

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

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<b>Date Action Requested:</b>	<b>Type of Action Requested:</b>	<b>Subject:</b>
October 24, 2007	<input checked="" type="checkbox"/> Formal Action/Request <input type="checkbox"/> Information Only <input type="checkbox"/> Other	Legislative Proposals from the Judicial Branch

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**FROM:**

Jerry G. Landau  
Director of Government Affairs  
Administrative Office of the Courts

**DISCUSSION:**

Review and explanation of Legislative Proposals.

**RECOMMENDED COUNCIL ACTION:**

As to each proposal, determine whether to include in the council's proposed legislation. If the council does not include the proposal in the proposed legislation, determine whether to support the proposal.

**NOTE:**

Proposals 2008-07 and 2008-08 have been withdrawn.

## 2008 Legislative Proposals

### **1** 2008-01: Criminal Code Sentencing Reorganization (Jerry Landau)

Reorganizes Title 13, Chapters 6 and 7 to simplify the structure of the sentencing code. Does not make structural or philosophical changes to the code. Major provisions include:

- Moves the definition of “dangerous offense” to §13-105, definitions.
- Splits the various provisions of §13-604 into separate statutes dealing individually with dangerous offenses, repetitive offenses, serious offenses and special sentencing provisions. All transferred to Chapter 7.
- Reorganizes §13-604.01, Dangerous Crimes Against Children, makes a clarifying change and transfers the statute to Chapter 7.
- Places both “three strikes and your out” provisions in the same statute in Chapter 7.
- Renumbers sections dealing with death penalty placing the statutes in a separate article.
- Transfers the statute dealing with Class 6 Felonies from Chapter 7 to Chapter 6.
- Consolidates all misdemeanor sentencing provisions.
- Within the reorganization, repeals and renumbers some sections.
- Makes conforming changes to internal references

### **2** 2008-02: Time payment fee (Katy Proctor)

Repeals the statute authorizing the Time Payment Fee to revert to \$12 on January 1, 2010. Maintains the current Fee at \$20 indefinitely.

**OR**

Creates a \$5 surcharge on all fines, penalties and forfeitures to be split evenly between the state Judicial Collection Enhancement Fund (JCEF) and the local courts collecting the surcharge. All monies are expressly dedicated to funding court automation projects. To avoid duplicative funding, the existing Time Payment Fee extension would be repealed, returning the Fee to \$12. The \$5 surcharge is expected to raise approximately \$3 million, which will fully offset the loss of monies when the Time Payment Fee reverts to \$12.

### **3** 2008-03: Capital case task force proposals (Jerry Landau)

*The following proposals are pending final approval of the Capital Case Task Force:*

- Increases the hourly rate contract lawyers are paid to handle Rule 32 cases from \$100 to \$125.

- Deletes the requirement for appointed counsel to show good cause to receive payment for work done in excess of 200 hours on a post-conviction case.

**4** **2008-04: Court reporter; transcript fees (Amy Love)**

Increases the dollar amount a court reporter may receive for an appeals transcript from \$2.50 to \$3.25 per page for an original and from \$0.30 to \$0.50 per page. Increases the dollar amount a court reporter may receive for a note transcription of a preliminary hearing from \$2.50 to \$3.25 per page.

**5** **2008-05: Change of name; fingerprinting (Amy Love)**

Requires an individual applying for a name change to furnish the court with a full set of fingerprints for the purpose of conducting a criminal background check. Makes the applicant responsible for the cost of the background check, but prohibits any fee charged to the applicant from exceeding the actual cost of the background check.

**6** **2008-06: Guardianship; persistently or acutely disabled (Katy Proctor)**

Authorizes the court, upon determining that a person is *persistently or acutely disabled*, to order an investigation concerning the need for a guardian or conservator or both. The court must appoint a person or agency to conduct the investigation. A report is due back to the court from the person conducting the investigation within 21 days, complete with recommendations as to who should be the guardian /conservator and findings and reasons for the recommendation. If the recommendation is for a conservator or guardian, the court orders the person recommended in the report to be the guardian or conservator to submit the required petition. The proposal additionally authorizes the court to appoint a temporary guardian for a person who has been found to be persistently or acutely disabled if the court finds that the patient is in need of immediate guardianship. If the person already has a guardian, the court can impose additional duties on the existing guardian pursuant to current law.

**7** **2008-07: Juvenile court; contracting authority (Katy Proctor) - WITHDRAWN**

- Expands the statutory duties of the Director of Juvenile Services (Director) to include responsibility for:
  - Policy and procedure development for the provision and improvement of services
  - Budget preparation and administration

- Program, service and function review to determine effectiveness, efficiency, justification of cost and adherence to policy
- Direction for research activities and study problems
- Direction for staff training and training for potential managers
- Interagency coordination to achieve goals, including the execution of contracts, intergovernmental agreements or MOUs to implement programs and services.
- Coordination with nonprofit, private, institutional, educational or community programs to achieve goals, including the execution of contracts, agreements or MOUs to implement programs and services.
- Other duties prescribed by statute and rule.
- Authorizes the presiding judge of the juvenile court to execute contracts, MOUs or IGAs with public, private, nonprofit, community and educational entities for specific programs.
- Allows the superior court, in addition to the county, to establish family counseling programs for families with kids in juvenile court. Expands the list of contractors for the counseling programs to include nonprofit or educational entities and authorizes the presiding judge to execute contracts, MOUs, or IGAs for these programs.
- Creates an Article 7 under Title 8, Chapter 2 (Juvenile Court) for delinquency prevention programs. Defines *delinquency prevention programs*, *early intervention programs* and *juvenile*.
- Authorizes the presiding judge or Director to enhance, maintain or establish:
  - Delinquency prevention programs
  - Early intervention programs
  - Truancy suppression programs
  - Law-related education programs
  - Restorative justice programs, and
  - Life-skills training programs.

Outlines requirements for the programs and authorizes the presiding judge or the Director to contract with various entities to implement the programs. IGAs with other state agencies are also permitted. Law-related education programs may be administered by the Juvenile Court Educational Liaison staff supported by the probation department and the Liaison may develop a plan to regularly disseminate information about the program to the public.

- Allows the Director to enter into cooperative agreements or contracts with medical or educational institutions to provide medical internships in exchange for services and immunizations for juveniles in detention.

- Authorizes the county attorney or juvenile court to maintain or enhance community based alternative programs utilized for kids who receive diversion and allows the county attorney or juvenile court to contract with various entities through IGAs, contracts or MOUs to implement the community based alternative programs.
- Authorizes monies in the juvenile probation services fund to be used for at-risk youth and children who are referred to the court for incorrigibility or delinquency. Allows the juvenile court to contract for these programs.
- Provides that the monetary assessment imposed on a juvenile found to be either delinquent or incorrigible may be satisfied through participating in a restorative justice program.
- States that the court may order a juvenile who committed a graffiti violation to enter into a restorative justice program in lieu of paying the fine associated with the offense, if it is in the best interests of the juvenile and the victim.
- Allows the court to order a juvenile adjudicated delinquent for a DUI offense to participate in a restorative justice program. Permits the court to recommend that the juvenile or the juvenile's family attend family counseling or other programs.
- Authorizes the court to recommend that a juvenile adjudicated delinquent and ordered to pay restitution additionally participate in a restorative justice program.
- Allows payment of restitution to victims from the county restitution fund for juveniles adjudicated delinquent who are unable to pay restitution, but complete unpaid charitable work as part of a restorative justice program. Authorizes the county attorney or juvenile court to execute a contract, IGA or MOU with the agency providing the juvenile work.
- States that the court has the authority to furnish the criminal history of a student to the student's school district for the purpose of determining if the student has been adjudicated delinquent for or convicted of either a dangerous offense or a specific sex offense.
- Adds the option of participation in a supervised restorative justice program or a delinquency prevention program to the list of potential conditions for intensive probation. Makes conforming changes in A.R.S. § 8-355.
- Allows the court to recommend that juveniles under the jurisdiction of the juvenile court participate in a truancy suppression program. Allows the school district where the juvenile resides, the juvenile court or the Department of Juvenile Corrections to establish delinquency prevention programs.

- Clarifies within the existing statute governing IGAs that public agencies may enter into contracts or agreements with the juvenile court, subject to existing limitations.
- Expands the definition of an *at-risk youth* in the statute governing summer youth and employment training to include a juvenile 11-18 years of age who has been identified by the juvenile court as in need of any of the programs created above.
- Allows coordination for summer youth employment and training programs to involve contracts, MOUs or IGAs with community non-profit or private programs, educational entities, juvenile justice partners, juvenile court or juvenile probation programs.
- Authorizes state aid for probation services monies used to improve, maintain or expand existing juvenile or adult programs to include coordination with state, federal or local agencies, public, private, non-profit or educational entities. Allows the presiding judge of the superior court to execute contracts, MOUs or IGAs to implement agency coordination.
- Expands the definition of *law-related education* in the public school safety program statute to include juvenile crime prevention and effective citizenship. Also allows it to include delinquency prevention programs.
- Allows the Director to assign, through a contract or IGA, juvenile probation officers to participate in the safe schools program. Cooperation between the entities may involve a contract, reciprocal agreement, MOU or IGA.
- Allows monies from the county jail excise tax to be used for delinquency prevention and early intervention programs.

## **8 2008-08: Redaction of personal information (Katy Proctor) - WITHDRAWN**

Removes the requirement for a person seeking redaction of personal information contained in specific records to obtain a court order to accomplish the redaction. Instead, the person would be required to attest to the fact that the person is eligible for the program and file an affidavit with the county clerk or other designated office. A person who is not protected by an order of protection/injunction against harassment would have to include a statement "that the person believes that the person's life or safety is in danger because during the ordinary course of the person's official duties, the person's name or identity may be disclosed to people who have been convicted of or are undergoing prosecution for criminal conduct or a municipal ordinance violation." For voting records, the person must also include a voter registration form indicating the mailing

address for each person requesting protection, along with an acknowledgement from each person that if they don't vote by mail, their information may not be protected. For motor vehicle records, the person must also provide a driver license number and date of birth. No court action would be required, the affidavit would be filed directly with the affected agency or with the clerk and transmitted to the agency, but no petition or court order would be generated.

Once the affidavit is filed, access to the restricted information must be prohibited within a prescribed amount of time (10 days for county recorder, treasurer, and assessor, 120 days for voting information and 150 days for motor vehicle records). The affidavit automatically expires after five years and the restriction on access to the record must be lifted by January 5 of the 6<sup>th</sup> year after the affidavit was filed.

**9** **2008-09: Guardianship of foreign national minors (Amy Love)**

Permits guardianships for foreign citizens under 18 years of age who have been either documented by the US Office of Refugee Resettlement and authorized to enter the US as a refugee or granted asylum by an agency of the US Government. Current law provides limited circumstances under which a person may be appointed as the guardian of a foreign citizen under the age of 21 (A.R.S. § 14-5108). The proposal expands this statute to include minors who meet the requirements outlined above.

**10** **2008-10: Interstate Compact; Finance (Amy Love)**

Amend A.R.S. § 12-267 and 31-467, Article X, subsection B, to increase the cap on Arizona's annual assessment to the interstate commission to a figure that covers the increase in assessment (to be determined) or alternatives; striking the provision requiring appropriation from the legislature for increases to Arizona's annual assessment or increasing the cap to \$50,000. The cap was increased to \$25,500 in 2006 to accommodate an increase in the assessment, however the assessment is being increased again this year.

**11** **2008-11: Deputy probation officers; appointment (Katy Proctor)**

Allows the Chief Justice to appoint deputy probation officers in the AOC to provide services to county juvenile and adult probation departments for purposes of training, consultation and technical assistance.

9/26/07

**ARIZONA JUDICIAL COUNCIL  
Legislative Request for Proposal  
2008 Legislative Session**

- *Use the TAB key to navigate through this form.*
- *Submit electronically to Carmen Orduno, [corduno@courts.az.gov](mailto:corduno@courts.az.gov)*

**Short Title / Subject Matter of Proposal:**

**Date:** 8/20/07

Criminal Code Sentencing Reorganization

**Proposal Requested By:**

**Name:** Jerry Landau

**Title:** Director of Government Affairs, Arizona Supreme Court

**Address:** 1501 W. Washington, Ste 411 Phoenix, AZ 85007

**Telephone:** 602-452-3275

**Fax:** 602-452-3484

**E-mail:** [jlandau@courts.az.gov](mailto:jlandau@courts.az.gov)

## **SECTION I: BACKGROUND**

**A. Describe in detail the issue, problem, or need for the proposal.**

Over the years, the criminal code sentencing statutes have become extremely complicated, complex and difficult to follow. They are spread over at least two chapters in Title 13 with little organization.

**B. 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.**

There is virtually total agreement that the sentencing code must be simplified and reorganized. I am not proposing changing the philosophy

of sentencing, only reorganizing what is currently in the code. There are multiple sentencing provisions that can be restructured, simplified and better organized. We must ensure that the bench, practitioners and public can find and understand the relevant criminal code sentencing provisions.

**C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Jerry Landau - See contact information above

**D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

Jerry Landau - See information above

**E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~striketrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

See Attachment

**F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

No, Criminal Code sentencing is a creature of statute.

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

Delayed effective date of January 1, 2009 in order to provide sufficient training, update forms and complete any automation changes.

## **SECTION II: IMPACTS**

**A. Check ALL courts that could be affected.**

Supreme       Appellate       Superior       Justice       Municipal

**B. Would the proposed legislation shift cases from one court level to another? How?**

No

**C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.**

Title 13, Chapters 6 and 7, various other criminal code statutes

**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.**

Update of automation, forms, sentencing chart and bench book. Training for bench, court staff and practitioners.

**E. Describe the fiscal impact of this legislation.**

Cost of reprogramming, printing new forms, if necessary

**F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

No

**G. Are the funds involved appropriated or non-appropriated?**

N/A

**H. Will this legislation impact other governmental agencies or budget units? How?**

Other branches and agencies utilizing the criminal code will need to learn the revised sentencing code structure.

**I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

The sentencing code will remain as is.

**J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

Yes, the bench, practitioners and public will have easier, speedier access to the criminal code sentencing provisions.

**SECTION III: SUPPORT OR OPPOSITION**

**A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

The bench would support the changes and with a caveat listed below the practitioners should support as well. I am working with the prosecution and defense in order to develop a consensus package.

**B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

See III A above

**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.?**

Some may fear the bill will be used for structural and philosophical changes to the sentencing code, even if not the intent of the legislation.

**D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

Yes, Rep. Bill Konopnicki is in support and will sponsor, as is House and Senate leadership if a consensus bill can be developed.

**ARIZONA JUDICIAL COUNCIL**  
**Legislative Request for Proposal**  
**2008 Legislative Session**

- *Use the TAB key to navigate through this form.*
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**Short Title / Subject Matter of Proposal:****Date:** 8/22/07

Creation of a \$5 surcharge on fines, penalties and forfeitures to offset the statutory decrease in the Time Payment Fee.

**Proposal Requested By:**

**Name:** Katy Proctor  
**Title:** Legislative Liaison  
**Address:** 1501 W. Washington, Suite 415  
**Telephone:** (602) 452-3662  
**Fax:** (602) 452-3484  
**E-mail:** kproctor@courts.az.gov

**SECTION I: BACKGROUND****A. Describe in detail the issue, problem, or need for the proposal.**

A.R.S. 12-116 currently specifies a \$20 Time Payment Fee, of which \$11 is deposited into the JCEF. On January 1, 2010, the fee will revert to to \$12, which will reduce the amount deposited into the JCEF to \$7. Finance estimates that when the Fee reverts, the impact to the JCEF will be approximately \$1.5 million. The proposal is necessary to cover the loss of JCEF monies.

- B. 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 proposal would increase the overall surcharge amount collected on fines, penalties and forfeitures by \$5 to cover the loss of monies to the JCEF when the Time Payment Fee reverts to \$12. Internal estimates have determined that \$5 is the amount necessary to recoup the \$3 million that will be lost when the Fee reverts in 2010.

- C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Karl Heckart, Director, Information Technology Division, AOC  
Kevin Kluge, Chief Financial Officer, AOC

- D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

See section C above

- E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~striketrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

See Attached

- F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

Requires statutory change.

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

No emergency clause necessary. A delayed effective date may be necessary depending on the policy decision of whether to have the fee revert and the new surcharge take effect at the same time or at different times.

## SECTION II: IMPACTS

A. Check ALL courts that could be affected.

Supreme     Appellate     Superior     Justice     Municipal

B. Would the proposed legislation shift cases from one court level to another? How?

No.

C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.

A.R.S. 12-116, A.R.S. 12-113

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.

Estimated impact statewide is \$3 million, impact to state JCEF is \$1.5 million. The courts continue to rely more heavily on automation and data integration as Arizona's population increases. Case management systems currently under development will be complete and in the process of statewide rollout in 2010, as will a statewide criminal data integration initiative. A probation management system that integrates with the case management systems will also be delivered in the time period. Electronic case filing and transfer of cases will be the norm. Infrastructure and disaster recovery capabilities must keep pace with the advancing automation systems as electronic records replace paper. The technology will need to ensure swift, fair justice and public accountability has an initial price tag as well as ongoing maintenance costs.

E. Describe the fiscal impact of this legislation.

See above.

- F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

Additional appropriations to JCEF from other funds would be necessary beginning in FY 2010 to supplant lost amounts if rollouts of statewide automation improvements continue.

- G. Are the funds involved appropriated or non-appropriated?**

JCEF is non-appropriated.

- H. Will this legislation impact other governmental agencies or budget units? How?**

Local courts will be greatly affected by the loss of monies to cover automation projects.

- I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

Without a solution, local courts will have to assume that the existing JCEF funding will be cut drastically. Rollouts may have to be delayed as funds will not be available to cover the cost of these programs.

- J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

The increased surcharge will directly fund the achievement of the automation-related portions of the Good to Great agenda and indirectly funds the achievement of various business goals that rely on automation.

### **SECTION III: SUPPORT OR OPPOSITION**

- A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

Agencies and groups who may support: Arizona Association of Counties, County Supervisor's Association, League of Cities and Towns, Maricopa County Superior Court, JP Association, local court associations.

Legislators who may support: Rep. Pearce

The proposal must be discussed with Sen. Rios

- B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

Legislators who may oppose: Senator Miranda, Senator Chuck Gray, Representative Eddie Farnsworth

- 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.?**

Could potentially expose the use of JCEF monies to more scrutiny or additional requirements.

- D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

Since a variation of this proposal was attempted last year, many legislators have made their opinions known on the subject of automation funding and the Time Payment Fee. Concerns specific to the Fee will not be an issue, since the proposal doesn't affect the reversion of the fee in 2010. Overall hostility towards automation projects may be expressed by the following legislators:

Senator Miranda  
Senator Chuck Gray  
Representative Eddie Farnsworth

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2008 Legislative Session**

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**Short Title / Subject Matter of Proposal:****Date:** 8/22/07

Capital Case Task Force Proposals - PLEASE NOTE THIS IS A TENTATIVE DRAFT the Task Force will not complete its consideration of these proposals until on or after September 7, 2007. Also, the Task Force Chairman, Justice Ryan, has not had input yet in the wording of this document.

**Proposal Requested By:****Name:** Capital Case Task Force, Jennifer Greene, Staff to the Task Force**Title:** Policy Analyst**Address:** Court Services Division, AOC**Telephone:** Jennifer: 452-3555**Fax:** (602) 452-3659**E-mail:** [jgreene@courts.az.gov](mailto:jgreene@courts.az.gov)**SECTION I: BACKGROUND****A. Describe in detail the issue, problem, or need for the proposal.**

The Task Force was formed to identify improvements to the way capital cases are processed to facilitate efforts by the Superior Court in Maricopa County to reduce the number of pending capital cases and to ensure that the Supreme Court has the necessary resources in place to process the anticipated increase in capital case appeals from Maricopa County.

**B. 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 Task Force recommends amendments to two statutes impacting how capital cases are handled in the Rule 32 post-conviction phase, this is the portion of a capital case that follows upon conviction in the trial court and an unsuccessful direct appeal to the state Supreme Court. It commences automatically following the Supreme Court's denial of relief on direct appeal and typically involves a change of defense lawyers and a challenge to the quality of defense provided in trial and/or in direct appeal, as well as other constitutionally challenges to the due process afforded by the trial court.

(1) The proposed change to A.R.S. section 13-4041 will increase the hourly rate contract lawyers are paid to handle Rule 32 cases from \$100 to \$125. It will also eliminate the "cap" of 200 hours imposed on these cases. Although in reality the 200 hour cap is not routinely used to limit what lawyers can earn in these cases, on its face, the statute appears to impose this cap as an absolute limit that must be overcome by proof that more time was justifiably expended in representing the defendant, and may be discouraging some lawyers from working in this area. The 200 hour cap does not reflect the amount of time the defense must spend representing an individual facing the death penalty. More typically, these cases require 600 to 1200 hours. This proposal is designed to ensure sufficient numbers of qualified attorneys are available to represent indigent defendants in capital post-conviction relief proceedings (ARCrP 32).

(2) The proposed amendment to A.R.S. section 41-4301 will remove the cap on the number of lawyers who can work for the new Statewide Capital Post-Conviction Defender Office. Currently the staff is limited by statute to a director and three deputies and not more than four other employees. It is anticipated that this office will function more efficiently than private attorneys and the limit on staffing appears to be unnecessary. This office was established only within the past few months and is expected to relieve the current backlog of Rule 32 capital cases awaiting appointment of defense counsel, but only to some extent. There will be a continuing need to assign private counsel to handle some of these types of cases.

Also, there is no rational reason for prohibiting members of the office from conducting trainings and consulting with other lawyers with respect to issues that may arise in petitions for post-conviction relief, so long as the members of the office do not provide consulting services in individual trial or appellate cases. These lawyers possess specialized skills in Arizona PCR law and as such represent a rich source of expert knowledge and information from which other professionals can and should benefit.

(3) The Task Force also recommends that A.R.S. section 12-224 be amended to increase the per page rate for transcripts of superior court proceedings. The rate is currently \$2.50 per page for the original

transcript and 0.30 cents per page for any copies. The rate has not been increased since 1987 and is impairing courts' ability to attract and retain qualified court reporters. This below-market rate is also a disincentive for reporters who might otherwise subcontract with other reporters or scopists for transcript preparation, an option they are authorized to use by A.R.S. section 12-225. All of this is contributing to excessive delays in processing capital cases on appeal, and the problem is not limited to capital cases. Comparable rates in many other states are \$0.75 to \$1.00 more. The Board of Certified Court Reporters (the entity that regulates court reporters) has recently recommended an increase to \$3.25 per page. The Arizona Court Reporters Association has suggested the increase should be \_\_\_\_.

**C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Marty Lieberman, Director, Statewide Capital Post-Conviction Defender's Office 254-5544; Donna Hallam, Staff Attorney, Arizona Supreme Court, 452-3375; Kent Cattani, Chief Counsel, Capital Litigation, Arizona Attorney General's Office, 542-8589.

**D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

See section C. (supra).

**E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~strikethrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

See attached proposals.

**F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

No.

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

The regular effective date would be acceptable.

## **SECTION II: IMPACTS**

- A. Check ALL courts that could be affected.**

Supreme     Appellate     Superior     Justice     Municipal

- B. Would the proposed legislation shift cases from one court level to another? How?**

No

- C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.**

ARS sections 12-224, 13-4041 & 41-4301

- 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.**

None anticipated.

- E. Describe the fiscal impact of this legislation.**

Do not know how much this will cost.

- F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

Yes, personnel.

- G. Are the funds involved appropriated or non-appropriated?**

The State Capital PCR Defender's Office costs are paid partly by the state and partly by the counties, as are the fees paid to private attorneys who

handle Rule 32 matters. The majority of transcript orders involve indigent defendants, and these costs are covered entirely by counties.

**H. Will this legislation impact other governmental agencies or budget units? How?**

Yes, counties. See G, supra

**I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

There are people waiting to see their cases completed, not only the defendants themselves, but also the family members of their victims.

**J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

Yes, promoting swift, fair resolution of capital post-conviction matters is in keeping with Goal #1 of the Agenda. The proposal will reduce the delay currently experienced by the parties, including victims' families in completing the state court proceedings in death penalty cases.

### **SECTION III: SUPPORT OR OPPOSITION**

**A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

Type text here

**B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

Type text here

**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 known.

**D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

No.

**ARIZONA JUDICIAL COUNCIL  
Legislative Request for Proposal  
2008 Legislative Session**

- *Use the TAB key to navigate through this form.*
- *Submit electronically to Carmen Orduno, [corduno@courts.az.gov](mailto:corduno@courts.az.gov)*

**Short Title / Subject Matter of Proposal:**

**Date:** 8/21/07

Court Reporter Transcript Fees Set by Statute

**Proposal Requested By:**

**Name:** Michele Balmer

**Title:** President - Arizona Court Reporters Association

**Address:** 7225 West Oakland Street

**Telephone:** 480-892-6875 (ACRA office - 480-496-4010)

**Fax:** 480-635-1020 - (ACRA office - 480-858-1802)

**E-mail:** michelebalmer@yahoo.com (acra@saminc.org)

## **SECTION I: BACKGROUND**

**A. Describe in detail the issue, problem, or need for the proposal.**

A.R.S. 12-224 and 13-3952 set page rates to be charged by court reporters for appeal transcripts and preliminary hearings at a rate that has not changed in 20 years. The rate is not competitive when compared to states nationwide or, more importantly, the local freelance market, and may contribute to difficulties in attracting freelance court reporters to perform needed services in Superior Court.

Official reporters working in the court system have had to continually invest and upgrade their own equipment and software over the years at their own expense, as well as office supplies not provided by the county,

while the statutory page rate has remained the same. Transcript work by officials is done during non-court hours, and transcript fees compensate the reporter for this work.

Electronically recorded proceedings that are subsequently transcribed by an outside transcription firm charge higher page rates than court reporters are allowed to per the statute on appeals.

**B. 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.**

Increasing the statutory page rate would not only recognize an inflationary component but would also have a positive effect on the efficient workings of the court.

**C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

John MacDonald, Husk Partners, 1702 East Highland, Phoenix, AZ, 602-402-8586

Michele Balmer, ACRA 7225 W. Oakland St., Chandler, AZ  
H - 480-892-6875 Cell: 480-720-2153

Doreen Lobock, ACRA, 7225 W. Oakland St., Chandler, AZ  
H - 480-451-7081 Cell: 480-200-7002

**D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

John MacDonald, Husk Partners, 1702 East Highland, Phoenix, AZ, 602-402-8586

Michele Balmer, ACRA 7225 W. Oakland St., Chandler, AZ  
480-892-6875, Cell: 480-720-2153

Doreen Lobock, ACRA, 7225 W. Oakland St., Chandler, AZ  
480-451-7081 Cell: 480-200-7002

**E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~strikethrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

12-224. Salary; fees for transcripts; free transcripts; office supplies.

B. The reporter shall receive from a party ordering an appeal transcript, THREE DOLLARS AND FIFTY CENTS per page for the original, and thirty cents per page for each copy if ordered at the same time and by the same party.

13-3952. Compensation of court reporter appearing at preliminary hearing; fees for transcribing notes.

When a regularly appointed court reporter appears and takes testimony at a preliminary hearing in a criminal proceeding, the reporter's compensation shall be fixed by the magistrate before whom the examination is had. Such compensation shall not exceed the amount of fifteen dollars per day for each preliminary hearing actually attended upon such examination, and THREE DOLLARS AND FIFTY cents per page for transcribing his notes, to be allowed and paid as other county charges.

\*\*\*NOTE: The current rate of \$2.50 for an original and 30 cents for a copy should be changed to reflect a reasonable current value of the product and service provided. ACRA is in the process of collecting information from courts across the country for comparative purposes, but the current rate is well below page rates in the freelance market.

**F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

No.

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

Yes, regular effective date acceptable.

## SECTION II: IMPACTS

**A. Check ALL courts that could be affected.**

Supreme       Appellate       Superior       Justice       Municipal

**B. Would the proposed legislation shift cases from one court level to another? How?**

No

**C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.**

12-224. Salary; fees for transcripts; free transcripts; office supplies  
13-3952. Compensation of court reporter appearing at preliminary hearing; fees for transcribing notes

- 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.**

A positive effect on the efficient flow and production of appeal transcripts by official reporters and potential to attract freelance court reporters to Superior Court when the court is looking for coverage by per diem freelance reporters.

- E. Describe the fiscal impact of this legislation.**

Over time anticipated to have an overall cost savings to superior courts

- F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

Unknown if additional county appropriations would be necessary, but no legislative appropriation would be required.

- G. Are the funds involved appropriated or non-appropriated?**

Non-appropriated

- H. Will this legislation impact other governmental agencies or budget units? How?**

Yes. Though the exact impact is undetermined, there is potential for an overall budget reduction.

- I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

Continued difficulty in attracting court reporters to work in superior courts, and continued inefficiency in the timely production of transcripts.

- J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

Yes. Will help to improve the efficient workings of the court system, and may assist in some of the goals of the Supreme Court Capital Case Task Force.

### **SECTION III: SUPPORT OR OPPOSITION**

- A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

Supreme Court Capital Case Task Force, Arizona Court Reporters Association

- B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

Unknown

- 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.?**

Legislative risk is negligible.

- D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

No.

**ARIZONA JUDICIAL COUNCIL**  
**Legislative Request for Proposal**  
**2008 Legislative Session**

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- *Submit electronically to Carmen Orduno, [corduno@courts.az.gov](mailto:corduno@courts.az.gov)*

**Short Title / Subject Matter of Proposal:**

**Date:** 8/24/07

Title 12 – Chapter 6  
Special Actions and Proceedings by Individual Persons  
Change of Name – Fingerprinting Required

**Proposal Requested By:**

**Name:** Diana L. Clarke, Esq.

**Title:** Department Court Administrator, Superior Court of Maricopa County

**Address:** 125 W. Washington, 1<sup>st</sup> Floor, Phoenix, AZ 85003-2242

**Telephone:** 602-506-6695

**Fax:** 602-506-0702

**E-mail:** dclarke@superiorcourt.maricopa.gov

**SECTION I: BACKGROUND**

**A. Describe in detail the issue, problem, or need for the proposal.**

This legislative proposal requests an addition to Title 12, Courts and Civil Proceedings, Chapter 6, that would add a provision requiring that any adult applicant for a change of name pursuant to A.R.S. § 12-601 and § 12-602, be required to submit a fingerprint card to the Department of Public Safety in conjunction with the request for criminal history information. The purpose for obtaining criminal background checks on persons seeking name changes is to protect the public against those persons who would employ such name changes for the purpose of identity

theft, fraud, evading law enforcement authorities, acts of terrorism, stalking or similar illegal purposes. Presently, under A.R.S. § 12-601(C), a person who files a name change application must declare under penalty of perjury the following information:

1. If the person has been convicted of a felony.
2. If felony charges are pending in any jurisdiction against the person for any offense under title 13, chapter 18, 20, 21, 22, 23 or 27 or any other offense involving false statements or misrepresentations about the person's identity.
3. If the person is knowingly changing the person's name to that of another individual for the purpose of committing or furthering the commission of any offense under title 13, chapter 18, 20, 21, 22, 23 or 27 or any other offense involving false statements.
4. The person is making the application solely for the best interest of the person.
5. The person acknowledges that the change of name will not release the person from any obligations incurred or harm any rights of property or actions in the original name.

However, without the benefit of a criminal background check, the court has no means of ascertaining whether any of the statements required by the applicant are true or false. By allowing the court to consider information contained in a criminal background check prior to deciding whether or not to grant a name change application, the court will be able to make a more informed assessment as to whether granting the name change will pose any risk of harm to any individuals or to the community. Criminal history records checks shall be conducted pursuant to A.R.S. § 41-1750 and P.L. 92-544. The Department of Public Safety is authorized to exchange the submitted fingerprint card information with the Federal Bureau of Investigation for a national criminal history records check.

**B. 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.**

Presently, in considering whether or not to grant a name change application, the court has no independent information to verify whether or not the applicant has a prior criminal history. By requiring name change applicants to submit to a criminal background check, the court will be better informed as to whether granting the application is warranted, or whether the applicant has a prior criminal record that would make a denial of the application to be in the public interest.

**C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Honorable Barbara R. Mundell, Presiding Judge, Superior Court for Maricopa County.

Diana L. Clarke, Esq., Court Administration, Superior Court for Maricopa County.

**D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

Honorable Barbara R. Mundell, Presiding Judge, Superior Court for Maricopa County.

Diana L. Clarke, Esq., Court Administration, Superior Court for Maricopa County.

**E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~strikethrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

Please see the attached proposed statutory language.

**F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

The desired change will be best achieved through the proposed statutory amendment.

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

The regular effective date would be appropriate for this proposed statutory change.

## SECTION II: IMPACTS

A. Check ALL courts that could be affected.

Supreme     Appellate     Superior     Justice     Municipal

B. Would the proposed legislation shift cases from one court level to another? How?

No.

C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.

A.R.S. § 12-601

A.R.S. § 12-602

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.

The proposed legislative changes are not anticipated to have an impact other than requiring that any applicant wishing to obtain a change of name must submit a completed fingerprint card for processing by the Arizona Department of Public Safety. These legislative changes might also necessitate changes with the Clerk of the Court in the handling of such fingerprint cards and resulting DPS reports by segregating those records from the public portion of the file.

E. Describe the fiscal impact of this legislation.

There may be a minimal fiscal impact on the Clerk of the Court resulting from the need to keep sensitive fingerprint cards and records out of the public file in change of name cases, as proposed by this legislation. But the additional burden created is far outweighed by the need to protect the public by performing criminal background checks in such cases. The cost of processing the fingerprint cards will be the obligation of the applicant for a change of name. All fingerprint cards will need to be accompanied by a check to pay for the criminal background report, as is presently done in minor guardian cases pursuant to A.R.S. § 14-5206(B).

F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?

No additional appropriation of funds is anticipated.

**G. Are the funds involved appropriated or non-appropriated?**

Not applicable.

**H. Will this legislation impact other governmental agencies or budget units? How?**

The proposed legislative changes are not anticipated to have an impact on public or private entities other than requiring that the Arizona Department of Public Safety process fingerprint cards from applicants for a change of name as proposed by this legislation.

**I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

Currently, with no statutory requirement mandating that criminal background checks be performed on individuals seeking a change of name, the Court has no means of ascertaining whether granting the name change is in the public interest, or presents a possible threat to the public interest. This statutory change will also allow the Court to apprise the appropriate law enforcement agencies if such a referral is deemed by the Court to be warranted.

**J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

The proposed legislation advances the goal of "Protecting Children, Families and Communities" by requiring that background checks be performed prior to the court granting an application for a change of name. In recent years, terrorism, identity theft, fraud and workplace violence have skyrocketed. In addition, national and local security has been the topic of much concern and discussion. The Judicial Branch of the State of Arizona is a criminal justice agency as defined by A.R.S. § 41-1750, which seeks to secure and protect the public, as well as individuals who use and visit courthouse facilities.

### **SECTION III: SUPPORT OR OPPOSITION**

- A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

Barbara R. Mundell, Presiding Judge, Superior Court for Maricopa County

Arizona state, federal and local law enforcement agencies

- B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

None that are known.

- 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.?**

No risks that are known.

- D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

No.

**Title 12 – Chapter 6**  
**Special Actions and Proceedings by Individual Persons**  
**Change of Name – Fingerprinting Required**

**Proposed Legislative Provisions**

**AMENDING A.R.S. § 12-601 AND § 12-602, TO READ AS FOLLOWS:**

12-601. Application; venue; FINGERPRINTS; judgment

- A. When a person desires to change his name and to adopt another name, he may file an application in the superior court in the county of his residence, setting forth reasons for the change of name and the name he wishes to adopt. The court may enter judgment that the adopted name of the party be substituted for the original name.
- B. BEFORE THE COURT MAY GRANT AN APPLICATION FOR CHANGE OF NAME, THE COURT SHALL REQUIRE THE APPLICANT TO FURNISH A FULL SET OF FINGERPRINTS TO THE COURT TO ENABLE A CRIMINAL BACKGROUND INVESTIGATION TO BE CONDUCTED. THE COURT SHALL SUBMIT THE COMPLETED FINGERPRINT CARD WITH THE FEE PRESCRIBED IN SECTION 41-1750 TO THE DEPARTMENT OF PUBLIC SAFETY. THE APPLICANT SHALL BEAR THE COST OF OBTAINING THE CRIMINAL BACKGROUND INFORMATION. THE COST SHALL NOT EXCEED THE ACTUAL COST OF OBTAINING THE APPLICANT'S CRIMINAL BACKGROUND INFORMATION. THE DEPARTMENT OF PUBLIC SAFETY SHALL CONDUCT CRIMINAL HISTORY RECORDS CHECKS PURSUANT TO SECTION 41-1750 AND APPLICABLE FEDERAL LAW. THE DEPARTMENT OF PUBLIC SAFETY IS AUTHORIZED TO SUBMIT FINGERPRINT CARD INFORMATION TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORDS CHECK. THE COURT SHALL REVIEW THE CRIMINAL BACKGROUND REPORT AND CONSIDER THE APPLICANT'S STATED REASONS FOR REQUESTING THE NAME CHANGE, AS WELL AS THE RIGHTS AND INTEREST OF THE PUBLIC, AND PUBLIC SAFETY, IN DETERMINING WHETHER TO ENTER JUDGMENT THAT THE ADOPTED NAME OF THE PARTY BE SUBSTITUTED FOR THE ORIGINAL NAME.
- ~~B-~~ C. The parent, guardian ad litem or next friend of a minor may file an application for change of the name of the minor in the county of the minor's residence. The court shall consider the best interests of the child in determining whether to enter judgment that the name of the minor be changed.

12-602. Notice of application; effect of change on rights and obligations

A. If upon the filing of the application for change of name the court deems it proper that notice be given, it may order that notice of the application be given by publication or by service upon any party interested, OR THAT NOTICE BE GIVEN TO FEDERAL OR LOCAL CRIMINAL JUSTICE AGENCIES.

B. The change of name shall not operate to release the person from any obligations which he has incurred or is under by the original name, or defeat or destroy any rights of property or action which he had in his original name.

**ARIZONA JUDICIAL COUNCIL  
Legislative Request for Proposal  
2008 Legislative Session**

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**Short Title / Subject Matter of Proposal:**

**Date:** 8/24/07

Title 36 – Mental Health Services:  
Appointment of Guardians or Conservators

**Proposal Requested By:**

**Name:** Diana L. Clarke, Esq.

**Title:** Probate Counsel/Probate Court Administrator – Maricopa County

**Address:** 125 W. Washington, 1st Floor, Phoenix AZ 85003

**Telephone:** (602) 506-6695

**Fax:** (602) 506-0702

**E-mail:** dclarke@superiorcourt.maricopa.gov

## **SECTION I: BACKGROUND**

**A. Describe in detail the issue, problem, or need for the proposal.**

This legislative proposal requests an addition to Title 36 Chapter 5, Mental Health Services, that would add a provision allowing the court to investigate the need for appointment of a guardian or conservator during mental health proceedings on finding that a patient is either gravely disabled or persistently or acutely disabled, and on finding that the evidence indicates the patient is or may be in need of a guardianship, conservatorship or both. [A.R.S. 36-540(G)]

Also, this proposal requests that if the court finds a patient is either gravely disabled or persistently or acutely disabled and is in need of

immediate guardianship or conservatorship for the protection of the patient, the court may appoint a temporary guardian or conservator. [A.R.S. 36-540(H)]

**B. 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.**

This legislation will allow the court to address those circumstances in which a mental health patient has been found by clear and convincing evidence to be persistently or acutely disabled, and who also is, or may be, in need of a guardianship or conservatorship. Under the current statutory language, A.R.S. § 36-540(G) only allows for the investigation of the need for a guardianship or conservatorship during mental health proceedings if the court finds the patient to be gravely disabled. However, circumstances arise during such proceedings where the court may find that a patient found to be persistently or acutely disabled also is, or may be, in need of a guardianship or conservatorship, or both, but no provision presently exists that allows the court to order an investigation into the need for such Title 14 proceedings.

Title 36 defines “persistently or acutely disabled” as “a severe mental disorder that meets all the following criteria:”

(a) If not treated has a substantial probability of causing the person to suffer or continue to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

(b) Substantially impairs the person’s capacity to make an informed decision regarding treatment and this impairment causes the person to be incapable of understanding and expressing an understanding of the advantages and disadvantages of accepting treatment and understanding and expressing an understanding of the alternatives to the particular treatment offered after the advantages, disadvantages, and alternatives are explained to that person.

(c) Has a reasonable prospect of being treatable by outpatient, inpatient or combined inpatient and outpatient treatment.

Title 14 defines an “incapacitated person” as “any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person.”

Under those circumstances during Title 36 proceedings where the court finds that a person who is persistently or acutely disabled also is, or may be, in need of a guardianship or conservatorship, the court should be allowed to order that a suitable person or agency conduct an investigation as to the need for proceedings to be commenced under Title 14. [A.R.S. § 36-540(G)] Similarly, if the court finds during mental health proceedings that an immediate need exists for the appointment of a guardian or conservator “for the purpose of the protection of a patient” who is persistently or acutely disabled and lacks the capacity to make or communicate responsible decisions, then the court should be allowed to appoint a temporary guardian or conservator. [A.R.S. § 36-540(H)]

**C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Judge Karen O'Connor, Presiding Judge for Probate/MH, Superior Court of Maricopa County - (602) 506-0428  
Diana L. Clarke, Esq., Probate Counsel & Probate Court Administrator, Superior Court of Maricopa County - (602) 506-0428  
Commissioner Michael Hintze, Probate/MH Department, Superior Court Maricopa County - (602) 5060959

**D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

Same as in Section C above.

**E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~strikethrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

Please see the attached proposed statutory language.

**F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

No. A statutory change is appropriate.

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

Yes. The regular effective date is appropriate.

## **SECTION II: IMPACTS**

**A. Check ALL courts that could be affected.**

Supreme     Appellate     Superior     Justice     Municipal

**B. Would the proposed legislation shift cases from one court level to another? How?**

No. This proposed statutory change would not shift cases from one court level to another.

**C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.**

A.R.S. § 36-540

**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.**

The implementation of this statutory change will allow the court in mental health proceedings to expeditiously address whether or not a guardian needs to be appointed for a person who is found to be persistently or acutely disabled and who also appears to be an incapacitated person. It will also allow the court to immediately appoint a temporary guardian and/or conservator where such an appointment is necessary to protect the interests of the mental health patient who is also deemed to be an incapacitated person. There is no anticipated increase in workloads for the administration of the courts if this statutory change is implemented.

**E. Describe the fiscal impact of this legislation.**

There may be an additional impact on the persons or agencies appointed to conduct the investigations into the need for a guardian or conservator of a patient found to be persistently or acutely disabled, including the mental health treatment agency that is providing inpatient or outpatient treatment, or the public fiduciary. However, this approach would facilitate the evaluation of the patient's need for Title 14 proceedings, and would expedite the process for obtaining a Title 14 guardian or conservator through the mental health court.

- F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

No additional funding appropriation is anticipated.

- G. Are the funds involved appropriated or non-appropriated?**

Not applicable.

- H. Will this legislation impact other governmental agencies or budget units? How?**

No other impact that is known.

- I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

If the proposed legislative changes are not enacted, the court in Title 36 mental health proceedings will remain constricted in its ability to adequately address the needs of patients found to be persistently or acutely disabled who are also incapacitated persons and in need of proceedings under Title 14. As a result, such patients are likely to not get the support they need to assist them with understanding, making and communicating responsible decisions regarding their treatment, alternatives to treatment, and other decisions regarding their person, thereby reducing their chances of attaining long term stability.

- J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

The proposed legislation advances the goal of "Protecting Children, Families and Communities" by allowing the court to take appropriate action during a mental health proceeding to protect the interests of a person who is persistently or acutely disabled and who also is in need of protection because the patient is an "incapacitated person" and in need of a guardian or conservator.

## SECTION III: SUPPORT OR OPPOSITION

- A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

Hon. Karen O'Connor, Presiding Judge for Probate and Mental Health,  
Superior Court for Maricopa County

Hon. Barbara R. Mundell, Presiding Judge, Superior Court for Maricopa  
County

Hon. Julia Connors, Commissioner, Superior Court for Pima County  
Arizona State Bar Association - Mental Health/Elder Law Section

- B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

No opposition that is known.

- 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.?**

No risks that are known.

- D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

No.

Title 36 – Mental Health Services: Appointing Guardians or Conservators  
Proposed Legislative Provisions

AMENDING A.R.S. § 36-540 TO READ AS FOLLOWS:

36-540. Court options

A. If the court finds by clear and convincing evidence that the proposed patient, as a result of mental disorder, is a danger to self, is a danger to others, is persistently or acutely disabled or is gravely disabled and in need of treatment, and is either unwilling or unable to accept voluntary treatment, the court shall order the patient to undergo one of the following:

1. Treatment in a program of outpatient treatment.
2. Treatment in a program consisting of combined inpatient and outpatient treatment.
3. Inpatient treatment in a mental health treatment agency, in a veterans administration hospital pursuant to article 9 of this chapter, in the

state hospital or in a private hospital, if the private hospital agrees, subject to the limitations of section 36-541.

B. The court shall consider all available and appropriate alternatives for the treatment and care of the patient. The court shall order the least restrictive treatment alternative available.

C. The court may order the proposed patient to undergo outpatient or combined inpatient and outpatient treatment pursuant to subsection A, paragraph 1 or 2 of this section if the court:

1. Determines that all of the following apply:

(a) The patient does not require continuous inpatient hospitalization.

(b) The patient will be more appropriately treated in an outpatient treatment program or in a combined inpatient and outpatient treatment program.

(c) The patient will follow a prescribed outpatient treatment plan.

(d) The patient will not likely become dangerous or suffer more serious physical harm or serious illness or further deterioration if the patient follows a prescribed outpatient treatment plan.

2. Is presented with and approves a written treatment plan that conforms with the requirements of section 36-540.01, subsection B. If the treatment plan presented to the court pursuant to this subsection provides for supervision of the patient under court order by a mental health agency that is other than the mental health agency that petitioned or requested the county attorney to petition the court for treatment pursuant to section 36-531, the treatment plan must be approved by the medical director of the mental health agency that will supervise the treatment pursuant to subsection E of this section.

D. An order to receive treatment pursuant to subsection A, paragraph 1 or 2 of this section shall not exceed three hundred sixty-five days. The period of inpatient treatment under a combined treatment order pursuant to subsection A, paragraph 2 of this section shall not exceed the maximum period allowed for an order for inpatient treatment pursuant to subsection F of this section.

E. If the court enters an order for treatment pursuant to subsection A, paragraph 1 or 2 of this section, all of the following apply:

1. The court shall designate the medical director of the mental health treatment agency that will supervise and administer the patient's treatment program.

2. The medical director shall not use the services of any person, agency or organization to supervise a patient's outpatient treatment program unless the person, agency or organization has agreed to provide these services in the individual patient's case and unless the department has determined that the person, agency or organization is capable and competent to do so.

3. The person, agency or organization assigned to supervise an outpatient treatment program or the outpatient portion of a combined treatment program shall be notified at least three days before a referral.

The medical director making the referral and the person, agency or organization assigned to supervise the treatment program shall share relevant information about the patient to provide continuity of treatment.

4. During any period of outpatient treatment under subsection A, paragraph 2 of this section, if the court, on motion by the medical director of the patient's outpatient mental health treatment facility, determines that the patient is not complying with the terms of the order or that the outpatient treatment plan is no longer appropriate and the patient needs inpatient treatment, the court, without a hearing and based on the court record, the patient's medical record, the affidavits and recommendations of the medical director, and the advice of staff and physicians familiar with the treatment of the patient, may enter an order amending its original order. The amended order may alter the outpatient treatment plan or order the patient to inpatient treatment pursuant to subsection A, paragraph 3 of this section. The amended order shall not increase the total period of commitment originally ordered by the court or, when added to the period of inpatient treatment provided by the original order and any other amended orders, exceed the maximum period allowed for an order for inpatient treatment pursuant to subsection F of this section. If the patient refuses to comply with an amended order for inpatient treatment, the court may authorize and direct a peace officer, on the request of the medical director, to take the patient into protective custody and transport the patient to the agency for inpatient treatment. When reporting to or being returned to a treatment agency for inpatient treatment pursuant to an amended order, the patient shall be informed of the patient's right to judicial review and the patient's right to consult with counsel pursuant to section 36-546.

5. During any period of outpatient treatment under subsection A, paragraph 2 of this section, if the medical director of the outpatient treatment facility in charge of the patient's care determines, in concert with the medical director of an inpatient mental health treatment facility who has agreed to accept the patient, that the patient is in need of immediate acute inpatient psychiatric care because of behavior that is dangerous to self or to others, the medical director of the outpatient treatment facility may order a peace officer to apprehend and transport the patient to the inpatient treatment facility pending a court determination on an amended order under paragraph 4 of this subsection. The patient may be detained and treated at the inpatient treatment facility for a period of no more than forty-eight hours, exclusive of weekends and holidays, from the time that the patient is taken to the inpatient treatment facility. The medical director of the outpatient treatment facility shall file the motion for an amended court order requesting inpatient treatment no later than the next working day following the patient being taken to the inpatient treatment facility. Any period of detention within the inpatient treatment facility pending issuance of an amended order shall not increase the total period of

commitment originally ordered by the court or, when added to the period of inpatient treatment provided by the original order and any other amended orders, exceed the maximum period allowed for an order for inpatient treatment pursuant to subsection F of this section. If a patient is ordered to undergo inpatient treatment pursuant to an amended order, the medical director of the outpatient treatment facility shall inform the patient of the patient's right to judicial review and to consult with an attorney pursuant to section 36-546.

F. The maximum periods of inpatient treatment that the court may order, subject to the limitations of section 36-541, are as follows:

1. Ninety days for a person found to be a danger to self.
2. One hundred eighty days for a person found to be a danger to others.
3. One hundred eighty days for a person found to be persistently or acutely disabled.
4. Three hundred sixty-five days for a person found to be gravely disabled.

G. If, on finding that the patient is gravely disabled OR PERSISTENTLY OR ACUTELY DISABLED, the court also finds that the evidence indicates that the patient is or may be in need of guardianship or conservatorship, or both, the court shall order an investigation concerning the need for a guardian or conservator, or both, and shall appoint a suitable person or agency to conduct the investigation. The appointee may include the mental health treatment agency that is providing inpatient or outpatient treatment, a court appointed visitor or the public fiduciary if there is no person willing and qualified to act in that capacity. The court shall give notice of the appointment to the appointee within three days of the appointment. The appointee shall submit the report of the investigation to the court within twenty-one days. The report shall include recommendations as to who should be guardian or who should be conservator, or both, and a report of the findings and reasons for the recommendation. If the investigation and report so indicate, the court shall order the appropriate person to submit a petition PURSUANT TO TITLE 14 CHAPTER 5 to become the guardian or conservator, or both, of the patient.

H. If, on finding that a patient is gravely disabled OR PERSISTENTLY OR ACUTELY DSIABLED, the court also finds that the patient is in need of immediate guardianship OR CONSERVATORSHIP for the purpose of protection of the patient or for the purpose of carrying out alternatives to court-ordered treatment, the court may appoint as a temporary guardian PURSUANT TO TITLE 14 a suitable person or the public fiduciary, if there is no person qualified and willing to act in that capacity.

I. If, on finding that a patient is gravely disabled OR PERSISTENTLY OR ACUTELY DISABLED, the court also learns that the patient has a guardian appointed under title 14, the court may with notice impose on the existing guardian additional duties pursuant to section 14-5312.01.

J. The court shall file a report as part of the court record on its findings of alternatives for treatment.

K. Treatment shall not include psychosurgery, lobotomy or any other brain surgery without specific informed consent of the patient or the patient's legal guardian and an order of the superior court in the county in which the treatment is proposed, approving with specificity the use of the treatment.

L. The medical director or any person, agency or organization used by the medical director to supervise the terms of an outpatient treatment plan shall not be held civilly liable for any acts committed by a patient while on outpatient treatment if the medical director, person, agency or organization has in good faith followed the requirements of this section.

M. A peace officer who in good faith apprehends and transports a patient to an inpatient treatment facility on the order of the medical director of the outpatient treatment facility pursuant to subsection E, paragraph 5 of this section shall not be subject to civil liability.

N. If a person has been found, as a result of a mental disorder, to constitute a danger to self or others and the court enters an order for treatment pursuant to subsection A of this section, the court shall grant access to the person's name, date of birth, social security number, date of commitment and, on termination of treatment by court order, date of termination to the department of public safety to comply with the requirements of title 13, chapter 31 and title 32, chapter 26.

**ARIZONA JUDICIAL COUNCIL**  
**Legislative Request for Proposal**  
**2008 Legislative Session**

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- *Submit electronically to Carmen Orduno, [corduno@courts.az.gov](mailto:corduno@courts.az.gov)*

**Short Title / Subject Matter of Proposal:**

**Date:** 8/23/07

Juvenile Court Contracting Authority

**Proposal Requested By:**

**Name:** The Honorable Barbara Rodriguez Mundell  
**Title:** Presiding Judge, Maricopa County Superior Court  
**Address:** 125 W. Washington Street, Phoenix, AZ 85003  
**Telephone:** 602-506-6130  
**Fax:** 602-506-2520  
**E-mail:** n/a

## **SECTION I: BACKGROUND**

**A. Describe in detail the issue, problem, or need for the proposal.**

The juvenile courts throughout the State of Arizona lacks clear authority to enter into contracts and agreements directly related to their goal of implementing Restorative Justice Practices. Restorative Justice enables Juvenile Courts, which includes Juvenile Probation Departments, to facilitate the inclusion of all three stakeholders involved in an incident. The stakeholders are the victim, the juvenile offender and the community in which the juvenile resides and/or the community in which the offense occurred. This process gives power to all those involved in order to define the harm done, who all were harmed, how the offender can repair that harm and how the community can reintegrate the offender into the

community to become a valued, productive citizen. The end result is for the community, supported and facilitated by the justice system, to provide community based programs and assistance to educate the juvenile offender in competency development, victim empathy and accountability; while repairing the harm and healing the victim in every way possible. This process creates safer, cohesive communities.

This proposal would allow the juvenile courts within the superior courts in Arizona to enter into contracts related to restorative justice thereby aiding in the fulfillment of their mission to administer justice in such a way to allow the community to function in the best interest of children through a comprehensive delivery of services.

These proposed statutory amendments were guided in part by existing statutes regarding contract authority for the Arizona Department of Juvenile Corrections in A.R.S. §41-2801 et seq.

There would be no change to current procedures for counties that do not currently wish to enter into contracts related to the restorative justice goals of the juvenile court system.

**B. 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 Office of the Arizona Attorney General has advised the Superior Court of Maricopa County not to enter into various contracts related to restorative justice because statutory authority to enter into such contracts does not exist. What follows are two specific examples where the Attorney General's office found no authority for the Superior Court to enter into contracts. First, the Attorney General disapproved of a grant funded contract involving cooperative efforts to provide job and life skills training for justice-involved youth through screening for voluntary participation in the United States Department of Labor/Goodwill Industries Maricopa Youth Alliance Project. Second, the Attorney General also disapproved of an agreement for the Juvenile Probation Department to continue a program previously funded through federal grants under which a Juvenile Probation Officer was assigned to provide law-related education and school safety programs for the Cesar Chavez Community School in Roosevelt School District. By providing the necessary contract authority that is currently lacking under state statutes, this proposal would empower the juvenile justice system in Arizona to effectuate their goals and missions. Without this legislation, juvenile court programs currently implemented throughout Arizona may be unable to continue.

- C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Karen Westover, General Counsel, Maricopa County Superior Court (602)  
506-3484

- D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

Karen Westover, General Counsel, Maricopa County Superior Court (602)  
506-3484

- E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~strikethrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

See attachment.

- F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

Authority for governmental entities to enter into contracts are prescribed by statute. Therefore, this proposed authority to allow the juvenile courts to effectuate their restorative justice purposes must be provided by statute.

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

The regular effective date would be appropriate.

## **SECTION II: IMPACTS**

- A. Check ALL courts that could be affected.**

Supreme       Appellate       Superior       Justice       Municipal

**B. Would the proposed legislation shift cases from one court level to another? How?**

Because the proposed legislation does not involve court case loads, it would not shift any cases to another court level.

**C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.**

A.R.S. §§ 8-203, 8-262, 8-305, 8-321, 8-322, 8-341, 8-343, 8-344, 8-346, 8-350, 8-352, 8-355, 8-371, 11-952, 11-1042, 12-265, 15-154, 15-155, and 42-6109.

**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.**

The proposal would enable the vision of juvenile justice in Arizona to be fully achieved. The proposal does not require any county to exercise the options that the proposal would make available and, as a result, will not necessitate an impact on the judicial system.

**E. Describe the fiscal impact of this legislation.**

The proposed legislation will allow the superior courts to obtain additional sources of funding for programs for which they have currently contracted. There would be no anticipated increase in expenditures if the legislation passed.

**F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

The proposed legislation will allow the superior courts to obtain additional sources of funding for programs for which they have currently contracted. There would be no anticipated increase in expenditures if the legislation passed.

**G. Are the funds involved appropriated or non-appropriated?**

The funds involved are both appropriated and non-appropriated.

**H. Will this legislation impact other governmental agencies or budget units? How?**

There would be no anticipated impact on other governmental agencies or budget units.

**I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

The juvenile justice system in Arizona will be fettered and prevented from effective and efficient operation in achieving its restorative justice goals. Without this legislation, juvenile court programs currently implemented throughout Arizona may be unable to continue.

**J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

This proposal will advance Goal No. 2 of the Strategic Agenda: Protecting Our Children, Families and Our Community. This proposal would "improve processes to protect children, families, and communities through innovative and forward-looking programs." By establishing clear authority for juvenile courts in Arizona to dispense restorative justice programs, the proposal would allow superior courts to fully address the needs of at-risk youth through programming that meets with the approval of the Office of the Arizona Attorney General.

The proposal would also advance Goal No. 4: Improving Communication and Cooperation with the Community, by "expanding direct outreach efforts to the public."

### **SECTION III: SUPPORT OR OPPOSITION**

**A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

This proposal has not been endorsed by any group or agency, but it is supported by the Maricopa County Superior Court Administration and the Maricopa County Board of Supervisors. It will be critical to gain the support of the Arizona Judicial Council, Arizona Association of Counties and County Supervisors Association of Arizona.

**B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

None are known at this time.

- 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 are known at this time.

- D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

None are known at this time.

**ARIZONA JUDICIAL COUNCIL**  
**Legislative Request for Proposal**  
**2008 Legislative Session**

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- *Submit electronically to Carmen Orduno, [corduno@courts.az.gov](mailto:corduno@courts.az.gov)*

**Short Title / Subject Matter of Proposal:**

**Date:** 8/23/07

Improving the efficiency of the personal information protection program by eliminating the requirement that eligible persons apply to the superior court for protection instead of applying directly with the county records custodians and MVD.

**Proposal Requested By:**

**Name:** Jennifer Greene

**Title:** Policy Analyst, Court Services Division, AOC

**Address:** 1501 W. Washington

**Telephone:** 602-452-3555

**Fax:** 602-452-3659

**E-mail:** jgreene@courts.az.gov

## **SECTION I: BACKGROUND**

**A. Describe in detail the issue, problem, or need for the proposal.**

This statutory personal information protection program is designed to protect home addresses and phone numbers displayed in property records maintained by the county recorder/treasurer/assessor, voting records maintained by the county recorder, and MVD records maintained by the Arizona Department of Transportation. The program was initiated in 1996 at the request of the public safety community to make it harder for people to find the residences of undercover police officers, investigators, prosecutors, and the like. The process requires the eligible person to file a sworn affidavit stating that they believe they are in danger, or someone

they live with will be endangered if their home address is not protected from public access. The program requires applicants to file the affidavit directly with the presiding judge of their county, rather than applying directly with the agencies that maintain the records in question. Since the only evidence the judge has to consider is the affidavit, there's not much basis for denying these applications, and the process is ministerial in nature, more like an application for a marriage license or passport or other government-issued permission. These statutes require the presiding judge of the county to review each affidavit and issue an order directing the county agencies and/or MVD to provide the protection.

The court's role is not significant enough to justify the extra taxpayer supported manhours involved in processing these applications through the court system. An amendment to these statutes authorizing eligible persons to apply directly with the records custodians should be considered.

Although the program began as a very modest one and was mostly available only in Pima and Maricopa Counties, in 2005, the property records portion of the program was expanded statewide. In recent years, domestic violence victims have been added to the list of eligible persons; last year municipal "code enforcement officers" were added, and in 2007, the list of eligible persons was greatly expanded to include potentially upwards of 70,000 additional applicants (S.B. 1006, Chap. 141), including law enforcement support personnel, corrections officers and corrections support personnel, and probation officers. In addition people protected by an order of protection will now be able to seek redaction of their MVD records for the first time, and the Arizona courts issue upwards of 50,000 orders of protection each year. MVD alone reports that it receives court orders on more than 1,000 persons a month. The list of eligible persons has grown longer nearly every year for many years, and the work of the courts in processing these affidavits has grown with them.

ACJA section 3-403 was adopted in 2006 to update older administrative orders governing how the courts are to process these applications, but many of the details are dictated by the statutes, and business practices vary widely from court to court. For instance, some courts assign a case number to each affidavit or "batch" of affidavits received from police departments, in other counties the clerk simply maintains them in a segregated file and may or may not track them through the case management system or other automated tool. All the paper work associated with these matters must be maintained under seal, which adds additional burdens.

- B. 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.**

Removing the courts from this program will resolve all of the operational difficulties and is likely to result in more overall efficiency. Applicants will get what they want quicker, at less taxpayer expense.

**C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Jen Sweeney (AACO), Deb Gile (ADOT, Office of Inspector General), Carol Schreiber (Maricopa Clerk of Court's Office), any Clerk of Court or Presiding Superior Court Judge would have experience with this program.  
Type text here

**D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

To be determined. I am aware that a number of courts are struggling with the implementation of this program in 2007 and some would likely be willing to testify.

**E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~strikethrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

Attached

**F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

No.

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

No need for an emergency effective date.

## **SECTION II: IMPACTS**

**A. Check ALL courts that could be affected.**

Supreme     Appellate     Superior     Justice     Municipal

**B. Would the proposed legislation shift cases from one court level to another? How?**

No.

**C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.**

ARS sections 11-483, 11-484, 16-153 & 28-454; ACJA section 3-403.

**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.**

This change will free up hours of clerk and judge time in the superior court.

**E. Describe the fiscal impact of this legislation.**

If we don't make the change, we are likely going to need to automate the process for an unknown amount of programming time. It will save a lot of costs associated with the court staff and clerk manhours devoted to processing these affidavits and court orders.

**F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

No, it will save money, not cost money.

**G. Are the funds involved appropriated or non-appropriated?**

The costs associated with this program are borne primarily by the counties.

**H. Will this legislation impact other governmental agencies or budget units? How?**

If applicants directly apply for the relief with each agency, it's conceivable that some changes will be made to internal county business practices, but probably not more than are already needed to process the courts' orders.

**I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

We must prepare for the September 19, 2007 effective date of Chapter 141, but without automated options, we are looking at significant increases in manual processing of the paperwork associated with this program due to the expanded list of eligible persons.

**J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great?* How?**

Yes, it will put this program where it belongs - in the record custodians' hands, and avoid the delays and costs associated with the "red tape" of processing these requests through the superior courts in each county. Every minute the courts spend on this unnecessary function takes away from the core function of the courts - resolving disputes among citizens. There is no "dispute" resolved by this program and it doesn't belong with the courts. Therefore, this legislation would advance Goal 1 - Providing Swift, Fair Justice.

### **SECTION III: SUPPORT OR OPPOSITION**

**A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

Presiding Judges, Clerks of Court, persons eligible for this protection, since it would eliminate delays in getting the requested protection put in place, and not having to go to court would probably be seen as an advantage by many citizens.

**B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

There may be some opposition from counties who don't want to modify current practices to accommodate the proposed change in the way this program operates. On the other hand, the proposal may offer counties the opportunity to make this program run more efficiently and may welcome the change. Same for the ADOT.

- 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.?**

Not likely to engender risks to the judicial branch.

- D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

No.

**ARIZONA JUDICIAL COUNCIL  
Legislative Request for Proposal  
2008 Legislative Session**

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**Short Title / Subject Matter of Proposal:****Date:** 8/8/07

Guardianship of Minors Sanctioned or Documented by the United States Government on Refugee or Assylum Status

**Proposal Requested By:****Name:** Peter A. Thompson**Title:** Commissioner, Juvenile Division**Address:** 3131 West Durango, Phoenix, Arizona 85009**Telephone:** 602.372.3134**Fax:** 602.506.1372**E-mail:** thompsonp003@superiorcourt.maricopa.gov**SECTION I: BACKGROUND****A. Describe in detail the issue, problem, or need for the proposal.**

ARS 14-5108 establishes very restrictive standards for appointment of a guardian for foreign nationals. These standards, in almost all cases, preclude minors whose presence in the United States is sanctioned and documented by the federal government and/or the United Nations High Council on Refugees and the U.S. Office of Refugee Resettlement. Approximately twenty-five children a year find themselves in need of an appointment of a guardian in the United States but are unable to meet the rigid requirements of this statute as presently constituted.

**B. 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 problem could be corrected by amending A.R.S. 14-5108 to allow an exemption for the few children who are in the United States meeting one of two criteria; 1). those who have been pre-approved for admission as refugees by the United Nations Council on Refugees, U.S. Office of Resettlement, and 2). those who have been documented, sanctioned and granted assylum by the federal government. Children in either program are seeking U.S. citizenship with the knowledge and approval of the federal government. The impact on caseload would be minimal and would affect only Juvenile Court.

**C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Peter Thompson - contact information above.  
Janet Story - Attorney at Law, PO Box 9722  
Scottsdale, AZ 85252-9722  
Telephone: 480-947-8864  
Fax: 480-990-1945

**D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

Catholic Charities c/o  
Janet Story - Attorney at Law, PO Box 9722  
Scottsdale, AZ 85252-9722  
Telephone: 480-947-8864  
Fax: 480-990-1945

**E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~strikethrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

See attached document.

**F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

I do not believe so.

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

Yes, the regular effective date would be adequate.

## **SECTION II: IMPACTS**

- A. Check ALL courts that could be affected.**

Supreme     Appellate     Superior     Justice     Municipal

- B. Would the proposed legislation shift cases from one court level to another? How?**

No. The impact would be on the Juvenile Division of Maricopa County Superior Court.

- C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.**

A.R.S. 14-5108 Guardianship of Foreign Citizens.

- 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.**

Based upon the number of cases seen per year, the impact would be rather small. Around 25 children a year would fall into this category. However, the impact on them individually would be great.

- E. Describe the fiscal impact of this legislation.**

There would be little if any fiscal impact.

- F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

No.

- G. Are the funds involved appropriated or non-appropriated?**

N/A

- H. Will this legislation impact other governmental agencies or budget units? How?**

It is not anticipated that other state or county governmental agencies would be impacted.

- I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

These children who have often overcome great challenges, abusive environments and faced adversity known to few adults would have the benefit of having a guardian appointed for them. Without the change, the Superior Court will continue to deny all applications for guardianship that do not meet the very narrow requirements of A.R.S. 14-5108.

- J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

An amendment to A.R.S. 14-5108 would enhance the ability of the courts to serve a disadvantaged group of children who would otherwise not qualify to have a guardian appointed for them.

### **SECTION III: SUPPORT OR OPPOSITION**

- A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

No legislators have been approached on this subject. Until I have input from the AOC, I will not contact any legislators. Catholic Charities would likely support this change.

- B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

Some Arizona legislators have expressed strong views on issues touching on foreign nationals present in the United States. However, the children for whom the exemption would be created are present in the United States with the sanction and documentation of the U.S. Government.

- 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.?**

Opening discussion to amend a statute related to guardianship of foreign citizens could prompt a discussion on the role of the courts and illegal immigration.

- D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

Not at this time. I have not spoken with any legislators concerning this topic.

<p style="text-align: center;"><b>ARIZONA JUDICIAL COUNCIL</b> <b>Legislative Request for Proposals</b> <b>2008 Legislative Session</b></p>
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To request inclusion of an issue in the 2007 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**. 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) 452-3492.

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, etc.). All proposals, along with the committees' recommendations, will be forwarded to the AJC for review at its meeting on \_\_\_\_\_, 2007. 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 at (602) 452-3275.

**ARIZONA JUDICIAL COUNCIL**  
**Legislative Request for Proposal**  
**2008 Legislative Session**

**Short Title / Subject Matter of Proposal**

**Date: September 7, 2007**

Interstate Compact; Finance

Amend A.R.S. § 31-467, Article X, subsection B, to strike the provision requiring appropriation from the legislature for increases to Arizona's interstate compact annual assessment and to either strike the twenty-five thousand five hundred dollar cap or amend it to fifty thousand.

**Proposal Requested By**

**Name Kathy Waters and Dori Ege**

**Title Director, Adult Probation Services Division; Deputy Compact Administrator**

**Address 1501 W. Washington Street, Ste. 344, Phoenix, AZ 85007**

**Telephone (602) 452-3460 and (602) 452-3324 Fax (602) 452-3673 E-mail**

**[kwaters@courts.az.gov](mailto:kwaters@courts.az.gov) and [dege@courts.az.gov](mailto:dege@courts.az.gov)**

**SECTION I: BACKGROUND**

- A. Describe the issue, problem, or need for the proposal. Please be detailed. A.R.S. § 31-467, Article X, subsection B., states, "... Arizona's assessment shall not exceed twenty-five thousand five hundred dollars per year unless approved by the state council and appropriated by the legislature." The recommendation to either strike the dollar amount cap or amend it and to strike the "appropriated by the legislature" language is based on two reasons: There is no need for an appropriation from the legislature to cover this cost and the cap amount requires a legislative proposal each time the interstate commission votes to increase the compact member's dues assessments. The interstate commission is required to levy an assessment on all compact member states in an amount sufficient to cover the cost of conducting interstate business. The increase will help offset the cost of the implementation of the database system for effective tracking and uniform data collection, required pursuant to A.R.S. § 31-467, Article I. An increase is also warranted to cover the increasing costs of running the national office in Lexington, Kentucky and to provide the commission with the needed monies to ensure the business of the interstate compact is completed between the annual business meetings. Therefore, a proposal to increase the

dues currently collected from each state will be made at the 2007 Annual Interstate Commission Meeting on September 26, 2007. The current proposal will include a recommendation to increase the current dues assessment by 6% beginning in FY 2009, with a 6% increase each fiscal year thereafter through 2012. If passed at the proposed rate of 6%, Arizona would see an increase of \$1,530 in FY '09; \$1,622 in FY '10; \$1,719 in FY '11 and \$1,822 in FY '12, bringing Arizona's annual assessment in fiscal year 2012 to \$32,193. The national commission may vote to approve a dues increase at a lower percentage rate than 6%; however, an increase of some amount will be passed.

B. Specifically describe how the problem will be corrected or the need served by the proposal. Striking the language requiring a legislative appropriation and either striking the dollar amount cap or changing the cap to a figure that will allow for incremental increases over time (such as \$50,000), will alleviate the need of amending A.R.S. § 31-467 each time an increase occurs. The annual assessment is currently shared between the Administrative Office of the Courts (AOC) and the Arizona Department of Corrections based on incoming offender populations. The portion paid by AOC (approximately 75%) comes from funds collected pursuant to A.R.S. § 31-467.06 (A) and there is sufficient monies collected to cover the proposed increase scenario as described in paragraph A. State general fund appropriations are not needed.

C. Please provide the contact information of any individuals with relevant/expert knowledge on this subject. Kathy Waters, (602) 452-3460; Dori Ege, (602) 452-3324.

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). A.R.S. § 31-467, Article X, subsection B., states, "... Arizona's assessment shall not exceed fifty thousand dollars per year unless approved by the state council and appropriated by the legislature."

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

Court Rule       Administrative Order       Interagency Agreement

Please Explain. Statutory change is required.

F. If adopted by the Arizona Legislature, would the regular effective date be acceptable (90 days after adjournment of the legislative session)? No. Are there any reasons why an

emergency effective date (effective immediately upon signature of the Governor) or a delayed effective date should be sought? Yes. Please explain. Effective date of any approved increase will be July 1, 2008.

## 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. A.R.S. § 31-467.

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 anticipated.

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? The AOC has used only non-appropriated funds to pay their portion of the annual assessment since the new compact became effective (fiscal year 2004). There is sufficient monies collected pursuant to A.R.S. § 31-467.06 (A) to pay for an assessment increase and future proposed increases. State general fund appropriations are not needed.

F. Describe the consequences if the proposed legislation is not pursued or passed this year. The legislature will have to appropriate any increase approved by the national interstate commission.

G. Briefly, describe any impact this legislation will have on other governmental agencies or budget units? The Arizona Department of Corrections has used their general fund to pay

their portion (approximately 25%).

- H. Will this legislation advance the goals of Chief Justice McGregor’s Strategic Agenda, *Good to Great*? The national database tracking system, paid for by the annual assessments from each compacting member, advances Goal 1: Providing Access to Swift, Fair Justice – the database will allow for effective tracking of adult offenders across state lines and Goal 2: Protecting Children, Families and Children – the database will allow for the expeditious communication of information regarding interstate compact transfers, providing seamless supervision of adult offenders.

### **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. It is anticipated that the Arizona State Council, Representative Steven Yarbrough, and Senator Thayer Verschoor, members of the Arizona State Council, will support this proposal.
  
- B. Please identify *any* agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and describe the reasons for their opposition. None known at this time.
  
- 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? There appears to be no effect on legislative review or control.

**ARIZONA JUDICIAL COUNCIL**  
**Legislative Request for Proposal**  
**2008 Legislative Session**

- *Use the TAB key to navigate through this form.*
- *Submit electronically to Carmen Orduno, [corduno@courts.az.gov](mailto:corduno@courts.az.gov)*

**Short Title / Subject Matter of Proposal:**

**Date:** 9/18/07

Chief Justice appointment of deputy probation officers in divisions for the Administrative Office of the Courts.

**Proposal Requested By:**

**Name:** Marna Murray, Kathy Waters, Rob Lubitz

**Title:** AOC Division Directors: Education Services, Adult Probation Services, Juvenile Justice Services

**Address:** 1501 West Washington

**Telephone:** 602-452-3000

**Fax:** 602-452-3004

**E-mail:** mmurray@courts.az.gov

## **SECTION I: BACKGROUND**

**A. Describe in detail the issue, problem, or need for the proposal.**

A number of positions in the AOC - Probation Trainers, Officer Safety Specialist, etc. require a probation background and expertise to effectively train in their profession. Recent salary increases and changes in the benefit package, specifically the CORP retirement for field deputy probation officers outpace the comparable emoluments for AOC staff and result in a recruiting problem for these positions. To adequately train and support to the desired level of professions in the field probation officers, these trainers must come with substantial experience in the field and the

ability to share their expertise in a meaningful way with new probation officers. For the sake of creditability, these trainers must bring their own high level of professionalism and direct probation experience.

A recent recruitment for the Officer Safety position remained open for 90 days with only one of the twenty-five applicants meeting the minimum qualifications. After modifying the qualifications, an additionally thirteen have applied, but only five meet this changed requirement. The position remains vacant for 109 days and is a critical training program for the safety of probation officers statewide.

Similarly a Probation Trainer position (Specialist V) has been open for 53 days, has 45 applicants, with only one qualified. Unlike the Officer Safety position, it is not the sole position responsible for the program; however the probation academy and institutes have been delivered by two rather than three trainers. This presents a significant burden on the current staff.

The adult probation chiefs state that the salary for these positions is not as attractive as it use to be and that probation officers would want substantially higher salaries to even consider giving up CORP. Additionally, the chiefs argue that without one or the other being addressed, chances are experienced probation officers will not apply for these positions.

Recent changes in both Maricopa and Pinal counties place these positions at a distinct disadvantage. The Specialist V requires five years of probation experience, while the officer safety position requires seven years plus defensive tactics and firearms expertise. Here are the relevant salaries that are known:

Employer	Hiring Salary	Spec V + 5 years	Officer VII + 7 Years
AOC	NA	\$48,867	\$59,182
Maricopa	\$49,088		
+ 1.5 – 3.5 annually		\$52,033 - \$55,960	No data
Pinal	\$44,500	\$52,000	\$57,000
+ MA	\$48,950	\$57,200	\$62,700

For example, a deputy probation officer with twelve years of experience would be ideally suited to these trainees and technical assistance roles; however, trading a twenty-year retirement for one of thirty years is not desirable and thus the positions fail to attract the most qualified and knowledgeable candidates for the positions. At this point 70% of Arizona probation officers participate in the CORP retirement program. Leaving that twenty-year plan creates a significant impediment in recruitment for these AOC positions.

**B. 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.**

Including a provision for the chief justice to appoint deputy probation officers to some of the AOC positions will make continuation in the CORP retirement system available to them.

**C. Provide the contact information of any individuals with relevant expert knowledge on this subject.**

Education Services Division: Marna Murray, Director; Marie Holck, Probation Program Manager. Adult Services: Kathy Waters, Director. Juvenile Justice: Rob Lubitz, Director. Human Resources: Kim Cantoni, Officer.

**D. Provide the contact information of any individuals with expert knowledge who could testify in support of the legislation.**

Marna Murray, mmurray@courts.az.gov, 602-453-3000; Marie Holck mholck@courts.az.gov, 602-452-3006, Kathy Waters, kwaters@courts.az.gov 602-452-3468. Rob Lubitz, rlubitz@courts.az.gov, 602-452-3450. Kim Cantoni, kcantoni@courts.az.gov, 602-452-3137, Jerry Landau jlandau@courts.az.gov 602-452-3275.

**E. Provide (on this form or as an attachment) the recommended language of the legislation. Use UPPER CASE to designate new language and ~~strikethrough~~ to designate stricken language. (The Government Affairs group will assist in final drafting as the proposal moves forward).**

8-203. Court employees; appointment; certification; qualifications; salary; bond. G. NOTWITHSTANDING SUBSECTIONS A THROUGH F OF THIS SECTION, THE CHIEF JUSTICE MAY APPOINT DEPUTY PROBATION OFFICERS IN THE ADMINISTRATIVE OFFICE OF THE COURTS TO PROVIDE SERVICES TO THE COUNTY JUVENILE PROBATION DEPARTMENTS FOR THE PURPOSES OF TRAINING, CONSULTATION AND TECHNICAL ASSISTANCE.

12-251. Adult probation officers and support staff; appointment; qualifications E. NOTWITHSTANDING SUBSECTIONS A THROUGH D OF THIS SECTION, THE CHIEF JUSTICE MAY APPOINT DEPUTY PROBATION OFFICERS IN THE ADMINISTRATIVE OFFICE OF THE COURTS TO PROVIDE SERVICES TO THE COUNTY ADULT PROBATION DEPARTMENTS FOR THE

PURPOSES OF TRAINING, CONSULTATION, AND TECHNICAL ASSISTANCE.

**F. Can the desired change be achieved by another method? How?**

Court Rule       Administrative Order       Interagency Agreement

No

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

90 days after adjournment is acceptable.

## **SECTION II: IMPACTS**

**A. Check ALL courts that could be affected.**

Supreme       Appellate       Superior       Justice       Municipal

**B. Would the proposed legislation shift cases from one court level to another? How?**

Does not apply.

**C. List the Arizona Revised Statute(s), Court rules or Administrative Orders, etc. affected by the proposed legislation.**

A.S.R. sec. 8-203; A.R.S. sec. 12-251

**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.**

Impact on ability to recruit and properly staff AOC probation positions for the purposes of training, consultation and technical assistance.

**E. Describe the fiscal impact of this legislation.**

None to the AOC, all positions already exist.

**F. Will an appropriation of additional funds be necessary if this legislation passes, if so for what purpose, i.e. automation, personnel or materials? How much additional funding is required?**

No additional funds will be necessary. At the present time the employer's contribution to CORP is at 9.1%, while to ASRS, it stands at 9.7%.

**G. Are the funds involved appropriated or non-appropriated?**

No change

**H. Will this legislation impact other governmental agencies or budget units? How?**

To an insignificant degree; potentially ten or twelve AOC positions may participate in CORP and not ASRS.

**I. Describe the consequences if the proposed legislation is not pursued or passed this year.**

Staffing at AOC to effectively provide services to the probations departments and courts will be diminished.

**J. Will this legislation advance the goals of Chief Justice McGregor's Strategic Agenda, *Good to Great*? How?**

Strategic Agenda, Goals 3: Being Accountable, 2-D Probation Supervision, specifically: "Continue implementing and improving a comprehensive officer safety program to ensure the safety of officers and probation department staff." "Recruit and retain a professional, well-trained, customer service oriented workforce to better serve the needs of the public."

Specifically: "Advocate for competitive salaries and benefits for all court employees, including probation officers, judicial staff and judicial officers." "Enhance training and career opportunities to increase the knowledge and professionalism of staff." "Update and enhance judicial education programs to require comprehensive, meaningful training of judges, judicial staff, and probation officers."

### **SECTION III: SUPPORT OR OPPOSITION**

- A. Please identify any agencies, groups, or legislators, etc. who support, or may support the proposed legislation and the reasons for the support.**

None known

- B. Please identify any agencies, groups, legislators, etc. who oppose, or may oppose, the proposed legislation and the reasons for their opposition.**

None known

- 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 known

- D. Do you know of any legislators who have an interest in or have expressed an opinion about the proposed legislation?**

None known