is located. The proposal expands the authority of a law enforcement officer to serve an order of protection with the goal being faster service of the order and greater protection to the victim. Currently, an order of protection issued by a municipal court can be served only by a city police agency, an order issued by a justice court can be served only by a sheriff or constable and an order issued by the superior court can be served only by the

sheriff. The proposal would also authorize a justice of the peace and a correction officer to serve the order.

Preparatory Release of Inmates

Amends A.R.S.§31-233 to allow inmates sentenced with a probation tail to be eligible for temporary early release, up to 90 days, for purposes preparatory to the return to the community. Currently, inmates sentenced without a probation tail are eligible for the temporary release, however, due to a quirk in the statute those sentenced with a probation tail are not eligible.

Traffic Ticket Enforcement Assistance Program (TTEAP) Vehicle Registration Hold Expansion

Amends A.R.S. §§28-1631 and 28-1632 to expand the Traffic Ticket Enforcement Program by allowing the Motor Vehicle Division, upon instruction from a court or political subdivision to refuse renewal of a person's registration for failure of that person to pay a court ordered fee, cost, surcharge, restitution, assessment, penalty adjustment and penalty enhancement. Parking violations would be included in this language. Under current law the program only covers fines and penalties. Further, the proposal would modify the requirement that the person owe at least \$200 in order to be placed in the program, reducing the floor to \$100. It is estimated that an additional \$4.9+ million can be collected by expanding the program, thereby holding violators responsible and providing funding earmarked by statute to state and local agencies and victims.

Availability of Competency Reports

Amends A.R.S§13-4508E by permitting reports submitted to the court during a proceeding held to determine whether a defendant is competent to stand trial be available (1) for the purposes of mental health treatment resulting from a civil commitment and (2) to a probation department or a mental health treatment provider for the purposes of supervising, monitoring, treating or assessing the defendant. Currently, the reports are sealed and may be opened only for further competency or sanity proceedings, for statistical gathering for the purposes of scientific study or to assist mental health treatment in the competency proceeding or if the person is found guilty except insane.

Interstate Compact

Amends A.R.S. §31-467, the Interstate Compact for Adult Offenders. The interstate commission, a joint agency of all the compacting states (49 states are signatory to the compact) voted to increase the assessment required of all states by two percent. To Arizona, this amount is \$500. The compact creates a State Council that appoints our representative to the commission. The compact requires state council approval and a legislative appropriation to exceed our twenty five thousand dollar assessment. The state council approved the 2% increase. Arizona is required by the compact to pay the additional \$500. The Administrative Office of the Courts is responsible for 1/3 the assessment collected from offenders on interstate compact, the Department of corrections is responsible for the other 2/3. There is now no direct appropriation for the twenty five thousand dollar assessment.

There are three mechanisms to authorize the payment,

1. Repeal the appropriation assessment
2. Amend the statute to increase the cap to \$25,500
3. Appropriate \$500 each year.

ARIZONA JUDICIAL COUNCIL
Legislative Request for Proposals
2006 Legislative Session

To request inclusion of an issue in the 2006 Arizona Judicial Council (AJC) legislative package, please complete this form and return it to Jerry Landau, Director of Government Affairs (1501 West Washington, Suite 411, Phoenix, AZ 85007) **as soon as possible, but no later than August 26, 2005.** Please complete all sections. If additional space or more information is needed, attach separate sheets to this form. A word processing copy of the form will be forwarded as an email attachment in Word format upon request by contacting the Administrative Office of the Courts at (602) 542-9301.

All submitted legislative proposals will be forwarded for initial review to the appropriate subcommittee of AJC (e.g., Superior Court Committee, Limited Jurisdiction Court Committee, Committee on Probation). All proposals, along with the committees' recommendations, will be forwarded to the AJC for review at its meeting on October 19, 2005. AJC will review each proposal and make one of the following decisions:

- Approve the proposal for inclusion in the judicial legislative package.
- Not approve the proposal for inclusion in the judicial legislative package.
- Recommend that another group (e.g., State Bar of Arizona) sponsor the legislation.
- Decide not to include the proposal in the judicial legislative package but authorize a court department to pursue the proposed legislation on its own.
- Recommend that the requested action be handled by rule, intergovernmental agreement, or administrative order instead of legislation.

The attached calendar provides additional information on the schedule for development of legislative proposals. Individuals with an interest in the legislative proposals are welcome to attend the subcommittee and Council meetings. For further information on meeting dates and times or assistance in completing the form, contact Jerry Landau (602) 542-9301.

ARIZONA JUDICIAL COUNCIL
Legislative Request for Proposal
2006 Legislative Session

Short title / Subject Matter of Proposal

Date: _October 5, 2005

We propose to add a section to Title 8 ARS to allow a juvenile court in a dependency case to join a behavioral health or other provider as a party to determine why mandated services are not being provided.

Proposal Requested By

Name Robert M. Brutinel

Title Chair, Committee on Juvenile Courts

Address Yavapai County Courthouse, Prescott Arizona, 86301

Telephone (928) 771-3305 Fax (928) 771-3495 E-mail Rbrutine@courts.sp.state.az.us

SECTION I: BACKGROUND

A. Describe the issue, problem, or need for the proposal. Please be detailed.

Providers of services for children and their families in dependency cases sometimes are unwilling to provide services to which the parties are entitled, and frequently are unable to provide timely, consistent services such as counseling, therapy and placement in professional level foster care. These providers are not currently accountable to either the court or Child Protective Services when they fail to provide critical services to children and families in individual cases.

B. Specifically describe how the problem will be corrected or the need served by the proposal. Provide supporting information, e.g., statistics on increased caseloads, reports, etc.

The proposed legislation will allow the court to join a service provider for the

purpose of determining why statutorily mandated services are not being provided in an individual case. The legislation will have the added benefit of helping the court bring participants in the child welfare system together to collaborate on system wide solutions.

C. Please provide the contact information of any individuals with relevant/expert knowledge on this subject.

D. Please provide (on this form or as an attachment) the recommended language of the legislation. (The Government Affairs group will assist in final drafting if the proposal moves forward). **Attached.**

E. Can the desired change be achieved by another method? **No.**

Court Rule Administrative order Interagency agreement

Please Explain.

F. If adopted by the Arizona legislature, would the regular effective date be acceptable (90 days after adjournment of the legislative session)? Are there any reasons why an emergency effective date (effective immediately upon signature of the Governor) or a delayed effective date should be sought? Please explain. **The regular effective date would be acceptable.**

SECTION II: IMPACTS

A. Check ALL Courts that could be affected.

Supreme Appellate Superior Justice Municipal

B. Could the proposed legislation shift cases from one court level to another? Please explain.
No.

- C. List the Arizona Revised Statute(s), Court rules or Administrative orders, etc that could be affected by this proposed legislation. **None.**
- D. Describe anticipated impacts of proposed legislation on the administration of the courts. For example, adoption or revision of court rules or procedures; added or revised reporting requirements; collection of statistics; impact on workload level, automation requirements, etc. **No impact.**
- E. Describe the impact this legislation will have on current court revenues, expenditures and funding. Are the funds involved appropriated or non-appropriated? Will additional expenditures be necessary if this legislation passes, i.e., automation, personnel or materials? **No impact.**
- F. Describe the consequences if the proposed legislation is not pursued or passed this year. **We will continue to have children and families who will not receive services to which they are entitled, and no accountability by service providers to the children and families they are mandated to serve or the court.**
- G. Briefly, describe any impact this legislation will have on other governmental agencies or budget units? **It will encourage the Regional Behavioral Health Authorities (RBHAs) and their service area agencies to be accountable for their actions, to better collaborate within the child welfare system and attend some court hearings.**
- H. Will this legislation advance the goals of Chief Justice McGregor’s Strategic Agenda, *Good to Great*? **Yes. It will advance the goal of Protecting Children, Families and the Community, and specifically, the provision of Goal #2 that the “Courts must improve processes to protect children, families and communities through innovative and forward-looking programs.”**

SECTION III: SUPPORT OR OPPOSITION

- A. Please identify *any* agencies, groups, or legislators, etc, who support, or may support, this legislation and describe the reasons for their support. **The Arizona Juvenile Justice Commission, the Arizona Department of Economic Security – Child Protective Services, the Children’s Action Alliance may support the legislation.**

- B. Please identify *any* agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and describe the reasons for their opposition. **The Arizona Department of Health Services and the individual RBHAs may oppose it, although at least one RBHAs has indicated in the past that they would not oppose it.**
- C. Describe any possible risks of introducing this issue to the Legislature. For example, does it have the potential of subjecting a program's non-appropriated funds to legislative review and control, etc? **None.**

Section 8-248.

A. To facilitate coordination and cooperation among government agencies or private service providers, or both, the court may, after giving notice and an opportunity to be heard, join in the juvenile court proceedings any agency or private service provider. In any proceeding in which an agency or private service provider is joined, the court shall not impose duties upon the agency or private service provider beyond those mandated by law. Nothing in this section shall prohibit agencies or private service providers that have received notice of the hearing on joinder from meeting prior to the hearing to coordinate services for the child.

B. When a child is adjudicated a dependent of the court, the juvenile court may direct any and all reasonable orders to the parents or guardians of the child who is the subject of any proceedings in this chapter, to ensure the child's regular school attendance and to make reasonable efforts to obtain educational services necessary to meet the specific needs of the child.

C. "Private Service Provider" means any agency, entity or individual that receives federal, state or local government funding or reimbursement for providing services directly to foster children.

ARIZONA JUDICIAL COUNCIL 2006 Legislation Development Calendar

July 15, 2005	Notice of calendar and legislative request forms sent to judges, committee chairs, and association presidents
August 26, 2005	★ Legislative request forms due
September 8, 2005	Begin Presentation of proposals to court committees and commissions.
October 19, 2005	AJC review of court committee recommendations, approval of 2006 judicial legislative packet
October - November 2005	Research/analysis/drafting and sponsorship of legislation approved by AJC
November 15, 2005	Deadline to submit legislation to Legislative Council
November - December	Review/revisions by AOC of drafts of legislation as prepared by Legislative Council
December 14, 2005	Further review by AJC (as needed)
January 8, 2006	2006 legislative session begins

★ Legislative requests and court committee recommendations should be sent to:

**Jerry Landau
Director of Public Affairs
1501 West Washington, Suite 411
Phoenix, AZ 85007
jlandau@courts.az.gov**