

ARIZONA JUDICIAL COUNCIL

Request for Council Action

Date Action Requested:

June 19, 2008

Type of Action Requested:

Formal Action/Request
 Information Only
 Other

Subject:

Arizona Code of Judicial Administration

FROM:

AOC Legal Services

DISCUSSION:

This is a continuation of the project to update and publish significant supreme court administrative orders in the Arizona Code of Judicial Administration (ACJA) to make them readily available to judicial officers and employees throughout the state. One new code section is recommended for adoption.

ACJA § 6-114 - Committee on Probation is recommended for approval as a consent Item unless any member of the Council has questions.

RECOMMENDED COUNCIL ACTION:

Approve the following code section as proposed:

6-114: Committee on Probation

**ARIZONA CODE OF JUDICIAL ADMINISTRATION
Proposal Cover Sheet**

**Part 6: Probation
Chapter 1: General Administration
Section 6-114: Committee on Probation**

1. Effect of the proposal:

To codify Administrative Order 90-52, which established the Committee on Probation

2. Significant new or changed provisions:

Specified inclusion of the Juvenile Bench

3. Committee actions and comments:

To be presented at the November 2007 Committees

Committee on Probation	November 8, 2007
Committee on Juvenile Courts	November 9, 2007
Committee on Limited Jurisdiction Courts	November 14, 2007
Committee on Superior Court	November 30, 2007

4. Controversial issues:

Membership – the specified inclusion of members from agencies or organizations

Suggested for membership but not incorporated were members from the Arizona Superior Court Administrator’s Association and probation or surveillance officers

5. Recommendation:

Approve and recommend for adoption as written

Comments and Responses to ACJA Section 6-114: Committee on Probation

PARAGRAPH	COMMENT	RESPONSE
Section C: Membership	Add one member from the Arizona Superior Court Administrator’s Association	Not incorporated as Court Administrators are represented through the Committee on Superior Court.
Section C: Membership	The Committee on Probation continues to serve a valuable function for the judicial branch and I am grateful for the effort to bring current this section of the Administrative Code. Because this Committee continues to strive to promote consistency across the state in probation services and because the Committee makes this effort for both the Juvenile and Criminal Courts, I have long believed that it is important that judges who are on the juvenile court serve on this committee. While all directors of juvenile court are mandated as members as well as the director of the juvenile justice services division of the AOC, there is no requirement for a juvenile judge voice to be heard on this committee. There are two criminal court judges mandated for the committee. There should be at least one voice and preferably two on this committee representing the judiciary that serves in the Juvenile Court. I suggest mirroring the language in section C3 and require two judges serving on the juvenile bench be appointed to this committee.	Incorporated as two judges, one from the juvenile bench and one criminal from the criminal bench.
Section E: Responsibility of Members	Last line states “shall send a representative” when unable to attend. This can be difficult for small departments and public members. Recommend the word SHALL be substituted with MAY.	Change incorporated.
Section H: Action	It appears to be vague. Have we ever adopted rules? Would this be a good spot to address who has voting rights? As an example, if I send a representative, can that person vote in my absence?	Not incorporated, as the COP shall adopt its own rules, not have the rules delineated in Code.

ACJA § 6-114: Committee on Probation

Additional Comments from Committees post AJC Mailing

11/08/2007 Committee on Probation: Approved as written

Discussion around whether public members are expected to send a representative if the public member cannot attend (E. Responsibilities of members). Since the wording is “may” and not “shall” and since section H indicates COP shall develop its own rules for conducting business, the committee was satisfied the concern was adequately addressed by the code, as written.

11/09/2007 Committee on Juvenile Courts: Approved as written

11/14/2007 Committee on Limited Jurisdiction Courts: Approved as written
No discussion

11/30/2007 Committee on Superior Court: Approved as written

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 6: Probation
Chapter 1: General Administration
Section 6-114: Committee on Probation
~~**SUPREME COURT OF ARIZONA**~~
~~**ARIZONA JUDICIAL COUNCIL**~~
~~**COMMITTEE ON PROBATION**~~

Administrative Order No. 90 ~~52~~

In accordance with Administrative Order No. 90-17, advisory committees to help the Committee on Superior Court carry out its responsibilities may be appointed with the approval of the Chief Justice. Now, therefore,

IT IS ORDERED THAT a committee on probation is hereby established as a standing subcommittee of the Committee on Superior Court and shall be known as the Committee on Probation.

~~1.~~**A. Purpose.** The purpose of this Committee is to examine current probation procedures and to develop policies and procedures that improves the quality, promote standardization, consistency and coordination of probation procedures statewide. The Committee on Probation (COP) shall be established as a subcommittee of the Committee on Superior Court (COSC) which is a standing committee of the Arizona Judicial Council (AJC) and shall examine current probation practices and develop rules, policies and procedures for recommendation to the COSC, AJC and the supreme court.

B. General Policy. COP shall promote standardization, consistency and coordination of probation services statewide and recommend evidence-based practices and programs that improve the quality and effectiveness of probation services.

~~2.~~**C. Membership.** The Committee is composed of the following members: all chief probation officers and directors of juvenile court services; the directors of the administrative office of the courts adult services division and juvenile justice services division; the criminal division presiding judge in Maricopa County or his designee; the presiding superior court judge in Pima County or his designee; one member who serves and sits on the Committee on Limited Jurisdiction Courts; and a minimum of two public members whose interests and avocations are adult and/or juvenile corrections and rehabilitation issues. The chairperson of the Committee shall be appointed by the Chief Justice. COP shall be composed of the following members:

1. All chief probation officers and directors of juvenile courts;
2. Directors of the Administrative Office of the Courts (AOC) Adult Probation Services Division and Juvenile Justice Services Division;

3. Two judges; one serving on the criminal bench and one serving on the juvenile bench;
4. One member who serves on the Committee on Limited Jurisdiction Courts;
5. One member representing the United States Probation Office, District of Arizona;
6. A minimum of four public members with demonstrated interest or knowledge in criminal justice or juvenile justice matters. The public members shall include:
 - a. A representative from the tribal community;
 - b. A representative from the substance abuse or mental health profession; and
 - c. A crime victim or crime victim advocate.
7. The chief justice may appoint other members to the COP.

3.D. Terms of Members. ~~Committee~~ COP members holding membership by virtue of their position shall be members of ~~the Committee~~ COP so long as they hold their respective positions. ~~The other members of the Committee shall be appointed by the Chief Justice for terms of varying lengths to encourage continuity on the Committee. The chief justice shall appoint other members of COP to a two-year term and may re-appoint~~ Committee members ~~may be re-appointed~~ for successive terms.

1. The chairperson shall serve a two-year term from the appointment date. If the chairperson is unable to complete the full term, the chief justice shall appoint an interim chairperson for the remainder of the term.
2. Chairpersons may serve a maximum of two terms as long as that person meets the membership criteria as defined in subsection C.

4.E Responsibilities of Members. ~~COP Committee~~ members shall attend and actively participate in COP Committee meetings, assist with the administration of COP Committee affairs, and shall serve on COP advisory committees as appointed by the chairperson. Members unable to attend a meeting may send a representative. A COP member may designate a proxy subject to ACJA § 1-104 and the following requirements:

1. COP members may not use the proxy provision for more than three times during the member's term;
2. The use of proxies by members of COP is limited to extraordinary circumstances, as determined by the chair; and
3. If a COP member cannot attend a meeting and would like to send a proxy, the member

must obtain prior approval of the chair. If approved by the chair, that proxy must comply with other guidelines regarding proxy rights.

- 5.F. Organization.** The Chief Justice shall appoint the chairperson Committee and other leadership as needed to organize committee affairs. ~~Advisory committees to help the Committee on Probation carry out its responsibilities may be appointed by the chairperson.~~ The chairperson may appoint ad hoc advisory committees to help facilitate COP responsibilities.
- 6.G. Meetings.** ~~The Committee COP shall meet, at minimum, no less than three times a per calendar year. and The chairperson may call additional meetings may be called at the discretion of the Committee chairperson.~~ All meetings shall be noticed and open to the public.
- 7.H. Actions.** ~~The Committee COP shall adopt rules for conducting Committee COP business. These rules shall prescribe the quorum and the majority needed to constitute Committee COP actions.~~
- 8.I. Staff.** ~~Under the direction of the chief justice, t~~The Administrative Office of the Courts AOC shall provide staff to assist and support for the Committee COP under the direction of the chief justice.